

# Public Document Pack



## LOCAL LICENSING FORUM TUESDAY, 22 JANUARY 2019

A MEETING of the LOCAL LICENSING FORUM will be held in the COUNCIL CHAMBER,  
COUNCIL HEADQUARTERS, NEWTOWN ST BOSWELLS, TD6 0SA on TUESDAY, 22  
JANUARY 2019 at 4.00 pm

J. J. WILKINSON,  
Clerk to the Council,

15 January 2019

<b>BUSINESS</b>		
1.	<b>Apologies for Absence.</b>	
<b>JOINT CPD SESSION (LICENSING FORUM AND LICENSING BOARD)</b>		
2.	<b>Equalities Training</b>  Presentation and training given by the Council's Equality and Diversity Officer.	45 mins
<b>LOCAL LICENSING FORUM BUSINESS</b>		
3.	<b>Appointment of Convener</b>	
4.	<b>Order of Business.</b>	
5.	<b>Declarations of Interest.</b>	
6.	<b>Minute (Pages 3 - 6)</b>  Minute of meeting of the Local Licensing Forum of 23 October 2018 to be noted (copy attached).	2 mins
7.	<b>Licensing Board Policy Statement (Pages 7 - 44)</b>	10 mins
8.	<b>Alcohol Profile</b>	5 mins
9.	<b>Byelaws to Prohibit the Consumption of Alcohol in Designated Public Places - update</b>	10 mins
10.	<b>Licensing Standards Officers - update</b>	10 mins
11.	<b>Scottish Borders Licensing Board Minutes (Pages 45 - 64)</b>	5 mins

	(Copies attached of Minutes of 26 October 2018, 16 November 2018 and 14 December 2018).	
12.	<b>Other Business</b>	
13.	<b>Private Business</b>  <b>Before proceeding with the private business, the following motion should be approved:-</b> <b>“That under Section 50A(4) of the Local Government (Scotland) Act 1973, the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part I of Schedule 7A to the aforementioned Act”.</b>	
14.	<b>Minute</b> (Pages 65 - 66)  Private Minute of meeting of the Local Licensing Forum of 23 October 2018 to be noted.	2 mins
15.	<b>Police report</b>	10 mins

#### NOTES

1. **Timings given above are only indicative and not intended to inhibit Members' discussions.**
2. **Members are reminded that, if they have a pecuniary or non-pecuniary interest in any item of business coming before the meeting, that interest should be declared prior to commencement of discussion on that item. Such declaration will be recorded in the Minute of the meeting.**

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**Membership of Committee:-** S. Bell, S. Elliot, M.W. Hay, R. MacKay, A. Maybury, Dr T. Patterson, PC T. Ray G. Todd, I. Tunnah, M. Wynne.

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**SCOTTISH BORDERS COUNCIL  
LOCAL LICENSING FORUM**

MINUTE of Meeting of the LOCAL LICENSING FORUM held in the Council Chamber, Council Headquarters, Newtown St Boswells, TD6 0SA on Tuesday, 23 October 2018 at 4.00 pm

Present:- S. Bell, S. Elliot, R. MacKay, G. Todd, I. Tunnah, M. Wynne.  
Apologies:- M. W. Hay, A. Maybury, PC Ray (Police Scotland).  
In Attendance:- F. Walling (Democratic Services Officer).

**CHAIRMAN**

The meeting was chaired by Ian Tunnah who welcomed members to the meeting.

**1. MINUTE**

- 1.1 The minute of the meeting held on 27 June 2018 had been circulated.

**DECISION  
AGREED**

- 1.2 With reference to paragraph 3 of the Minute, Ms Elliot confirmed that she had amended the Forum's response to the consultation on the Statement of Licensing Policy, in line with comments made, re-circulated the response and submitted this for consideration by the Licensing Board.
- 1.3 With reference to paragraph 6 of the Minute it was agreed to ask for an update on the 'Ask for Angela' initiative from PC Ray for the next meeting.

**DECISION  
NOTED**

**2. STATEMENT OF LICENSING POLICY**

With reference to paragraph 3 of the Minute of 27 June 2018 the Licensing Standards Officer explained that, following a 12 week extensive consultation on the draft Statement of Licensing Policy a revised draft final version of the Statement had been prepared, taking into account responses from individuals, licensees and organisations including the Local Licensing Forum and Alcohol Focus Scotland. The proposed amendments to the Statement would be presented to the Scottish Borders Licensing Board for consideration at the next meeting on 26 October 2018. Once adopted by the Board, the final revised Statement of Licensing Policy would be published and would be circulated to members of the Licensing Forum.

**DECISION  
NOTED**

**3. LICENSING BOARD FUNCTIONS AND FINANCIAL REPORTS 2017/18**

There had been circulated copies of the Licensing Board Functions and Financial Reports 2017/18. Mr Tunnah explained that, in terms of Section 9A and Section 9B respectively of the Licensing (Scotland) Act 2005, Licensing Boards were required to provide an Annual Functions Report and an Annual Financial Report. The Board's Annual Functions Report must include a statement explaining how the Board had regard to the licensing objectives and the Board's Policy Statement in the exercise of its functions under the Act as well as a summary of decisions made by the Board and information about the number of licences

held in the Board's area. The Financial Report must include statements of the relevant income received and relevant expenditure incurred by the Licensing Board during the financial year and an explanation of how these amounts were calculated. Mr Tunnah added that the Functions Report was approved by the Licensing Board at its meeting on 24 August 2018 but, due to a minor error that had been noticed in the Financial Report, the amended Financial Report would be re-presented to the Board for approval at its meeting on 26 October 2018. Mr Tunnah drew attention to the fact that management of the licensing function was self-financing through the income received from license fees.

**DECISION  
NOTED**

**4. PERSONAL LICENCE HOLDER RENEWAL**

Mr Tunnah explained that on 1 September 2019 the first batch of personal licences issued in 2009, under new legislation introduced by the Licensing (Scotland) Act 2005, would be due for their 10 year renewal. As a requirement of the legislation was for the licence holder to undertake refresher training every 5 years there would be significant demand for training and pressure on training providers leading up to the renewal date, as was experienced at the 5 year point in 2014. As a consequence reminder letters were being sent to personal licence holders 9 months in advance of the renewal date rather than 3 months ahead as happened in 2014. Refresher training was offered through Skills Development Scotland. Ms Bell, from the Borders College, advised that training consisted of a 4 hour course with pre-course work also required to be undertaken.

**DECISION  
NOTED**

**5. LICENSING STANDARDS OFFICERS - UPDATE**

In his update Mr Wynne advised that there had been no major problems reported from the Common Ridings and summer festivals. He referred to the 'don't buy it don't supply it' campaign against under-age drinking which had been rolled out across the area and been well-received. This campaign would be intensified over the festive season. There followed a discussion on what more could be done to reduce under-age drinking fuelled by adults prepared to supply alcohol, for events such as after-parties. Mr Wynne commented that PC Ray had prepared a briefing note for police officers and licensed premises illustrating types of fake ID Driving Licences which were in circulation. He suggested that this paper would be of interest to the Forum.

**DECISION  
NOTED the update**

**6. SCOTTISH BORDERS LICENSING BOARD MINUTES**

There had been circulated, for information, copies of the Scottish Borders Licensing Board Minutes of 22 June 2018 and 24 August 2018.

**DECISION  
NOTED the minutes.**

**7. OTHER BUSINESS**

**7.1 MINIMUM ALCOHOL PRICING**

Ms Elliot informed members of the Forum that Wales had passed a law to implement minimum unit pricing (MUP) for alcohol, which would come into effect next summer. A link to a relevant news article was provided for information with the agenda.

**7.2 JOINT SCOTTISH BORDERS LICENSING BOARD/LOCAL LICENSING FORUM MEETING**

Members were informed that the annual joint Scottish Borders Licensing Board/Licensing Forum meeting would be held on Wednesday 5 December 2018 at 4 pm. Mr Tunnah

agreed to draft the Forum's report for that meeting and circulate this to members for comment.

7.3 **BYELAWS TO PROHIBIT THE CONSUMPTION OF ALCOHOL IN DESIGNATED PUBLIC PLACES**

Ms Elliot advised that a report on the byelaws to prohibit the consumption of alcohol in designated public places would be taken to a meeting of Scottish Borders Council on 29 November 2018, with a view to this being progressed in conjunction with the Scottish Government. Following engagement with partners, Community Councils and the public conducted over a 7 month period in 2013/2014 a report on "Byelaws to Prohibit the Consumption of Alcohol in Designated in Public Places" was considered by the Council in March 2014. The Service Director Regulatory Services had been instructed to take matters forward with a further report to be submitted to the Council at the end of the statutory process. Ms Elliot commented that the byelaws would be an additional tool to support the police in tackling Anti-Social Behaviour and reduce exposure to alcohol.

**DECISION NOTED**

8. **PRIVATE BUSINESS**

**AGREED** under Section 50A(4) of the Local Government (Scotland) Act 1973 to exclude the public from the meeting during consideration of the business detailed in the Appendix to this Minute on the grounds that it involved the likely disclosure of exempt information as defined in Part I of Schedule 7A to the Act.

**SUMMARY OF PRIVATE BUSINESS**

9. **MINUTE**

Members approved the private Minute of 27 June 2018.

10. **POLICE REPORT**

Members considered a report provided by PC Ray in her absence.

*The meeting concluded at 5.10 pm*

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**STATEMENT OF LICENSING POLICY**

**LICENSING (SCOTLAND) ACT 2005**

**November 2018 - November 2023**

# Foreword

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## 1 INTRODUCTION

1.1 For the purposes of the Licensing (Scotland) Act 2005 as amended (“the Act”), the Scottish Borders Licensing Board (“the Board”) is the Licensing Authority for the Scottish Borders area.

1.2 The Act requires the Board to publish a Statement of Licensing Policy. It is expected that Boards will generally publish their Policy within 18 months of any local government election which will have effect until 18 months after the next local government election.

This Statement fulfils that statutory duty for the Scottish Borders for the period from November 2018 to November 2023.

1.3 The Board’s role is to regulate the sale of alcohol and the premises on which it is sold. In doing so, it is required to ensure its policies promote the licensing objectives as set out in the Act.

1.4 The licensing objectives are:

- (a) Preventing Crime and Disorder
- (b) Securing Public Safety
- (c) Preventing Public Nuisance
- (d) Protecting and Improving Public Health
- (e) Protecting Children and Young Persons from Harm

1.5 The Board will consider the individual circumstances of each application based on the information provided to it. This Policy will assist applicants to put in place appropriate measures to ensure the licensing objectives are met. The Board is aware of the importance of sporting, local traditional festival and historical common riding events within its area. Evidence of the potential impact on the licensing objectives within the Board area is highlighted in the Scottish Borders Alcohol Profile which can be accessed on the Council’s website <http://www.scotborders.gov.uk/licensingforum>



Where the Board considers there to be any inconsistency with one or more of the licensing objectives, this may form the basis of a decision for refusal of an application. Before making a decision, the Board will invite applicants and relevant interested parties to make representation to them either in person or in writing.

- 1.6 Overall the number of licensed premises in the Scottish Borders has remained relatively stable over previous years. 460 as at October 2018 compared with 468 in the previous three year policy period. The Act requires Boards to produce a statement of overprovision and with this in mind, Scottish Borders Licensing Board may take the view that if premises are not trading and annual fees remain unpaid for a period in excess of twelve months a premises review application may require to be considered.
- 1.7 The Board's licensing powers are not the main statutory mechanism for dealing with all regulatory regimes. Responsibility for meeting any other statutory requirements rests with individual applicants. A contacts list for other regulatory functions is provided at Appendix 2.

The Board will avoid duplication with other statutory bodies or other systems of control outwith the licensing remit but will always exercise its powers where necessary with regard to any of the licensing objectives.

- 1.8 The Board complies with its duties under the Equality Act 2010 and its current Equalities Outcomes and Mainstreaming Report has been published on its website. It opposes all forms of unlawful discrimination and will expect all parties to work to delivering equality for all people.
- 1.9 You can contact the Licensing Unit of Scottish Borders Council by:

E-mail            liquorandlicensing@scotborders.gcsx.gov.uk  
Phone            01835 826662  
Fax                01835 826693  
Or in writing:    Licensing Unit  
                      Regulatory Services – Legal and Licensing  
                      Scottish Borders Council  
                      Council Headquarters  
                      Newtown St Boswells TD6 0SA

## 2 LICENSING OBJECTIVES

- 2.1 The Board's Policy Statement will promote and consider the licensing objectives. The Board requires licensees to have policies in place that demonstrate how they will meet the licensing objectives. The following are examples of what should be considered and measures that can be put in place.

### 2.1.1 Preventing Crime and Disorder

Underage drinking:

- Use of accredited proof of age cards
- Enforcement of mandatory Challenge 25 policy

Drunkenness on the premises

- Effective and responsible management of premises
- Training and supervision of staff
- Clear notices stating zero tolerance for any patrons appearing to be under the influence of alcohol
- Drink driving awareness and consideration of designated driver policy

Illegal possession and/or use of drugs

- Implementation of a drugs policy, induction and ongoing CPD training

Violent, aggressive behaviour and antisocial behaviour

- Effective and responsible management of premises
- Suitable stewarding
- Consideration of CCTV systems

### **2.1.2 Securing Public Safety**

- Premises to be kept in a safe manner including the occupancy, design, stability, layout of the premises and provision of adequate internal and external lighting
- All access and exits to the premises for pedestrians and vehicles to ensure ease of access for emergency vehicles
- Measures to limit the accumulation of glass bottles or litter on the premises including outside areas and immediate vicinity
- Compliance with the Fire (Scotland) Act 2005 as amended and associated Regulations (see Appendix 10)

### **2.1.3 Protecting and Improving Public Health**

- A record of alcohol sales refused and reasons for refusal (Refusals book/register)
- Promotion of responsible drinking. You may wish to consider the Chief Medical Officers low risk guidelines available at <http://ow.ly/8c0b30m63Pr>
- Strict compliance to mandatory conditions particularly to irresponsible promotions
- Consider providing a suitable selection of reasonably priced non-alcoholic beverages
- Consider offering free or reduced price soft drinks for designated driver
- Display comprehensive price list of alcoholic and non-alcoholic beverages available as a matter of good practice
- Consider including the number of units contained in each alcoholic beverage on price list

### **2.1.4 Preventing Public Nuisance**

- Signage relating to litter, noise or antisocial behaviour when leaving premises
- Appropriate stewarding
- Consider specialised training for staff dealing with dispersal and difficult customers
- Provision of contact details for local transport

### **2.1.5 Protecting Children and Young Persons from Harm**

The Board expects that children and young persons will normally be admitted to on sale premises for the purpose of consuming light refreshments or a meal, participating in a relevant sporting activity or attending a pre-arranged function or event. The Board will have particular concerns where it is proposed to allow access for children and young persons where the supply and consumption of alcohol is the main activity

Children should always be accompanied by a responsible adult. Young persons access will be assessed in relation to the nature of activity and consistency with the licensing objectives.

The following are suggested control measures

- Effective and responsible premises management and training
- Implement regular in-house test purchasing exercises and develop a staff policy of steps to be taken in the event of underage patrons or adults attempting to purchase alcohol on their behalf
- Ensure that staff are fully aware of the hours children and young persons may access the premises, the designated areas they are permitted to access and the supervision requirements for children and young persons who may be present, all of which will be specified in the Premises Operating Plan.
- Strict enforcement of mandatory Challenge 25 Policy – it is a legal requirement to request ID from anyone who appears to be under the age of 25

### 3 BOARD BUSINESS

- 3.1 The Board will deal with all its business in an open, accessible and transparent way. Meetings will be held in public but for legal reasons, some matters may require to be held in private. The procedure at Board hearings is attached at Appendix 3.
- 3.2 The Board has adopted a Scheme of Delegation to ensure that decisions can be made in an efficient and timely manner. This is attached as Appendix 4 to this Statement and will be kept under review by the Board.
- 3.3 For applications that cannot be dealt with by delegated powers, the Board will normally meet on a monthly basis in the premises of Scottish Borders Council. The Board will give notice of applications received and publish application forms, agendas and minutes of its meetings on Scottish Borders Council's website [www.scotborders.gov.uk](http://www.scotborders.gov.uk). These are available in alternative formats on request.
- 3.4 The Board will consider all applications on their own merits with regard to its Policy and the licensing objectives.

### 4. OVERPROVISION

- 4.1 The Act places a legal requirement on the Board to include a statement of its overprovision assessment within its Policy.

The Scottish Borders Licensing Board will consider overprovision when relevant applications come before it. Members Clubs are exempt from the overprovision assessment. The Board will take into consideration the likely impact on the licensing objectives in the area where the premises are located, the type of premises along with the proposed licensed hours and capacity. The Board will refer to all the evidence available.

- 4.2 The Board acknowledges the work carried out by and on behalf of the Scottish Borders Licensing Forum by way of the multi agency data gathering project and the subsequently produced report "Scottish Borders Alcohol Profile". The Alcohol Profile forms an invaluable evidence base which has been most useful in the compilation of this Policy and the Board will have regard to the Profile when determining applications.
- 4.3 When considering applications for a particular type of premises in a particular area the Board will consider the locality as the Intermediate Geographies detailed in the Alcohol Profile as the area within which the premises are situated, but will also take into account the immediate adjoining areas.
- 4.4 The Board is aware that almost three-quarters of alcohol is sold in supermarkets and off sale premises. Given the rural spread of the Scottish Borders area, alcohol may not be consumed and associated harm may not take place in the area it was purchased. When considering overprovision in a specific locality, the Board will also take into account the overall availability in the Borders.
- 4.5 The number of late night hours entertainment premises (after 1.00am) within Scottish Borders is currently four. The Board is of a view that any increase beyond that number could be overprovision.
- 4.6 The Board strongly considers well run on sale premises are a preferred and safer environment for alcohol consumption and should be encouraged over drinking in the home or any other unlicensed environment. On sale premises which provide a full range of services, for example food and quality accommodation, will be encouraged in most areas.

- 4.7 With regard to off sales, the Board is conscious of the fact that the capacity required to be shown within the premises can sometimes be confusing and even seem somewhat irrelevant. The Board does acknowledge that display areas can be a factor in encouraging purchase and ultimately consumption and as such will look for detailed justification for any application to have a display area in excess of 10% of the overall sales area of premises, other than dedicated wine and spirit merchants.

While Regulations\* dictate the requirement for display areas to be shown as height and width of display with a linear measurement of displays outwith that on a layout plan, the Board will further require layout plans to clearly show the area, lined and shaded, as a square metres of floor area given over to alcohol display when any relevant application is submitted.

- 4.8 When the Board is aware of licensed premises which are not trading, it may take steps to review those premises licences to maintain an accurate assessment of overprovision.

\* *The Premises Licence (Scotland) Regulations 2007 (SSI 452) and The Licensing (Mandatory Conditions No. 2) (Scotland) Regulations 2007 (SSI 546)*

## 5. OCCUPANCY

- 5.1 Occupancy capacity is a factor in the assessment of overprovision and a factor for premises and events to achieve the licensing objectives.

- 5.2 The Board will take account of any maximum occupancy limit set by Scottish Borders Council's Building Standards service if deemed appropriate to ensure safety of persons in premises and safe escape in the case of emergency. If there are additional concerns about crime and disorder or public nuisance, the Board may consider setting a lower maximum occupancy limit than recommended by Building Standards.

- 5.3 The Board will expect applicants to consider various factors when assessing the appropriate capacity for premises or events. Depending on the individual premises, examples of these include:

- The design and layout of the premises
- The location, availability and size of exits including emergency exits
- The provision of adequate internal and external lighting
- The nature of the premises or event
- The nature of the activities being provided
- The provision or removal of temporary structures such as a stage or furniture
- The number of staff available to supervise customers both ordinarily and in the event of an emergency
- The profile of the customers
- The attendance of customers with disabilities
- The provision of suitable and sufficient accessible toilet facilities
- The nature and provision of facilities for ventilation

## 6. PREMISES LICENCES

- 6.1 Premises that wish to sell alcohol for consumption on or off the premises are required to have a Premises Licence. This will regulate, amongst other things, what activities are allowed on the premises and what hours the premises can be open for business. There must be a description of the premises, an operating plan and a layout plan of the whole premises.

Applicants should pay particular attention to the operating plan and the layout plan. If a particular activity is not mentioned in the operating plan that activity cannot take place on those premises. Once in place, any changes to a premises licence will require an application for variation to be submitted for further approval by the Board.

The operating plan must set out clearly the applicant's proposals for the sale of alcohol, including the activities that would be undertaken on the premises, proposed opening hours, and their policy in relation to children and young persons. With particular reference to children and young persons, whilst the Board wishes to encourage inclusive activities, it will have particular concerns in permitting children and young persons into premises where the supply and consumption of alcohol is the main activity. The Board considers premises more suitable to be accessed by children and young persons where there is food provision, a relevant sporting activity or pre-arranged function or event. It will assess the times of access and supervision arrangements based on the individual circumstances with regard to the licensing objective protecting children and young persons from harm.

The layout plan should show, among other things, the area where alcohol will be sold, including any proposed licensed outside drinking area(s), seating arrangements, any accessible arrangements, the location of any gaming machines and areas where children and young persons are to be allowed.

The Board's licensing support staff will provide guidance and advice to applicants in relation to the requirements for operating plans and layout plans and applicants are encouraged to contact them prior to submission of an application. It should be noted that neither the Board nor any of its support staff can provide legal advice in relation to applications and applicants should seek independent legal advice prior to submission of an application.

**6.1.1 Notification of Premises Licence applications.** The Licensing Board must give notice of a Premises Licence application to the following:

- Chief Constable, Police Scotland
- Scottish Fire and Rescue Service
- Scottish Borders Council
- the local Health Board for the area
- each person having a notifiable interest in neighbouring land
- any Community Council within whose area the premises are situated

All applications will be advertised on the Council's website – [www.scotborders.gov.uk](http://www.scotborders.gov.uk) and the applicant has a legal duty to display a public notice at the premises for 21 days

**6.1.2 Objections and Representations.** Any person may object to an application for Premises Licence. The Board will consider any objection received if it relates to one or more of the licensing objectives. Where this is not the case, the Board may consider the objection to be frivolous or vexatious and determine not to take account of it in determining an application.

**6.1.3. Consideration of Premises Licence application.** The Board will determine each premises licence application on its individual merits having regard to the information provided in the operating plan, layout plan, any supplementary papers in support of the application ie applicant's in-house policy statements and any competent objections received. In addition, the Board will assess the application in relation to its overprovision statement policy and may request an Anti Social Behaviour Report if it deems necessary to do so.

The Board will have particular regard to:

- The nature of the premises, the style and type of use, the potential number and profile of the customers likely to attend the premises;
- The proposed hours of operation;
- The means of access to the premises including the location of customer entrances and exits taking account of accessibility;
- The provision of toilet facilities including consideration to provision of sufficient accessible toilet facilities;
- Whether children and/or young persons are to have access to the premises or part(s) of the premises and upon what terms;

- Areas or activities which have potential crime and disorder or public nuisance and any measures to mitigate those issues ie the requirement for CCTV and door steward arrangements to be put in place.

6.1.4 **Conditions.** Mandatory Conditions for all Premises Licences are prescribed in the Act attached as Appendix 5, and Regulations. In determining an application, the Board may impose additional conditions to promote one or more of the licensing objectives or otherwise give effect to the terms of its Policy Statement or the provisions of the Act.

## 6.2 Management of Premises.

6.2.1. The Board expects that licence holders and their staff will operate their premises in a manner consistent with the licensing objectives. Applicant's in-house policies will require to be evidenced to address the following areas:

- Proof of Age
- Staff Training
- Incident Book
- Noise
- Dispersal of Patrons
- Smoking and monitoring the behaviour of patrons in the vicinity of licensed premises in particular beer gardens and outside smoking areas
- Litter and Waste Management
- CCTV
- Compliance with the requirements of the Equality Act 2010
- Safe evacuation of all patrons in the case of emergency
- Consideration of undertaking and reviewing an Access Audit
- the prevention of the misuse of drugs on the premises.

6.2.2 **Condition of Premises.** Licence holders and their staff are expected to ensure that the premises, both internally and externally, are maintained in a good, clean and tidy condition at all times.

6.2.3 **Seating Provision.** The Board will expect adequate seating to be available within on sale premises.

6.2.4 **Pubwatch.** Pubwatch can be useful to licence holders and their staff in preventing crime and disorder and undue public nuisance. The Board supports and encourages Pubwatch schemes within its area.

6.2.5 **Best Bar None.** The Best Bar None Scheme is a nationally recognised award scheme which assists licence holders and staff in addressing the licensing objectives. The Board supports the Scheme and encourages involvement with it.

6.2.6 **Door Stewarding.** The Board, taking into account the licensing objectives of preventing crime and disorder, securing public safety and preventing public nuisance may consider the provision of door stewards appropriate depending on the nature of activities and events carried on at licensed premises and would support the use of Security Industry accredited stewards for this purpose. Whether or not door stewards are required and, if so, the number of stewards, the occasions and hours they must be present will be determined according to the merits of each individual application.

6.3 **Adult Entertainment.** Any application for premises licence proposing to include adult entertainment in its operating plan will be considered on an individual basis. The Board will expect applicants to give consideration to the licensing objectives and to ensure that where such adult entertainment provision is available there will be stringent measures in place to prevent commercial sexual exploitation.

*(Note: At the time of review of this Policy the Board is aware of the Scottish Government's intention to introduce the licensing of sexual entertainment venues ("SEV Licence"). Once commenced, any Premises Licence operating plan including adult entertainment will be restricted to a maximum four such occasions a year, otherwise a separate SEV Licence may be required.)*

## 7. LICENSED HOURS AND EXTENDED HOURS

- 7.1 Whilst the Act removes set permitted hours for on sales and leaves applicants to decide what is appropriate to include in the operating plan, the Board recognises the impact licensing hours have in an area. They will consider the individual requirements of applicants and premises and how such hours may impact on a particular area.
- 7.2 Off sale hours may only be permitted between the hours of 10.00am and 10.00pm and the Board may restrict off sale hours where it is satisfied that any of the licensing objectives may not be met. Licence holders should be aware that any off sale should be off the premises within 15 minutes of the terminal hour. The Board must refuse any application for off sales hours outwith the permitted times.
- 7.3 As far as on sale hours are concerned, the Board will not normally grant applications for more than 14 hours in any 24 hour period. Where there is no significant entertainment and alcohol consumption is the principal activity, hours should not extend beyond 12.00midnight Sunday to Wednesday and 1.00am Thursday to Saturday, with a commencement time of 11.00am seven days a week.
- 7.4 Applicants for on sale licensed premises with an off sale facility should be aware that the off sale hours on the licence cannot extend either prior to 10.00am or after 10.00pm. They should also be aware that this applies to customers who purchase a drink intended as an on sale and subsequently carry it off the licensed premises.
- 7.5 Where applicants intend to apply for any core on sale hours outwith those detailed in 7.3 above, they will be expected to show how any activity to be carried out on the premises is consistent with the licensing objectives. Any inclusion of seasonal variations should state precise fixed dates and times.

In relation to festive seasonal hours for inclusion within the premises operating plan, the Board will normally consider acceptable extension of on sale core hours until 1.00am on Christmas Eve, Christmas Day, Boxing Day, New Years Eve and New Years Day.

- 7.6 While all applications will be subject to the Mandatory Conditions under the Act, attached as Appendices 5 and 6, the Board reserves the right to apply further conditions where it sees fit in order to promote one or more of the licensing objectives or otherwise give effect to the terms of its Policy Statement or the provisions of the Act. Examples of additional conditions which may be considered appropriate are attached as Appendix 8.
- 7.7 It is acknowledged that there will be events and occasions which cannot be catered for or anticipated within the core hours of an operating plan and as such the Board will consider applications for Extended Hours on their individual merits in relation to its policy at 7.3 above and the licensing objectives.
- 7.8 **Late Hours.** Applicants should be aware of the additional mandatory conditions as attached at Appendix 6, applied to late opening premises (after 1.00am) and the Board reserves the right to consider further additional conditions to promote the licensing objectives.

The Board will only consider applications for on sale core hours after 1.00am from specific late night venues, where substantial live entertainment is being provided and the alcohol sold is intended as being ancillary to that entertainment.

The Board is, however, aware of the variety of events, functions and festivals which occur in the Scottish Borders and the importance of these to the area. With this in mind they will consider applications for occasional licences and extensions for times outwith normal hours and will in appropriate circumstances grant such applications.

The Board does not consider that all events connected with historic common ridings and summer festivals should automatically be seen as justification for an occasional licence or to extend licensed hours. Applicants will require to specify how their application is connected to the local common riding or festival event and the Board will consider each on its individual merits in relation to the licensing objectives.

If granting an application for occasional licence or extended hours which includes the late hours period, the Board will consider attaching some or all of the late hours conditions (Appendix 6) along with any other appropriate additional conditions.

Any licensees operating in the late hours period will be expected to dispense drinks in plastic or toughened vessels.

## **8. HOME DELIVERIES/REMOTE SALES**

8.1 The Board expects that premises which intend to provide home deliveries of alcohol must specify this activity in their operating plan and provide details of how this will operate with particular regard to the licensing objectives. These details should include the hours of delivery, the steps taken to identify the age of the person ordering and receiving, payment arrangements, and arrangements to protect the safety of those delivering alcohol.

8.2 Orders for delivery of alcohol can only be taken during the off sale core times stipulated in the Premises Licence. Deliveries may take place outwith these times but not between midnight and 6.00am.

## **9. MEMBERS CLUBS**

9.1 Members Clubs are required to be licensed in the same way as any other premises selling alcohol, they are however exempt from some provisions of the Act. Appendix 9 refers.

9.2 Members Clubs will be expected to abide by the rules governing membership and the introduction of non members to the premises. They are required to have an appropriate Constitution detailing category of membership and which adequately reflects Members Club status, along with all the requirements contained in Appendix 9. The operating plan for a Members Club should also reflect its status, including sign in provisions and the Board expects Members Clubs to thereafter abide by the terms of such operating plan.

9.3 Any Members Club seeking to vary its licence to remove Members Club status should be aware that before consideration of any such variation the Board will require evidence of this having been agreed by the membership, ie a certified copy of approved minute from AGM or EGM showing the membership decision to such a variation.

It should be noted that neither the Board nor any licensing support staff can provide legal advice in relation to applications and applicants should seek independent legal advice prior to submission of an application.

## **10. GARAGES**

10.1 The Act excludes some premises from authorising the sale of alcohol including premises or parts of premises used as a garage. Such premises are used as a garage if there is:

- sale by retail of petrol or derv (diesel);
- the sale of motor vehicles; or
- the maintenance of motor vehicles.



However, where those premises or parts of premises are used for sale by retail of petrol or derv, alcohol may be authorised to be sold in some circumstances. Alcohol may be sold where the Board determines that in relation to such premises, persons resident in the locality are, or are likely to become, reliant to a significant extent on the premises as the principal source of (a) petrol or derv, or (b) groceries.

10.2 For any application in respect of a garage premises in its area, the Board will require the applicant to provide sufficient information to satisfy it that the premises meets the criteria to permit the authorised sale of alcohol.

## 11. **OUTSIDE DRINKING AREAS**

11.1 Where applicants for a premises licence propose within their operating plan to provide an outside drinking area or areas, such area(s) must be included within the layout plan for the premises and clearly indicated as such.

11.2 The off sale terminal hour is 10.00pm and the Board considers this should be the terminal hour for the operation of any outside drinking area in order to ensure that the licensing objective of preventing public nuisance is met. The Board will only grant any applications to include outside area(s) in a Premises Licence where it is satisfied that there is no likelihood of nuisance being caused to neighbours. Although patrons may still use outside areas after 10.00pm, staff should ensure that noise is kept to a minimum, clear signage should be displayed to that effect and policies should be in place to promote this. The Licensing Board will expect any applicant to show that they have control of any outside area to ensure that the licensing objectives are met.

11.3 Sufficient ashtrays and other litter receptacles are to be provided in the outdoor areas which are excluded from the definition of “no smoking premises” as prescribed in the Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006.

## 12. **OCCASIONAL LICENCES**

12.1 An Occasional Licence allows for the sale of alcohol on unlicensed premises. There are periods when a large number of occasional licences are in force, particularly during common riding and summer festival events which result in an increase of alcohol availability and the Board recognises the need to consider the impact of such applications in relation to the licensing objectives. The Board will generally look for the applicant to demonstrate that an occasional licence application is for a specific event. The Board accepts many fundraising and community events benefit from the granting of an occasional licence but would expect any organisation considering applying, to take into account whether or not it is appropriate to have the sale of alcohol forming a normal part of the event with particular regard to the Protecting Children and Young Persons from Harm objective. This should be particularly considered for child centred events and the Board may require to see written policies evidencing the measures in place to meet the Protecting Children and Young Persons from Harm objective. A child centred event is one which is primarily for the entertainment of children or young persons.

12.2 The Board will not normally consider an application for occasional licence which relates to any premises in respect of which a Premises Licence is in existence but is currently suspended unless exceptional circumstances can be evidenced.

12.3 A Members Club can also apply for an Occasional Licence to authorise the sale of alcohol on their premises for events where access is not restricted to its Club Members and their signed in guests.

12.4 An application for an Occasional Licence may be made by any of the following:

- the holder of a Premises Licence (including a Members Club for events to be held on the Club premises);

- the holder of a Personal Licence; or
- a representative of any Voluntary Organisation (for events or fundraising events connected to the activities of the organisation).

12.5 The holder of a Premises Licence or a Personal Licence may make an unlimited number of applications. However, there are restrictions on the number of applications a Voluntary Organisation and a Members Club can make in any period of 12 months. The Board defines the 12 month period as 1 January to 31 December. Further guidance on this is available from the Licensing Unit contactable as detailed at 1.9 above.

12.6 The Board will expect that applicants will be able to evidence that the following factors have been considered when organising their event:

- The design and layout of the premises
- The location, availability and size of exits including emergency exits
- The provision of adequate internal and external lighting
- The nature of the premises or event
- The nature of the activities being provided
- The provision or removal of temporary structures such as a stage or furniture
- The number of staff available to supervise customers both ordinarily and in the event of an emergency
- The profile of the customers
- The attendance of customers with disabilities
- The provision of suitable and sufficient accessible toilet facilities
- The nature and provision of facilities for ventilation
- The accessibility of the event premises for emergency services

12.7 Applications for Occasional Licence can be made for one-off or longer duration events, but can only last up to a maximum of 14 days.

12.8 To allow time for consultation with the Police, the Licensing Standards Officer and for objections or representations to be considered, applications should be submitted as far in advance as possible, and not later than 42 days before the event takes place. It is recognised that in some circumstances applications will be submitted at short notice and the Board will endeavour to process these if possible but organisers should be aware that late submission may result in a request for written reasons for late lodgement and a licence not being granted due to lack of time to fully assess the impact on the licensing objectives. Provided there are no adverse reports from the Police, Licensing Standards Officers or any objections or representations, the Board must grant the application. Failing this, the Board must hold a hearing to determine the application at which it may grant the licence as applied for, grant the licence with conditions or refuse the licence, all as detailed in Section 59 of the Act. The Conditions attached to all Occasional Licences are attached as Appendix 7 and the Board may impose additional conditions as it determines appropriate to promote the licensing objectives. Some examples of which are attached as Appendix 8.

12.9 With regard to the commencement and terminal hours for the sale of alcohol in connection with any Occasional Licence application, refer to 7.2 and 7.3 above.

12.10 The provision of live music, discos or karaoke could cause nuisance and are often elements of Occasional Licences. Applicants will therefore be required where they wish to have these activities to give details of how they will take reasonable steps to prevent noise nuisance, to ensure that there will be no noise from amplified and non-amplified music, singing or speech sourced from licensed premises audible in any adjoining or neighbouring property. (This may include installation of a sound limiter, sound proofing, keeping doors and windows closed and asking patrons to leave quickly and quietly at the end of the evening.) If required, advice is available from Scottish Borders Council's Environmental Health section.

12.11 The Board expects any licensee or organisation catering for an event to have written policies in place, with an undertaking to abide by them, which show how the licensing objectives will be met. These policies should relate to and be appropriate to the particular event, as follows:

- (a) Adequate and appropriate stewarding to be in place.
- (b) The use of toughened glass or plastic drinking vessels, where appropriate
- (c) An age identification/verification scheme should be detailed.
- (d) An undertaking that there will be full compliance with any guidance or advice from the Licensing Standards Officer, the Police, the Fire and Rescue Service and any other appropriate authority.
- (e) Details of measures put in place or steps taken to lessen the chance of noise nuisance from any entertainment should be detailed.
- (f) Any further policies relating to the event should be shown under the appropriate licensing objective heading. If children or young persons are to be present in licensed areas then particular attention and detail should be given to showing how they will be protected from harm.

12.12 The Board is concerned to ensure that the availability of Occasional Licences as a short term means of licensing premises is not abused. Where repeated occasional licence applications are submitted in respect of premises where it considers that insufficient measures as detailed in 12.10 above can be taken and there are concerns regarding the suitability of the premises having regard to any of the licensing objectives, the Board will refuse these.

*General Note: In relation to events covered by an occasional licence, applicants should also be aware that they may require a Public Entertainment and/or Late Hours Catering Licence issued by Scottish Borders Council, under the Civic Government (Scotland) Act 1982. Clarification should be sought from the Licensing Unit as detailed in 1.9 above.*

### 13. IRRESPONSIBLE PROMOTIONS

13.1 It is important that licensees and their staff are aware that some promotions may be irresponsible to ensure they do not breach any of the mandatory conditions of any Premises or Occasional Licence.

13.2 While the offering of a free alcoholic drink in connection with the purchase of another drink is categorised in the list of irresponsible promotions, the Board takes the view that advertising alcoholic drinks on licensed premises as being free as a result of any purchase or activity is inconsistent with the licensing objective of protecting and improving public health. While the inclusion of a bottle or glass of wine for example in the cost of a meal or meals has been common practice this should not be highlighted as being free and should not be used as a means to entice patrons to consume alcohol they may not have otherwise intended to. The price quoted should be shown as being inclusive of the alcoholic drink with non-alcoholic alternatives being available. There should be no advertising of free alcoholic drinks as a result of attendance at licensed premises for any purpose such as a sporting event or the scoring of a goal or suchlike.

### 14. PERSONAL LICENCES

14.1 All premises licences, with the exception of Members Clubs, require a Designated Premises Manager who must be the holder of a Personal Licence. Whilst all alcohol sales require to be authorised by a Personal Licence holder, the Act does not require the Personal Licence holder to be present on the premises when the sale is made.

14.2 When considering an application for a Personal Licence, the Licensing Board will consult with the Police and Licensing Standards Officer to ascertain whether the applicant is fit and proper to hold licence. The Police will also provide information of convictions for any relevant offences detailed in SSI 2007 No. 513, which can be accessed on the Office ~~Page 19~~ Public Sector Information website at

<https://www.legislation.gov.uk/ssi/2007/513/schedule/made>. Where any representation is received from the Police or Licensing Standards Officer the Board will consider whether the application should be granted or refused under the Act. In making a decision the Board will have regard to the seriousness and age of the conviction together with any other circumstances it considers to be relevant.

14.3 The Licensing Board expects all Personal Licence holders to carry out their duties in a manner which is consistent with the promotion of the licensing objectives. Where a review of a Premises Licence has uncovered conduct on the part of the Personal Licence holder which is inconsistent with one or more of the licensing objectives, a Personal Licence hearing may be required. At the conclusion of any such hearing, the Licensing Board may, if satisfied that it is necessary to do so for the purposes of any of the licensing objectives: revoke the Personal Licence; suspend the Personal Licence for an agreed period; or endorse the Personal Licence.

## 15. DESIGNATED PREMISES MANAGERS

15.1 The Board expects that a Designated Premises Manager will take an active role in the day to day management of the premises and in circumstances where this is not the case or a Designated Premises Manager is absent for long periods of time on a regular basis, the Board expects that the Premises Licence holder will take steps to review the management arrangements of the premises to ensure adequate measures are in place for authorisation of alcohol sales. Where it considers it appropriate for the purposes of any of the licensing objectives, the Board may apply a condition requiring a Personal Licence holder to be present at all times.

## 16. ANNUAL FEES

16.1 Where a premises licence is in effect or is suspended, the holder of that licence must make payment of an annual fee. First annual fees are due 30 days after the date on which the licence takes effect. Subsequent annual fees are due on 1 October each year. The Licensing Board has a statutory duty to give notice to Premises Licence holders of the amount of fee payable not later than 30 days before the date on which the fee is due. The Licensing Board will not issue invoices and the Premises Licence holder is responsible for ensuring that payment is made. Payment of the annual fee is a mandatory condition attached to the Premise Licence and therefore non payment is a breach of that condition. Non payment of the annual fee may result in an application to the Board for Premises Licence review and the Board, if satisfied that a ground for review exists, may take any of the following actions:

1. Issue a written warning;
2. Make a Variation of the Premises Licence;
3. Suspend the Premises Licence or
4. Revoke the Premises Licence.

16.2 Where a Premises Licence has been suspended following application for review on the grounds of non payment the Board may consider revocation of the Premises Licence in the event that payment remains outstanding for a period in excess of twelve months.

## 17. LICENSING STANDARDS OFFICERS

17.1 The Act requires that the Council employ Licensing Standards Officers. The Board recognises the importance of the role within the Act and as officers of Scottish Borders Council will be provided with the relevant training to allow them to carry out their role.

17.2 The role of a Licensing Standards Officer involves the following:

Guidance A Licensing Standards Officer may provide the licensed trade, the public and any other interested party with information and guidance concerning the operation of the Act in the Board's area. The Act requires that Licensing Standards Officers be consulted as part of the process for determining applications. Therefore they may not give legal advice or make applications or objections on behalf of any party.

Mediation Where appropriate, a Licensing Standards Officer will be expected to mediate between the public, the licensed trade and any other interested party in order to resolve any issues without involving the Licensing Board.

Compliance The regulatory role of a Licensing Standards Officer is to ensure that licensees comply with their Premises Licence or Occasional Licence and the licensing legislation.

17.3 The Licensing Standards Officers are contactable through the Licensing Unit as detailed in 1.9 above.

## APPENDIX 1

### List of Consultees

#### Consultees

1. Scottish Borders Licensing Forum
2. Police Scotland
3. Scottish Fire and Rescue Service
4. British Beer and Pub Association
5. Scottish Beer and Pub Association
6. Scottish Licensed Trade Association
7. Director of Public Health, NHS Borders
8. Borders Alcohol and Drugs Partnership
9. Alcohol Focus Scotland
10. All Service Directors, Scottish Borders Council
11. Visit Scotland
12. All Scottish Borders Premises Licence Holders
13. Heriot Watt University
14. All Elected Members of Scottish Borders Council
15. All Community Councils in the Scottish Borders
16. Action for Children
17. The Church of Scotland.
18. The Roman Catholic Church of Scotland
19. The Scottish Episcopal Church of Scotland
20. Reporter to Children's Panel (SCRA)
21. Scottish Borders Seniors' Networking Forum
22. Tweeddale Youth Action
23. Ability Borders
24. Tweeddale Access Panel
25. Borders Talking Newspaper
26. Action on Hearing Loss
27. Live a Life
28. Borders Voluntary Care Voice
29. Borders Equality Forum
30. Edinburgh and Lothian Race Equality Council
31. Migrant Support Service
32. Scottish Inter Faith Council
33. LGBT Equality Forum
34. LGBT Youth Scotland
35. Stonewall Scotland
36. Equality Network / Scottish Transgender Alliance
37. Scottish Borders Housing Association
38. Berwickshire Association of Voluntary Service
39. The Bridge
40. Age Concern Scotland
41. Alcohol Addaction Borders
42. Scottish Borders Interfaith Group
43. Accessible
44. Berwickshire Access Panel
45. Youth Voice
46. Sensory Services Team
47. Citizens Panel
48. Youth Borders
49. Pregnancy Assessment Unit, Borders General Hospital
50. Scottish Borders Early Years Team
51. Penumbra Project
52. Youth Borders
53. Parent Councils
54. Children 1<sup>st</sup>
55. Scottish Borders Short Term Service/Action for Children
56. Scottish Borders Children and Family Service/Action for Children

57. ARC Scotland
58. Borders Carers Service
59. Borders LGBT Equality Forum
60. LGBT Youth Scotland (Borders)
61. Chief Registrar
62. Berwickshire Housing Association
63. Eildon Housing Association
64. Waverley Housing Association
65. Scottish Borders Tenants Organisation
66. New Horizons Borders (Mental Health Service)
67. Borders Independent Advocacy Service
68. Borders Rape Crisis Centre
69. Scottish Borders Health and Social Care Integrated Joint Board
70. Borders Chaplaincy Centre/Spiritual Care Services
71. Baha'i Faith
72. Roman Catholic Church, Galashiels
73. Church of Scotland, Ancrum
74. Church of Scotland, Jedburgh
75. Jedburgh Baptist Church
76. Episcopalian Church, Jedburgh
77. Roman Catholic Church, Jedburgh
78. Church of Scotland Presbyterian, Kelso
79. Church of Scotland, Kelso
80. Church of Scotland, Kirk Yetholm
81. Roman Catholic Church, Kelso
82. Scottish Episcopal Church, Kelso
83. Muslim Ladies Group
84. Quakers, Kelso

## APPENDIX 2

ORGANISATION	CONTACT TELEPHONE AND EMAIL ADDRESS	WEBSITE
SBC Licensing <i>Contact them for advice on licenses and permits</i>	01835 826662 <a href="mailto:Liquorandlicensing@scotborders.gcsx.gov.uk">Liquorandlicensing@scotborders.gcsx.gov.uk</a>	<a href="https://www.scotborders.gov.uk/info/20025/licensing">https://www.scotborders.gov.uk/info/20025/licensing</a>
Police Licensing Officers	<a href="mailto:lothianscotborderslicensing@scotland.pnn.police.uk">lothianscotborderslicensing@scotland.pnn.police.uk</a>	<a href="http://www.scotland.police.uk/your-community/the-lothians-and-scottish-borders/">http://www.scotland.police.uk/your-community/the-lothians-and-scottish-borders/</a>
SBC Planning	0300 100 1800 <a href="mailto:prs@scotborders.gov.uk">prs@scotborders.gov.uk</a>	<a href="https://www.scotborders.gov.uk/info/20050/planning_applications">https://www.scotborders.gov.uk/info/20050/planning_applications</a>
SBC Building Standards	0300 100 1800 <a href="mailto:BuildingStandardRegs@scotborders.gov.uk">BuildingStandardRegs@scotborders.gov.uk</a>	<a href="https://www.scotborders.gov.uk/info/20049/building_warrants">https://www.scotborders.gov.uk/info/20049/building_warrants</a>
SBC Environmental Health and Trading Standards	0300 100 1800 <a href="mailto:PLACEhealth@scotborders.gov.uk">PLACEhealth@scotborders.gov.uk</a>	<a href="http://www.scotborders.gov.uk">www.scotborders.gov.uk</a>
SBC Assessor (Rateable Value)	0300 100 1800 <a href="mailto:AssessorAdminTeam@scotborders.gov.uk">AssessorAdminTeam@scotborders.gov.uk</a>	<a href="https://www.scotborders.gov.uk/info/20024/business_rates">https://www.scotborders.gov.uk/info/20024/business_rates</a> or <a href="http://www.saa.gov.uk">www.saa.gov.uk</a>



Scottish Fire and Rescue Service 143 Croft Street Galashiels TD1 3BS	01896 758326 <a href="mailto:enquiries@firescotland.gov.uk">enquiries@firescotland.gov.uk</a>	<a href="http://www.firescotland.gov.uk">www.firescotland.gov.uk</a>
Security Industry Authority (SIA) PO Box 49768 London WC1V 6WY		<a href="http://www.the-sia.org.uk/home">www.the-sia.org.uk/home</a>
Gambling Commission		<a href="http://www.gamblingcommission.gov.uk/home.aspx">www.gamblingcommission.gov.uk/home.aspx</a>

## APPENDIX 3

### PROCEDURE TO BE FOLLOWED AT HEARINGS

#### REPRESENTATION AT THE HEARING

Parties may be represented if they so wish at a hearing.

Before reaching a final decision, the Licensing Board will have regard to the licensing objectives, its Licensing Policy Statement and all the evidence and submissions presented to it. It may retire to consider the evidence and parties will be invited to return when it is reconvened to give its decision. A letter will be sent to the applicant/licenceholder confirming the decision after the hearing.

In the event that the applicant/licenceholder fails to attend and in the absence of any representative, the Licensing Board will make a decision on whether or not to continue with the hearing having regard to the advice of the legal adviser and any relevant information made available by officers.

**\*NOTE: BOTH PARTIES HAVE THE RIGHT TO SUBMIT WRITTEN COMMENTS ONLY AND RELY ON THESE**

#### PROCEDURE AT HEARING

- 1 The legal adviser to the Licensing Board will:
  - Clarify who the parties are
  - explain the general format the hearing will take, advise in which order the parties will be invited to speak and at what stage opportunities for questions/clarification of matters will be appropriate
  - confirm that all parties are in agreement with the format outlined
  - advise all present that all questions or comments should be addressed through the Convener
2. The Licensing Team Leader will give a brief outline of the matter to be considered and the reason it has been referred to the Licensing Board.
- 3 The Convener will invite anyone making an objection or representation or his/her representative to present his/her objection/representation.\*
4. The Convener will invite questions to the objector/person making representation from:
  - (a) Board members
  - (b) the applicant/licenceholder or their representative
5. The Convener will invite the applicant/licenceholder or their representative to present their case in answer to the objection(s)/representation(s).\*
6. The Convener will invite questions to the applicant/licenceholder from:
  - (a) Board Members
  - (b) the objector(s)/person(s) making representation
7. The legal adviser to the Licensing Board will summarise the options for disposal of the matter with reference to the Licensing (Scotland) Act 2005 and offer Members the opportunity to take legal advice on any matters raised.

8. The Convener will clarify with all present that they have no further questions or comments to make before requesting that the objector(s)/anyone making a representation and the applicant/licenceholder or their representative make any final points regarding the matters discussed.
9. The objector(s)/anyone making a representation will be asked if they have anything else to say before the Licensing Board makes its decision.
10. The applicant/licenceholder will be asked if they have anything else to say before the Licensing Board makes its decision.
11. The Licensing Board may seek legal advice from the legal adviser present before retiring to consider matters or moving to determine the matter.
12. The Convener will deliver the Licensing Board's decision.

### **OPTIONS, CONDITIONS FOR LICENCES GRANTED AND APPEALS**

The Licensing Board will make a decision, attach any conditions and advise of the appeal process having regard to the relevant sections of the Licensing (Scotland) Act 2005.

## APPENDIX 4

### SCOTTISH BORDERS LICENSING BOARD LICENSING (SCOTLAND) ACT 2005

#### Scheme of Delegation adopted by the Scottish Borders Licensing Board at their meeting held on 22 June 2012

By virtue of the powers conferred on us by the Licensing (Scotland) Act 2005 ("the 2005 Act") we hereby make this scheme of delegation.

1 The following are not delegated and are reserved to the Board to be made at a meeting arranged by the Clerk:

- 1.1
- (a) determining the Board's policy for the purposes of a licensing policy statement or supplementary licensing policy statement.
  - (b) determining, for the purposes of any such statement, whether there is overprovision of licensed premises, or licensed premises of any particular description, in any locality
  - (c) determining a premises licence application
  - (d) determining a premises licence variation application where the variation sought is not a minor variation
  - (e) determining an application for the transfer of a premises licence where the applicant has been convicted of a relevant offence or a foreign offence
  - (f) determining:
    - (i) a personal licence application, or
    - (ii) a personal licence renewal applicationwhere the applicant has been convicted of a relevant offence or a foreign offence
  - (g) conducting a hearing under the 2005 Act (including taking any of the steps mentioned in paragraph 1.2 below at, or as a result of, the hearing)
  - (h) making a closure order
  - (i) refusing an application for confirmation of a provisional premises licence

1.2 The steps referred to in paragraph 1.1(g) above are:

- (a) at a review hearing in respect of a premises licence:
  - (i) issuing a written warning to the licence holder
  - (ii) revoking or suspending the licence, or
  - (iii) making a variation of the licence, or
- (b) making an order revoking, suspending or endorsing a Personal Licence.

1.3 A Licensing Board may delegate to the Clerk of the Board the function of granting an occasional licence application only where there is no notice of objection or representations in relation to the application, or no notice from the appropriate Chief Constable or any report from the Licensing Standards Officer recommending refusal of the application.

## 2 DELEGATION TO THE CLERK OR DEPUTE CLERK OF THE LICENSING BOARD

Decisions on the following matters are delegated to the Clerk or Depute Clerk or any nominated staff:

References to section in the following paragraph are references to sections of the 2005 Act, except where otherwise stated.

2.1 Any application for a minor variation of Premises Licence (Section 29).

2.2 Any application for variation to substitute a new Premises Manager – where the applicant has not been convicted of any relevant or foreign offence (Sections 31 and 54).

- 2.3 Any application to transfer a Premises Licence – where the transferee has not been convicted of any relevant or foreign offence (Sections 33 to 35).
- 2.4 Any application for confirmation of a provisional Premises Licence – where no variation (other than a minor variation) has been made to the operating plan or layout plan for the premises to which the licence relates since the provisional licence was issued or since a variation of the provisional Premises Licence was granted (Section 46).
- 2.5 Any application for an occasional licence – where no objections or representations have been received, nor a notice recommending refusal from the Chief Constable or any report from the Licensing Standards Officer recommending refusal (Sections 56 to 61).
- 2.6 Any application for extended hours – where no objections or representations have been received, nor a notice recommending refusal from the Chief Constable or any report from the Licensing Standards Officer recommending refusal (Sections 68 to 70).
- 2.7 The determination in terms of Section 70(2) of the 2005 Act as to whether or not the Licensing Board will hold a hearing to determine an application for extended hours where an objection, representation or a notice recommending refusal from the Chief Constable or a report from the Licensing Standards Officer recommending refusal has been received.
- 2.8 Where a decision has been taken not to hold a hearing in terms of Section 70(2) of the Act, the determination of the application.
- 2.9 Any application for a Personal Licence or renewal of a Personal Licence where the applicant has not been convicted of a relevant or foreign offence (Section 74).
- 2.10 Although an application or decision may fall within the above categories, the Clerk of the Board or any member of staff appointed by the Clerk, may decline to exercise their delegated power in which case the matter will be referred to the Board.

## APPENDIX 5

### PREMISES LICENCES - MANDATORY CONDITIONS (APPLICABLE FROM 1 MAY 2018)

#### Mandatory Conditions

1. In this schedule, “the premises” means, in relation to any premises licence, the premises specified in the licence.

#### Compliance with the operating plan

- 2 (1) Alcohol is to be sold on the premises only in accordance with the operating plan contained in the licence.
- (2) Nothing in sub-paragraph (1) is to be read as preventing or restricting the doing of anything referred to in section 63(2).
3. Any other activity to be carried on in the premises is to be carried on only in accordance with the operating plan contained in the licence.

#### The premises manager

- 4 (1) Alcohol is not to be sold on the premises at any time when:
  - (a) there is no premises manager in respect of the premises
  - (b) the premises manager does not hold a personal licence
  - (c) the personal licence held by the premises manager is suspended; or
  - (d) the licensing qualification held by the premises manager is not the appropriate licensing qualification in relation to the premises
- (2) In sub-paragraph (1), “appropriate licensing qualification” in relation to any licensed premises means any licensing qualification prescribed as such in relation to licensed premises of that description in regulations under section 91(2)(d).
- (3) Nothing in sub-paragraph (1) or paragraph 5 is to be read as requiring the premises manager to be present on the premises at the time any sale of alcohol is made.

#### Authorisation of sales of alcohol

5. Every sale of alcohol made on the premises must be authorised (whether generally or specifically) by:
  - (a) the premises manager; or
  - (b) another person who holds a personal licence

#### Training of staff

- 6 (1) No person (other than a person who holds a personal licence) is to work in the premises in the capacity mentioned in sub-paragraph (2) unless that person has complied with such requirements as to the training of staff as may be prescribed for the purposes of this paragraph.
- (2) That is a capacity (whether paid or unpaid) which involves the person:
  - (a) making sales of alcohol; or
  - (b) where alcohol is sold on the premises for consumption on the premises, serving such alcohol to any person.

- (2A) At any time when a person (other than a person who holds a personal licence) is working in the premises in a capacity mentioned in sub-paragraph (2), there must be kept on the premises a training record which relates to that person and is in the form set out in the Schedule to the Licensing (Mandatory Conditions No. 2) (Scotland) Regulations 2007.
- (2B) A record kept on the premises under sub-paragraph (2A) must be produced to a Licensing Standards Officer on request.
- (3) Regulations under sub-paragraph (1) prescribing training requirements may, in particular:
- (a) provide for the accreditation by the Scottish Ministers of:
    - (i) courses of training; and
    - (ii) persons providing such courses

for the purposes of the regulations
  - (b) prescribe different training requirements in relation to different descriptions of persons.
  - (c) require that any person providing training or any particular description of training in accordance with the regulations hold a personal licence or such other qualification as may be prescribed in the regulations; and
  - (d) require training to be undergone again at such intervals as may be prescribed in the regulations.

#### **Minimum price of alcohol**

- 6A (1) Alcohol must not be sold on the premises at a price below its minimum price.
- (2) Where alcohol is supplied together with other products or services for a single price, sub-paragraph (1) applies as if the alcohol were supplied on its own for that price.
- (3) The minimum price of alcohol is to be calculated according to the following formula:  

$$\text{MPU} \times \text{S} \times \text{V} \times 100$$
 where:  
 MPU is the minimum price per unit  
 S is the strength of the alcohol; and  
 V is the volume of the alcohol in litres
- (4) The Scottish Ministers have specified by order that the minimum price per unit is 50 pence.
- (5) For the purposes of sub-paragraph (3), where:  
 the alcohol is contained in a bottle or other container; and  
 (a) the bottle or other container is marked or labelled in accordance with the Food Information (Scotland) Regulations 2014(a)  
 the strength is taken to be the alcoholic strength by volume as indicated by the mark or label.

#### **Minimum price of packages containing more than one alcoholic product**

- 6B (1) A package containing two or more alcoholic products (whether of the same or different kinds) may only be sold on the premises at a price equal to or greater than the sum of the prices at which each alcoholic product is for sale on the premises.

- (2) Sub-paragraph (1) applies:
  - (a) only where each of the alcoholic products is for sale on the premises separately, and
  - (b) regardless of whether or not the package also contains any item which is not an alcoholic product.
- (3) In this paragraph, "alcoholic product" means a product containing alcohol and includes the container in which alcohol is for sale.

### **Pricing of alcohol**

7. Where the price at which any alcohol sold on the premises for consumption on the premises is varied:
  - (a) the variation (referred to in this paragraph as "the earlier price variation") may be brought into effect only at the beginning of a period of licensed hours, and
  - (b) no further variation of the price at which that or any other alcohol is sold on the premises for consumption on the premises may be brought into effect before the expiry of the period of 72 hours beginning with the coming into effect of the earlier price variation.

### **Off-sales: variation of pricing of alcoholic drinks**

- 7(A) Where the price at which any alcohol sold on the premises for consumption off the premises is varied:
  - (a) the variation (referred to in this paragraph as "the earlier price variation") may be brought into effect only at the beginning of a period of licensing hours, and
  - (b) no further variation in the price at which that alcohol is sold on the premises may be brought into effect before the expiry of the period of 72 hours beginning with the coming into effect of the earlier price variation.

### **Irresponsible drinks promotions**

- 8 (1) An irresponsible drinks promotion must not be carried on in or in connection with the premises.
- (2) Subject to sub-paragraph (3), a drinks promotion is irresponsible if it:
  - (a) relates specifically to an alcoholic drink likely to appeal largely to persons under the age of 18,
  - (b) involves the supply of an alcoholic drink free of charge or at a reduced price on the purchase of one or more drinks (whether or not alcoholic drinks),
  - (c) involves the supply free of charge or at a reduced price of one or more extra measures of an alcoholic drink on the purchase of one or more measures of the drink,
  - (d) involves the supply of unlimited amounts of alcohol for a fixed charge (including any charge for entry to the premises),
  - (e) encourages, or seeks to encourage, a person to buy or consume a larger measure of alcohol than the person had otherwise intended to buy or consume,
  - (f) is based on the strength of any alcohol,
  - (g) rewards or encourages, or seeks to reward or encourage, drinking alcohol quickly, or
  - (h) offers alcohol as a reward or prize, unless the alcohol is in a sealed container and consumed off the premises.
- (3) Paragraphs (c) to (e) of sub-paragraph (2) apply only to a drinks promotion carried on in relation to alcohol sold for consumption on the premises.



- (4) The Scottish Ministers may by regulations modify sub-paragraph (2) or (3) so as to:
  - (a) add further descriptions of drinks promotions
  - (b) modify any of the descriptions of drinks promotions for the time being listed in it; or
  - (c) extend or restrict the application of any of those descriptions of drinks promotions.
- (5) In this paragraph, "drinks promotion" means, in relation to any premises, any activity which promotes, or seeks to promote, the buying or consumption of any alcohol on the premises.

### **Provision of non-alcoholic drinks**

- 9 (1) The conditions specified in this paragraph apply only to the extent that the premises licence authorises the sale of alcohol for consumption on the premises.
- (2) Tap water fit for drinking must be provided free of charge on request.
- (3) Other non-alcoholic drinks must be available for purchase at a reasonable price.

### **Age verification policy**

- 9(A) (1) There must be an age verification policy in relation to the sale of alcohol on the premises.
- (2) An "age verification policy" is a policy that steps are to be taken to establish the age of a person attempting to buy alcohol on the premises ("the customer") if it appears to the person selling the alcohol that the customer may be less than 25 years of age (or such older age as may be specified in the policy).
- (3) The condition specified in this paragraph does not apply in relation to any sale of alcohol which takes place on the premises merely by virtue of being treated, by section 139, as taking place on the premises.

### **Payment of annual or recurring fees**

- 10 (1) The condition specified in sub-paragraph (2) applies only in relation to a premises licence in respect of which an annual or other recurring fee is to be paid by virtue of regulations under section 136(1).
- (2) The fee must be paid as required by the regulations.

### **Notices – admission of persons under 18**

- 11 (1) The condition specified in this paragraph applies only in the case of premises on which alcohol is sold for consumption on the premises.
- (2) There is to be displayed so that it is reasonably visible to customers entering the premises a sign of at least A4 size which:
  - (a) states that persons under the age of 18 are not permitted on the premises; or
  - (b) states that such persons are permitted on the premises or on such parts of the premises as are specified on the sign.

## **Baby changing facilities**

- 12 (1) The condition specified in this paragraph applies only in the case of premises:
- (a) which are not:
    - (i) a vehicle;
    - (ii) a vessel;
    - (iii) a moveable structure; or
    - (iv) used wholly or mainly for the purposes referred to in section 125(1);
  - (b) on which alcohol is sold for consumption on the premises; and
  - (c) to which children under the age of 5 are to be admitted.
- (2) There are to be on the premises facilities for baby changing which are to be accessible to persons of either gender.

## **Display or promotion of the sale of alcohol for consumption off the premises**

- 13 (1) Subject to sub-paragraph (3), alcohol which is for sale only for consumption off the premises may be displayed only in one or both of the following:
- (a) a single area of the premises agreed between the Licensing Board and the holder of the licence; or
  - (b) a single area of the premises which is inaccessible to the public.
- (1A) Sub-paragraphs (1B) to (1D) apply where the premises, in so far as they are used for the sale of alcohol, are so used only or primarily for the sale of alcohol for consumption off the premises.
- (1B) Any drinks promotion on the premises may take place only in any one or more of the following:
- (a) an area referred to in sub-paragraph (1)(a) and (b),
  - (b) a room on the premises which is used for offering the tasting of any alcohol sold on the premises (for consumption off the premises) and the resulting tasting and is separate from those areas.
- (1C) A drinks promotion in connection with the premises may not take place in the vicinity of the premises.
- (1D) For the purposes of sub-paragraph (1C), the "vicinity" means the area extending 200 metres from the boundary of the premises (as shown on the layout plan).
- (2) In an area agreed in terms of sub-paragraph (1)(a), a product other than alcohol may be displayed only if it is:
- (a) a non-alcoholic drink;
  - (b) packaged with, and may be purchased only along with, alcohol;
  - (c) a branded non-alcoholic product, or
  - (d) a newspaper, magazine or other publication.
- (2A) Sub-paragraph (2) is without prejudice to sub-paragraph (1B).
- (3) This paragraph does not apply in respect of premises:
- (a) whose main function is to provide a visitor attraction, and
  - (b) where:
    - (i) the premises form part of a larger site which is used principally for the production of alcoholic drinks, or
    - (ii) the visitor attraction is used principally to provide information about and promote the history and attributes of a particular alcoholic drink or a particular category of alcoholic drink.

(4) In this paragraph:

"branded non-alcoholic product" means a product which does not consist of or contain alcohol and which:

- (a) bears a name or image of; or
- (b) is an image of, an alcoholic product (namely, a product consisting of or containing alcohol).

"drinks promotion" means any activity which promotes, or seeks to promote, the buying of any alcohol sold on the premises for consumption off the premises but does not include the display of any product which is:

- (a) a branded non-alcoholic product for sale on the premises; or
- (b) a newspaper, magazine or other publication:
  - (i) for sale on the premises; or
  - (ii) if not for sale on the premises, which does not relate only or primarily to alcohol.

## APPENDIX 6

The following are also mandatory conditions if the premises will, on any occasion, be open (to the public – residents of a hotel are excluded from) after 1.00am. Condition 1 is always applied in such circumstances. Conditions 2 to 6 apply depending on certain other detailed criteria.

1. A person trained to the satisfaction of the Licensing Board in administering first aid must be present on the premises from 1.00am (on any day when the premises are open at that time) until whichever is the earlier of:
  - (a) the time at which the premises next close; and
  - (b) 5.00am.
2. A designated person who is the holder of a personal licence must be present on the premises from 1.00am (on any day when the premises are open at that time) until whichever is the earlier of:
  - (a) the time at which the premises next close; and
  - (b) 5.00am or such other time as the Licensing Board may specify.
3. There must be written policies in existence concerning:
  - (a) the evacuation of the premises; and
  - (b) the prevention of the misuse of drugs on the premises.
4. A CCTV system must be installed on the premises to the satisfaction of the appropriate chief constable and must be kept in good working order.
5. There must be persons responsible for checking on the safety and wellbeing of persons using any toilet facilities on the premises.
6. A person who holds a licence granted under section 8 of the Private Security Industry Act 2001 must be positioned at every entrance to the premises from 1.00am (on any day when the premises are open at that time) until whichever is the earlier of:
  - (a) the time at which the premises next close; and
  - (b) 5.00am or such other time as the Licensing Board may specify.

## APPENDIX 7

### SCOTTISH BORDERS LICENSING BOARD

#### Occasional Licences - Mandatory Conditions (Applicable from 1 May 2018)

##### Interpretation

- 1 In this schedule, "the premises" means, in relation to any occasional licence, the premises specified in the licence.

##### Compliance with Licence

- 2 (1) Alcohol may be sold on the premises only in accordance with the terms of the licence.  
(2) Nothing in sub-paragraph (1) is to be read as preventing or restricting the doing of anything referred to in section 63(2).
- 3 Any other activity to be carried on in the premises may be carried on only in accordance with the description of the activity contained in the licence.

##### Authorisation of Sales of Alcohol

- 4 (1) The condition specified in sub-paragraph (2) applies only to an occasional licence issued to the holder of a premises licence or personal licence.  
(2) Every sale of alcohol made on the premises to which the licence relates must be authorised (whether generally or specifically) by the holder of a personal licence.

##### Voluntary Organisations

- 5 (1) The condition specified in sub-paragraph (2) applies only to an occasional licence issued to a representative of a voluntary organisation.  
(2) Alcohol may be sold on the premises only at an event taking place on the premises in connection with the voluntary organisation's activities.

##### Minimum price of packages containing more than one alcoholic product

- 5(A) (1) Alcohol must not be sold on the premises at a price below its minimum price.  
(2) Where alcohol is supplied together with other products or services for a single price, sub-paragraph (1) applies as if the alcohol were supplied on its own for that price.  
(3) The minimum price of alcohol is to be calculated according to the following formula:

$$\text{MPU} \times \text{S} \times \text{V} \times 100$$

where:

MPU is the minimum price per unit  
S is the strength of the alcohol; and  
V is the volume of the alcohol in litres

- (4) The Scottish Ministers have specified by order that the minimum price per unit is 50 pence.
- (5) For the purposes of sub-paragraph (3), where:
- (a) the alcohol is contained in a bottle or other container; and
  - (b) the bottle or other container is marked or labelled in accordance with the Food Information (Scotland) Regulations 2014(a)

the strength is taken to be the alcoholic strength by volume as indicated by the mark or label.

- 5B (1) A package containing two or more alcoholic products (whether of the same or different kinds) may only be sold on the premises at a price equal to or greater than the sum of the prices at which each alcoholic product is for sale.
- (2) Sub-paragraph (1) applies:
- (a) only where each of the alcoholic products is for sale on the premises separately, and
  - (b) regardless of whether or not the package also contains any item which is not an alcoholic product.
- (3) In this paragraph, "alcoholic product" means a product containing alcohol and includes the container in which alcohol is for sale.

### **Pricing of Alcohol**

- 6 Where the price at which any alcohol sold on the premises for consumption on the premises is varied:
- (a) the variation (referred to in this paragraph as "the earlier price variation") may be brought into effect only at the beginning of a period of licensed hours; and
  - (b) no further variation of the price at which that or any other alcohol is sold on the premises for consumption on the premises may be brought into effect before the expiry of the period of 72 hours beginning with the coming into effect of the earlier price variation.
- 6A Where the price at which any alcohol sold on the premises for consumption off the premises is varied:
- (a) the variation (referred to in this paragraph as "the earlier price variation") may be brought into effect only at the beginning of a period of licensed hours; and
  - (b) no further variation in the price at which that alcohol is sold on the premises may be brought into effect before the expiry of 72 hours beginning with the coming into effect of the earlier price variation.

### **Irresponsible Drinks Promotions**

- 7 (1) An irresponsible drinks promotion must not be carried on in or in connection with the premises.
- (2) Subject to sub-paragraph (3), a drinks promotion is irresponsible if it:
- (a) relates specifically to an alcoholic drink likely to appeal largely to persons under the age of 18;
  - (b) involves the supply of an alcoholic drink free of charge or at a reduced price on the purchase of one or more drinks (whether or not alcoholic drinks);
  - (c) involves the supply free of charge or at a reduced price of one or more extra measures of an alcoholic drink on the purchase of one or more measures of the drink;
  - (d) involves the supply of unlimited amounts of alcohol for a fixed charge (including any charge for entry to the premises);
  - (e) encourages, or seeks to encourage, a person to buy or consume a larger measure of alcohol than the person had otherwise intended to buy or consume;
  - (f) is based on the strength of any alcohol;
  - (g) rewards or encourages, or seeks to reward or encourage, drinking alcohol quickly;
  - or
  - (h) offers alcohol as a reward or prize, unless the alcohol is in a sealed container and consumed off the premises.
- (3) Paragraphs (c) to (e) of sub-paragraph (2) apply only to a drinks promotion carried on in relation to alcohol sold for consumption on the premises.
- (4) The Scottish Ministers may by regulations modify sub-paragraph (2) or (3) so as to:

- (a) add further descriptions of drinks promotions;
- (b) modify any of the descriptions of drinks promotions for the time being listed in it; or
- (c) extend or restrict the application of any of those descriptions of drinks promotions.

- (5) In this paragraph, "drinks promotion" means, in relation to any premises, any activity which promotes, or seeks to promote, the buying or consumption of any alcohol on the premises.

**Provision of Non-Alcoholic Drinks**

- 8 (1) The conditions specified in this paragraph apply only to the extent that the occasional licence authorises the sale of alcohol for consumption on the premises.
- (2) Tap water fit for drinking must be provided free of charge on request.
- (3) Other non-alcoholic drinks must be available for purchase at a reasonable price.

**Age verification policy**

- 9 (1) There must be an age verification policy in relation to the sale of alcohol on the premises.
- (2) An "age verification policy" is a policy that steps are to be taken to establish the age of a person attempting to buy alcohol on the premises ("the customer") if it appears to the person selling the alcohol that the customer may be less than 25 years of age (or such older age as may be specified in the policy).
- (3) The condition specified in this paragraph does not apply in relation to any sale of alcohol which takes place on the premises merely by virtue of being treated, by section 139, as taking place on the premises.

**Additional Conditions:**

## APPENDIX 8

### EXAMPLE ADDITIONAL CONDITIONS

1. The music must be turned off at midnight.
2. A noise steward to patrol the outside of the marquee every 30 minutes - must be someone **not** on duty inside the marquee at any time during the evening.
3. The sound system limiter to be set to a reasonable level and no bypass facility permitted.
4. That during the whole period of the event or occasion, an adequate number of stewards are employed at all entry and exit points to facilitate the safety of patrons and the public.
5. That there is a clearly identifiable person in charge whether it is the licence holder or not.
6. That all approaches to the venue are at all times kept clear of all obstructions including vehicles to ensure Emergency vehicle access if required.
7. At the end of the evening, guests should be reminded that they should leave the marquee in a quiet, orderly manner.
8. To continue to carry out the sound reduction measures agreed with Environmental Health.
9. All reasonable steps should be taken to ensure that customers using any areas outside the premises to smoke do not cause a nuisance to residents in the vicinity of the premises by creating noise, litter etc.
10. Drinks supplied in any public beer tent or bar to be dispensed in plastic containers.
11. Any drinks carried out, from any hospitality tent, to be in a plastic container.
12. The applicant named on the licence should be present and available throughout the event.
13. There should be a clearly identified person in charge at each bar/ point of sale.
14. Policy Statements should be in place showing how the Five Licensing Objectives contained within the Licensing (Scotland) Act 2005 are to be achieved.
15. Challenge 25 to be strictly enforced with staff trained and signage displayed accordingly.
16. Adequate and appropriate stewarding should be in place at all licensed areas.
17. A system should be in place to identify and distinguish between those attending the event who are under or over 18 years of age.
18. Any staff employed in the sale of supply of alcohol should be trained to the same level as the mandatory staff training required when employed in licensed premises and a record of that training should be available for inspection.



## APPENDIX 9

### WHAT IS A CLUB

Clubs are defined in The Licensing (Clubs) (Scotland) Regulations 2007, as follows:

They must not be conducted for the purpose of making a profit

They must have a written Constitution and Rules that provide for the following:

- (i) The business of the club is to be under the management of a committee or other governing body elected by the members;
- (ii) No person under 18 is to be admitted as a member of the club (unless the club is devoted primarily to some sporting purpose or is a students union);
- (iii) No member of the committee or employee is to have a personal interest in the sale of alcohol on the club premises or in the profits from the sale of alcohol;
- (iv) Except when an occasional licence is in force, alcohol can only be supplied to members, their guests or members of other qualifying clubs;
- (v) Other than when an occasional licence is in force, where a guest is supplied with alcohol an entry must be made in a book recording the name of the guest, the name of the member accompanying him or her and the date;
- (vi) Correct accounts and books are to be kept showing the financial affairs of the club;
- (vii) The club must have at least 25 members to be properly constituted; and
- (viii) No person is to be allowed honorary or temporary membership of the club or to be relieved of the payment of the regular entrance fee or subscription, except:
  - (a) to allow temporary participation in the activity which is the prime purpose of the club; and
  - (b) in accordance with specific provisions set out in the club rules.

A club **MUST HAVE** a proper Constitution to comply with the regulations. The Board will therefore expect clubs to provide a copy of their Constitution and rules along with their Premises Licence application.

### WHAT ARE THE EXEMPTIONS FOR CLUBS UNDER THE 2005 ACT

Section 125 of the Act provides for some exemptions for clubs who fall within the description above.

Clubs are exempted from:

The assessments of overprovision (Section 7);

The ground for refusal of Premises Licence or Premises Licence Variation application relating to overprovision (Section 23(5)(e) and 30(5)(d));

The requirement for the Operating Plan to contain information about the Premises Manager (Section 20(4)(g));

The requirement for the name and address of the Premises Manager to be specified in the Premises Licence (Section 26(2)(a)(ii));

The requirement for there to be a Premises Manager for licensed premises (Schedule 3 para 4);

The requirement for the sale of alcohol under the Premises Licence to be authorised by a Personal Licenceholder (Schedule 3, para 5); and

The requirement for sales of alcohol under certain Occasional Licences to be authorised by a Personal Licenceholder. (Schedule 4, para. 4).

These exemptions mean that clubs will not generally need a Personal Licenceholder or a Premises Manager. The exception is where they were to be open after 1 a.m. and satisfy certain other requirements (beyond the scope of this guidance) in which case they may become subject to certain mandatory conditions that include the presence of a Personal Licenceholder.

## **WHAT ARE THE TRAINING REQUIREMENTS**

The Premises Licence Mandatory Conditions contained in Schedule 3 to the Act provide, at Para 6, for the training of staff selling or serving alcohol. There is no exemption for clubs from this provision and clubs cannot use untrained staff. (A copy of the Mandatory Conditions is attached as Appendix 4).

Where a person undertakes the role of selling or serving alcohol then that person must be trained to the standard prescribed in the Licensing (Training of Staff)(Scotland) Regulations 2007 (SSI 95). That standard is at least 2 hours of relevant training from a person who holds a Personal Licence or who is accredited by the Scottish Qualifications Agency ([www.sqa.org.uk](http://www.sqa.org.uk)).

Club representatives have undergone recognised training in the past. Some clubs may choose to have someone undergo the necessary training and to apply for a Personal Licence, even though there is no requirement for this, the Personal Licenceholder could then carry out training for any other staff or members internally. Each club must make its own decision on this. As a matter of good practice Scottish Borders Licensing Boards strongly recommend that clubs do have a Personal Licenceholder on their staff or indeed a Committee Member or Official.

## FIRE SAFETY INFORMATION FOR LICENCE APPLICANTS

Part of any licence application involves consultation with the Fire and Rescue Service in order to ensure that the Fire (Scotland) Act 2005 as amended and the Fire Safety (Scotland) Regulations 2006 are being complied with. The responsibility for complying with these fire safety laws lies with the employer (and/or any other person who may have control of the premises e.g. owner/licensee/tenant/manager; this person is designated as the “*duty holder*”) **and they MUST ensure that a fire safety risk assessment is carried out by a competent person and the outcomes recorded.**

More detailed guidance on the Fire (Scotland) Act 2005 as amended, the Fire Safety (Scotland) Regulations 2006 and fire safety risk assessment is available, **under ‘firelaw’**, on the Scottish Government website; [www.scotland.gov.uk](http://www.scotland.gov.uk)

Also, detailed information regarding the benchmark standards for licensed premises can be found on the above website. These are contained within the sector specific guides “*Practical Fire Safety Guidance for Places of Entertainment and Assembly*” (PFSGPEA) **(for ON sales)** and “*Practical Fire Safety Guidance for Offices, Shops and Similar Premises*” (PFSGOSSP) **(for OFF sales)**. These sector specific guides can be downloaded free of charge from the above website.

**In relation to your licence application, plans are NOT to be submitted to the Fire and Rescue Service. As part of the process to issue a licence the Fire and Rescue Service MAY require to visit and audit the fire safety arrangements in the premises. This may not be required in every instance.**

Free advice is available from Scottish Fire and Rescue Service about issues relating to general fire safety, but it must be remembered that the duty holder is responsible for carrying out the fire safety risk assessment for their premises and identifying the fire safety measures necessary as a result of the fire safety risk assessment outcomes.

Scottish Fire and Rescue Service can be contacted using any of the following methods;

**Phone:** 01896 758326

**Email:** [enquiries@firescotland.gov.uk](mailto:enquiries@firescotland.gov.uk)

**Postal address:** Scottish Fire and Rescue Service,  
Community Safety (Prevention and Protection),  
143 Croft Street  
Galashiels  
TD1 3BS

**Website:** [www.firescotland.gov.uk](http://www.firescotland.gov.uk)

## **BENCHMARK FIRE SAFETY STANDARDS FOR OFF/ON SALES**

- a) Emergency/Escape Lighting System(s) should comply with British Standard 5266: Parts 1, 7 and 8, current edition (BS EN 1838).  
(Category – non-maintained 60 for off licence, maintained 180 for all other licence types).  
**\*See sector specific guides: Technical Annexe 13.10**
- b) Signs and Notices should comply with the Health and Safety (Safety Signs and Signals) Regulations 1996 and/or British Standard 5499: Parts 1, 4 and 5, current edition.  
**\*See sector specific guides: Technical Annexe 13.11**
- c) Fire Warning/Automatic Fire Detection System(s) should comply with BS 5839: Part 1, current edition (category M, L1, L2, L3, L4 or L5) **\*if applicable**  
**\*See sector specific guides: Technical Annexe 13.12**
- d) Firefighting Equipment should comply with British Standard EN3, British Standard 7863 (current edition), British Standard 5306 Part 3, current edition and British Standard 5306 Part 8, current edition.  
**\*See sector specific guides: Technical Annexe 13.13**
- e) Furniture and Textiles should conform to the relevant guidance/standard(s).  
**\*See PFSGPEA: Technical Annexe 13.15**
- f) Tents, Marquees, Air Supported and Pneumatic Structures should conform to the relevant guidance/standard(s).  
**\*See PFSGPEA: Technical Annexe 13.16**
- g) Auditoria, Stages, Fixed Seating and Gangways should conform to the relevant guidance/standard(s).  
**\*See PFSGPEA: Technical Annexe 13.18**
- h) Open Air Events should conform to the relevant guidance/standard(s).  
**\*See PFSGPEA: Technical Annexe 13.19**
- i) Fire safety policy, emergency fire action plans, fire safety information, training, fire drills, maintenance of fire safety measures, recording information/keeping records should all conform to the relevant guidance/standard(s).  
**\*See sector specific guides: Chapter 5 Managing Fire Safety**
- j) Any other fire related standard which is relevant to your premises (e.g. fire doors, dry risers, fire service access, water supplies etc)  
**\*See sector specific guides and relevant Technical Annexe(s)**

Any staff training needs that are identified from the fire safety risk assessment process are also the responsibility of the duty holder to address.

**The above recommendations should not be regarded as the only option for achieving the benchmark standards. Other fire safety risk assessment methods or fire safety measures which achieve the same end should be considered.**

## SCOTTISH BORDERS LICENSING BOARD

MINUTE of Meeting of the SCOTTISH BORDERS LICENSING BOARD held in Committee Rooms 2 and 3 on Friday, 26 October 2018 at 10.30 am

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- Present:- Councillors J. Greenwell (Convener), J. Brown, D. Paterson, N. Richards, S. Scott, R. Tatler, E. Thornton-Nicol and G. Turnbull
- Apologies:- Councillor T. Weatherston
- In Attendance:- Clerk to the Scottish Borders Licensing Board, Managing Solicitor (Property and Licensing), Licensing Services Team Leader, Licensing Standards and Enforcement Officers (I. Tunnah and M. Wynne), Democratic Services Officer (F. Walling), Inspector A. Hodges - Police Scotland.

1. **ORDER OF BUSINESS**

The Chairman varied the order of business as shown on the agenda and the Minute reflects the order in which the items were considered at the meeting.

2. **MINUTE**

The Minute of Meeting of 24 August 2018 had been circulated.

**DECISION  
APPROVED.**

3. **SCOTTISH BORDERS LICENSING BOARD - FINANCIAL REPORTS 2017/18**

With reference to paragraph 3 of the Minute of 24 August 2018, there had been re-circulated copies of a report by the Clerk to the Scottish Borders Licensing Board now seeking approval of the Annual Financial Report. Following correction of a minor error within the Financial Report an amended version was attached as an Appendix. It was noted that the Annual Functions Report had been approved at the last meeting.

**DECISION**

(a) **APPROVED the Scottish Borders Licensing Board Annual Financial Report 2017/18 attached as Appendix 2 to the report; and**

(b) **AGREED to authorise the Clerk to the Board to proceed with the publication of the Scottish Borders Licensing Board 2017/18 Annual Functions Report and Annual Financial Report.**

4. **LICENCES DEALT WITH UNDER DELEGATED POWERS**

For Members' information there had been circulated copies of a list of licences dealt with under delegated powers for the period 15 August 2018 to 12 September 2018 and 13 September 2018 to 10 October 2018.

**DECISION  
NOTED.**

5. **LICENSING (SCOTLAND) ACT 2005:**



**(ii) The Edinburgh Woollen Mill Limited**

**Edinburgh Woollen Mill  
Bankend North  
Edinburgh Road  
Jedburgh**

Amendments to operating plan, as follows:-

- the deletion of the Seasonal Variation;
- addition to the permitted activities referred to in question 5 (a-e) (columns 2, 3 & 4) of the Operating Plan, to include Receptions (including weddings, funerals, birthdays, retirements etc); Club or other group meetings etc; and Live Performances, during and outwith core licensed hours;
- a change to the explanation in question 5 (a-e), as to 'Yes' in column 4 – to read 'these activities may be provided outwith core licensed hours, but no alcohol will be sold or supplied. No alcohol will be sold outwith core licensed hours'; and
- a change to the explanation at question 5 (f) – any other activities – to read 'the retail sale (during and outwith licensed hours) of a wide range of clothing, woollen goods, home wares, gifts and tourist items. The premises will also host events such as club meetings, parties, fashion shows, charity fundraisers and tastings. Santa's Grotto will be available throughout the months of November and December'.

Representations received:

Police Scotland - none.

Licensing Standards Officer - none.

Health - none.

Other - none.

There had been circulated copies of the application and current and proposed operating plans.

**DECISION  
GRANTED**

**(iii) The Edinburgh Woollen Mill Limited**

**Jedburgh Woollen Mill  
Bankend North  
Edinburgh Road  
Jedburgh**

Amendments to the licence and operating plan as follows:-

- a change to the core On and Off Sale hours:-

Current On Sale Hours

11.00am – 8.00pm Mon to Sat  
12.30pm – 8.00pm Sun

Proposed On Sale Hours

11.00am – 10.00pm Mon to Sun

Current Off Sale Hours

10.00am – 8.00pm Mon to Sun

Proposed Off Sale Hours

10.00am – 10.00pm Mon to Sun

- addition of a seasonal variation at question 4 - 'the premises would like to take advantage of any extension that the Board may grant from time to time';
- addition to the permitted activities referred to in question 5 (a-e) (columns 2, 3 & 4) of the Operating Plan, to include Receptions (including weddings, funerals, birthdays, retirements etc); Club or other group meetings etc; and Live Performances, during and outwith core licensed hours;

- a change to the explanation in question 5 (a-e), as to 'Yes' in column 4 – to read 'these activities may be provided outwith core licensed hours, but no alcohol will be sold or supplied. No alcohol will be sold outwith core licensed hours'; and
- a change to the explanation at question 5 (f) – any other activities – to read 'the retail sale (during and outwith licensed hours) of a wide range of clothing, woollen goods, home wares, gifts and tourist items. The premises will also host events such as club meetings, parties, fashion shows, charity fundraisers and tastings. Santa's Grotto will be available throughout the months of November and December'.

Representations received:

Police Scotland - none.

Licensing Standards Officer - none.

Health - none.

Other - none.

There had been circulated copies of the application and current and proposed operating plans.

**DECISION  
GRANTED**

(iv) **The Edinburgh Woollen Mill Limited**                      **The Abbey Mill  
Annay Road  
Melrose**

Amendments to the licence and operating plan as follows:-

- a change to the core Off Sale Hours –
 

<u>Current</u>	<u>Proposed</u>
10.00am – 6.00pm Mon to Sun	10.00am – 10.00pm Mon to Sun
- addition to the permitted activities referred to in question 5 (a-e) (columns 2, 3 & 4) of the Operating Plan, to include Receptions (including weddings, funerals, birthdays, retirements etc); Club or other group meetings etc; and Live Performances, during and outwith core licensed hours;
- a change to the explanation in question 5 (a-e), as to 'Yes' in column 4 – to read 'these activities may be provided outwith core licensed hours, but no alcohol will be sold or supplied. No alcohol will be sold outwith core licensed hours'; and
- a change to the explanation at question 5 (f) – any other activities – to read 'the retail sale (during and outwith licensed hours) of a wide range of clothing, woollen goods, home wares, gifts and tourist items. The premises will also host events such as club meetings, parties, fashion shows, charity fundraisers and tastings. Santa's Grotto will be available throughout the months of November and December'.

Representations received:

Police Scotland - none.

Licensing Standards Officer - none.

Health - none.

Other – seven objections.

There had been circulated copies of the application and current and proposed operating plans. There had also been circulated copies of seven objections to the application from members of the public. With reference to the objections Mr Hassard re-emphasised, that



the addition of activities requested related only to low-key events on the premises such as book launches and receptions with appropriate music provided on occasion. The outlet was off-sales only so no alcohol would be consumed on the premises as part of these events. He added that the applicant was proud of its location in Melrose and aware of the character of the neighbourhood which must be protected. In a discussion of the application, Members took into account the objections received but also noted the assurances given by Mr Hassard about the applicant's intentions at this outlet and their acknowledgement of the concerns raised by objectors, which he stressed would not impact in the manner perceived by them.

**DECISION  
GRANTED**

**(b) Section 68: Application for Extended Hours.**

The Licensing Standards and Enforcement Officer advised that the application from RBLs, 22 Park Street, Galashiels, for extended hours from 9.00am until 11.00am on 11 November 2018 for Remembrance Sunday had been withdrawn.

**DECISION  
NOTED**

**6. STATEMENT OF LICENSING POLICY 2018 TO 2023**

6.1 With reference to paragraph 3 of the Minute of 20 April 2018, there had been circulated copies of a report by the Clerk to the Licensing Board requesting the Board to consider the responses to the consultation on the draft Statement of Licensing Policy, to approve the Statement and arrange for its publication. The report explained that, following a 12 week extensive consultation on the draft statement a revised Draft Final Version Statement had been prepared which was appended to the report. A further Appendix to the report detailed the consultation responses. A total of 35 responses had been received, 19 from individuals, 9 from Licensees and 7 from organisations including the Local Licensing Forum and Alcohol Focus Scotland. The report went on to give a summary of the responses in terms of whether there was agreement or disagreement with questions relating to the five licensing objectives, period of licensed hours and events involving children. Respondents were also asked if they had an opinion in relation to the proposed Draft Policy Statement and if so whether they wished to make comments or suggestions for inclusion in the final Policy. Officers had considered all responses and proposed the revisals shown to the draft Policy Statement put forward for consideration by the Licensing Board. An explanation of the revisals made and of those not incorporated in the amended Draft were highlighted in the Appendix.

6.2 The Clerk to the Licensing Board referred to the importance of the Working Group which had worked on the revision of the Statement of Licensing Policy and had produced the draft for consultation. She highlighted for Members the main changes to the draft policy which had now been proposed in response to that consultation. She drew attention in particular to comments made within the section on Overprovision and officers' response to those comments. Members recognised the value of the annually prepared Scottish Borders Alcohol Profile which formed an evidence base to which the Board could have regard when determining applications. Although evidence from the Alcohol Profile should therefore form the basis of decisions relating to Overprovision, Members agreed that the Board should also maintain flexibility within licensing policy to be able to take into account change on a case by case basis. After further discussion of the draft document the Board approved the Licensing Policy Statement as amended which was appended to the report as the Draft Final Version. The Clerk to the Licensing Board thanked the Working Group, and in particular the Licensing Standards Officers and Licensing Services Team Leader for their revision and preparation of the Board's Statement of Licensing Policy.

**DECISION**

**AGREED:-**

- (i) **to approve the Draft Final Statement and to adopt this as the Statement of Licensing Policy for the period from November 2018 to November 2023; and**
- (ii) **to request the Clerk to the Licensing Board to arrange for its publication.**

**7. FESTIVE SEASON EXTENDED HOURS POLICY**

7.1 There were circulated at the meeting copies of a briefing paper regarding a proposed Festive Season Extended Hours policy. The Licensing Standards and Enforcement Officer explained that the vast majority of licensed premises in the Scottish Borders had a seasonal variation included in their Operating Plans allowing a terminal hour of 1 a.m. on Christmas Eve, Christmas Day, Boxing Day, New Years Eve and New Years Day. As in previous years it would therefore seem appropriate to allow the premises which did not have this seasonal variation to apply for an extension to their core hours up to the same terminal hour on those days and for those applications to be dealt with under delegated powers, where no other objections or representations were received. If objections or representations were received the applications would be referred to the Board for a decision as required by the 2005 Act. It would also seem appropriate that the same policy be applied to events being catered for in unlicensed premises by way of Occasional Licences.

7.2 With regard to Night Clubs/Late Hours Premises, as in previous years and for consistency it was suggested that it would be appropriate to allow Night Clubs to apply for extensions to their existing hours on the days stated above allowing them to trade to their usual core weekend hours. This preserved the normal weekend time differential between specific late night venues and other licensed premises. Again any extended hours applications for the days stated would be dealt with under delegated powers where no other objections or representations had been received. Where objections and representations were received the applications would be referred to the Board for a decision as required by the 2005 Act. Any applications in respect of any premises for a terminal hour later than the days and times stated above would be referred to the Board for a decision on their own individual merits.

**DECISION**

**AGREED:-**

- (a) **applications be granted under delegated powers by officers, for an extension to their core hours up to the terminal hour of 1 a.m. on the five festive dates (24, 25, 26 and 31 December 2018 and 1 January 2019) for those premises that do not have a seasonal variation in their current Operating Plan;**
- (b) **applications in respect of Night Clubs/Late Hours premises be granted under delegated powers by officers, for an extension to their existing hours to their usual core weekend hours on the five festive dates (24, 25, 26 and 31 December 2018 and 1 January 2019); and**
- (c) **as required by the Licensing (Scotland) Act 2005, where there were any representations or objections to such applications, they would require to be referred to the Board for a decision.**

**8. ANY OTHER ITEMS WHICH THE CONVENER DECIDES ARE URGENT**

Under Section 50B(4)(b) of the Local Government (Scotland) Act 1973, the Chairman was of the opinion that the item dealt with in the following paragraph should be considered at the meeting as a matter of urgency, in view of the need to keep Members informed.

- 8.1 **Joint Scottish Borders Licensing Board/Local Licensing Forum meeting**  
Members were informed that the annual joint Scottish Borders Licensing Board/Licensing Forum meeting would be held on Wednesday 5 December 2018 at 4 pm.

**DECISION  
NOTED**

9. **ITEMS LIKELY TO BE TAKEN IN PRIVATE**

**DECISION**

**AGREED** under Section 50A(4) of the Local Government (Scotland) Act 1973 to exclude the public from the meeting during consideration of the business detailed in the Appendix to this Minute on the grounds that it involved the likely disclosure of exempt information as defined in Paragraph 14 of Part I of Schedule 7A to the Act.

#### **SUMMARY OF PRIVATE BUSINESS**

10. **LICENSING SCOTLAND ACT 2005: SECTION 72 - APPLICATION FOR GRANT OF PERSONAL LICENCE.**

The Board considered an application for Grant of Personal Licence and an objection letter from Police Scotland in respect of that application. Police Scotland drew attention to the applicant's conviction and a further pending case and recommended refusal of the application on the grounds of the preventing crime and disorder and securing public safety objectives. Having regard to the information provided by the police and the licensing objectives cited the Board agreed not to grant the application.

*The meeting concluded at 11.20 am*

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# SCOTTISH BORDERS COUNCIL SCOTTISH BORDERS LICENSING BOARD

MINUTE of Meeting of the SCOTTISH BORDERS LICENSING BOARD held in Committee Rooms 2 and 3 on Friday, 16 November 2018 at 10.00 am

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Present:- Councillors J. Greenwell (Convener), J. Brown, D. Paterson, N. Richards, S. Scott, E. Thornton-Nicol and G. Turnbull

Apologies:- Councillors R. Tatler and T. Weatherston  
In Attendance:- Managing Solicitor (Property and Licensing), Licensing Services Team Leader, Licensing Standards and Enforcement Officers (I. Tunnah and M. Wynne), Democratic Services Officer (F. Henderson), Trainee Democratic Services Officer (E. Graham), Inspector C Wood – Police Scotland.

1. **MINUTE**  
The Minute of Meeting of 26 October 2018 had been circulated.

**DECISION  
APPROVED.**

2. **LICENCES DEALT WITH UNDER DELEGATED POWERS**  
For Members' information there had been circulated copies of a list of licences dealt with under delegated powers for the period 11 October 2018 to 5 November 2018.

**DECISION  
NOTED.**

3. **LICENSING (SCOTLAND) ACT 2005:**

- 3.1 **Section 29: Applications for Variation of Premises Licence**

The Board considered the following application for variation of Premises Licences:-

**Greene King Retailing Ltd**

**County Hotel  
35 High Street  
Peebles**

Amendments to Operating Plan and Layout Plan:

- Change Core Hours

<u>Proposed On Sale</u>	<u>Current On Sale</u>
11.00am - 12.00midnight Sunday	12.00pm - 12.00midnight Sunday
<u>Proposed Off Sale</u>	<u>Current Off Sale</u>
11.00am - 10.00pm Sunday	12.00pm - 10.00pm
- Addition of outside drinking facilities during and outwith core hours and include the permitted street café permit to be part of the premises licence
- Amend Terms for Children and Young Persons access

Representations received:

Police Scotland - attached

Licensing Standards Officer - attached

- 3.2 There had been circulated copies of the application, current operating plan and proposed operating plan. Copies of the representations from Police Scotland, the Licensing Standards and Enforcement Officer and Scottish Borders Child Protection Committee had also been circulated. The Licensing Standards and Enforcement Officer advised of the observations and objections regarding the proposed variation to the operating plan and layout plan with particular reference to the children and young person's statement and proposed extension to the outside drinking area. In his submission, he confirmed that the amendment to commence on sale of alcohol at 11am on a Sunday is within the Board's policy. The request to add outside drinking facilities during core hours to take over part of a public footpath would require the authority of the Council's Roads Department and no such permit had been issued for the premises. In the event, that the applicant is granted a permit to use the outside area, he suggested that the use of the outside area should cease at 10pm. He expressed concern that the requested changes to the terms under which Children and Young Persons should be permitted access to the premises would, if granted, allow Children and Young Persons access with an adult consuming alcohol. He referred to the Board's Policy Statement which was clear that it was not considered appropriate for children and young persons to access premises when the main activity was the consumption of alcohol.
- 3.3 Adrian Howlett, legal agent for the applicant and Nicholas Passey, the Designated Premises Manager were in attendance. Mr Howlett advised that following discussion regarding the concerns highlighted in the representations circulated, a suggested compromise had been reached in relation to the wording of the children and young person's statement. He stated that Children and Young Persons would be permitted access if accompanied by an adult for the purpose of a light refreshment until 6pm, for the purpose of a meal until 10pm, or when attending a pre-arranged function for the duration of the function.
- 3.4 With regard to the proposal to include the outside drinking area in the on sale licensed footprint, Mr Howlett acknowledged that whilst permission had been previously granted by the Council's Roads Department and an extension sought, the position remained outstanding. Members raised concerns about the use of the public footpath and potential noise nuisance from patrons using the outside and there followed discussion and questions in relation to those concerns. Mr Howlett provided assurances that the outside area would not be used until written permission had been received. In addition, in response to the concerns regarding noise nuisance, he also stated that the terminal hour for outside drinking would be restricted to 10pm. Members noted the upgrading of the premises reflecting the small changes to the fixed seating and matrix from the layout plan and the area that currently forms part of the premises licence.

#### **DECISION GRANTED**

- (a) **subject to amendment of the wording of the children and young person's terms of access to the effect that both will be allowed on the premises when accompanied by an adult for the purposes of light refreshments, a meal or when attending a pre-arranged function. The times of access for both is amended to state that when attending for light refreshments only they will permitted until 6.00pm; for consumption of a meal until 10.00pm and for the full duration of any pre-arranged function; and**
- (b) **on condition that the outside area will not be used until written permission is received from the Council's Roads Department and the terminal hour will cease at 10.00pm.**

#### **4. SECTION 37: CONSIDER BOARD REVIEW OF PREMISES LICENCES**

There was tabled a copy of a list of unpaid annual premises fees for 2018/19. The Board were advised that a reminder letter had been sent to all premises licence holders required to pay their annual premises fees in September 2018. The letter notified them that payment of the annual fee was a mandatory condition of their premises licences which was due on or before 1 October 2018 and detailed the methods of payment available. Members were advised that the Board could initiate a review of those premises licences which remained unpaid and authorise officers to take the necessary steps to arrange for the hearings to take place at the next meeting. The Board were of the strong opinion that a firm stance required to be taken as licensees were required to pay their annual fee as a condition of Premises Licence and noted that many of the premises listed were well established and continued to trade. There followed considerable discussion when it was unanimously agreed that a strong message be sent to the licensees concerned that it was unacceptable for annual fees to remain unpaid. In response to a question from Members, it was noted that there was no recourse for the Board to apply any extra monetary penalty for late payment despite the additional burden on the Board and its officers in recovering outstanding fees.

**DECISION**

**AGREED that under Section 37 of the Licensing (Scotland) Act 2005 should annual fees remain unpaid for any Premises Licence, review hearings would take place in respect of those premises at the Licensing Board on the 14 December 2018.**

5. **PRIVATE BUSINESS**

**DECISION**

**AGREED under Section 50A(4) of the Local Government (Scotland) Act 1973 to exclude the public from the meeting during consideration of the business detailed in the Appendix to this Minute on the grounds that it involved the likely disclosure of exempt information as defined in Paragraph 14 of Part I of Schedule 7A to the Act.**

**SUMMARY OF PRIVATE BUSINESS**

6. **MINUTE**

The Board approved the Private Section of Minute of Meeting of 26 October 2018.

***The meeting concluded at 10.45 am***

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**SCOTTISH BORDERS COUNCIL  
SCOTTISH BORDERS LICENSING BOARD**

MINUTE of Meeting of the SCOTTISH  
BORDERS LICENSING BOARD held in  
Committee Rooms 2 and 3 on Friday, 14  
December 2018 at 10.00 am

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Present:- Councillors J. Greenwell (Convener), J. Brown, D. Paterson, N. Richards, S. Scott, R. Tatler, E. Thornton-Nicol and T. Weatherston

Apologies:- Councillors G. Turnbull  
In Attendance:- Managing Solicitor (Property and Licensing), Licensing Officer (C. Watson),  
Licensing Standards and Enforcement Officers (I. Tunnah and M. Wynne),  
Chief Inspector A McLean – Police Scotland, Democratic Services Officer (F. Henderson), Trainee Democratic Services Officer

**CHAIRMAN**

The Chairman reminded Members to have their Policy Statement with them at all times.

1. **MINUTE**

The Minute of Meeting of 16 November 2018 had been circulated.

**DECISION  
APPROVED.**

2. **LICENCES DEALT WITH UNDER DELEGATED POWERS**

For Members' information there had been circulated copies of a list of licences dealt with under delegated powers for the period 6 November 2018 to 4 December 2018.

**DECISION  
NOTED.**

3. **LICENSING (SCOTLAND) ACT 2005:**

3.1 **Section 20: Applications for Variation of Premises Licence**

The Board considered the following application for variation of Grant/Provisional Grant of Premises Licences:-

(a) **Bojangles Wedding Ltd**

Netherbyres House  
Eyemouth  
(Provisional)

Licensed hours applied for:

On Sale

Sunday to Wednesday 11.00am – 12.00midnight

Thursday to Saturday 11.00am – 1.00am

Off Sale

None

Representations received:

Police Scotland - none.

Licensing Standards Officer - none.

Health - none.

Other - none.

There had been circulated copies of the Application and operating plan. The Licensing Standards and Enforcement Officer advised that the application was for a provisional Premises Licence to use the premises for weddings and corporate events. Alistair MacDonald, legal agent for the applicant and Michael Morgan the owner of the premises were present and explained that the recent care home Netherbyres House had been converted into a family home and should the Premises Licence be granted they would be able to offer the premises for weddings and corporate events.

**DECISION  
GRANTED.**

**(b) Martin Baird Butchers Ltd**

Martin Baird Butchers Ltd  
2-4 Market Square  
Melrose  
(Provisional)

Licensed hours applied for:

On Sale

None

Off Sale

Monday to Sunday

10.00am – 8.00pm

Representations received:

Police Scotland - none.

Licensing Standards Officer - none.

Health - none.

Other - none.

There had been circulated copies of the Application and operating plan. The Licensing Standards and Enforcement Officer advised that the application was for a provisional Premises Licence to introduce the sale of a range of alcohol in the butcher shop. The applicant, Mr. Baird was present and explained that, if granted, there would be a small supply of wines and spirits for sale to complement the produce he currently sells.

**DECISION  
GRANTED.**

**(c) Cater Leisure Services Ltd**

Refresh Cafe  
Wilton Lodge Park  
Hawick  
(Provisional)

Licensed hours applied for:

On Sale

Monday to Sunday 11.00am – 11.00pm

Off Sale

None

Representations received:

Police Scotland - none.

Licensing Standards Officer - none.

Health - none.

Other - none.

There had been circulated copies of the Application and operating plan. The Licensing Standards and Enforcement Officer advised that the application was for a provisional Premises Licence to offer the sale of a range of alcohol within the new café/restaurant at Wilton Park in Hawick. Julie Maguire, legal agent for the applicant and Ms Taylor, the manageress were present and explained that the café type premises in the Wilton Lodge Park offered a wide range of hot and cold meals, snacks, and if granted, to offer the sale of alcohol and cater for events on the premises within the core hours. Children would be allowed access when accompanied by an appropriate adult for the purposes of dining or partaking snacks or beverages or attending a pre-arranged private function.

**DECISION  
GRANTED.**

(d) **Chun Kui Kwan**

Market Kitchen  
52 Horsemarket  
Kelso  
(Provisional)

Licensed hours applied for:

On Sale

Monday to Sunday 11.00am – 12.00midnight  
Friday and Saturday 11.00

Off Sale

None

Representations received:

Police Scotland - none.

Licensing Standards Officer - none.

Health - none.

Other - none.

There had been circulated copies of the Application and operating plan. The Licensing Standards and Enforcement Officer advised that the application was for a provisional Premises Licence to allow the sale of a range of alcohol. Mr Kwan was present and explained that, if granted, the restaurant would serve alcohol by table service only.

**DECISION  
GRANTED.**

3.2 **Section 29: Application for Variation of Premises Licence**

The Board considered the following applications for Variation of Premises Licences:-

(a) **Marmions (Scotland) Co Ltd**

Marmions Brasserie  
5 Buccleuch Street  
Melrose

Amendments to Premises Licence, operating and layout plan as follows:

- change to the core On and Off Sale Hours:

Current On Sale Hours	Proposed On Sale Hours
11.00am – 11.00pm Mon to Sat	11.00am – 12 midnight Mon to Sat
12.30pm – 11.00pm Sun	Sun
  
- |                        |                         |
|------------------------|-------------------------|
| Current Off Sale Hours | Proposed Off Sale Hours |
| 12.30pm – 10.00pm      | 11.00am – 10.00pm       |
  
- addition to existing Christmas Eve and New Year's Eve seasonal variation to include Christmas Day, Boxing Day and New Year's Day until 1.00am or within any other Licensing Board Policy;
- addition to activities to include club or other group meetings, live performances and dance facilities to be provided both during and outwith core hours
- addition to activities to include gaming, indoor/outdoor sports and televised sports during core hours
- amended explanation in relation to the additional activities to take place outwith core hours
- amended wording in relation to any activities other than those listed and proposed to take place on the premises
- amendment to the children and young person's statement in relation to the terms, times and parts of the premises access will be permitted, to allow accompanied children for the duration when partaking in light refreshments or a

meal and when attending a pre-arranged function with Young Persons for the same reasons and duration but without the requirement to be accompanied

- Increase in seating capacity from 50 to 110 people
- amendment to description in Premises Licence to include function room

Representations received:

Police Scotland - none.

Licensing Standards Officer - none.

Health - none.

Other – none.

There had been circulated copies of the Application and operating plan. The Licensing Standards and Enforcement Officer advised that the application was for a variation of the existing provisional Premises Licence to offer the sale alcohol. The applicant, Eyup Kurt was present and explained that the business would be expanding into the wine theatre to operate as a small venue to accommodate bus, wedding and funeral parties.

**DECISION  
GRANTED.**

(b) **Iceland Foods Ltd**

Iceland Foods Ltd  
33/34 High Street  
Galashiels

Amendments to operating and layout plan\* as follows:

- change to core Off Sale Hours:  

<u>Current Off Sale Hours</u>	<u>Proposed Off Sale Hours</u>
10.00am – 8.00pm Mon to Sun	10.00am – 10.00pm Mon to Sun
- remove reference to seasonal variation at question 4;
- addition to the permitted activities referred to in question 5 (a-e) (columns 2, 3 & 4) of the Operating Plan, to include Recorded Music during and outwith core licensed hours;
- change to explanation in question 5 (a-e), as to ‘Yes’ in column 4 – to read ‘sale of groceries, including fresh and frozen foods and other non-food items to be provided both within and outwith the core licensing hours. But not before 7.00am or after 11.00pm. Activities outwith core licensed hours may occur as ancillary’;
- change to explanation at question 5 (f) – any other activities – to read ‘the sale of alcohol by retail consumption off the premises is ancillary to the sale of groceries and other non-food items. The above shall include deliveries made using our home delivery and ecommerce services, subject to compliance with Sections 119 and 120 of the Licensing (Scotland) Act 2005. The premises will also, on occasion, be used to launch new products, have product sampling and food tasting events and host ‘family friendly’ membership evenings’; and
- reduction in capacity of alcohol display area (from 6.6 m<sup>2</sup> to 4.4 m<sup>2</sup>).

Representations received:

Police Scotland - none.

Licensing Standards Officer - none.

Health - none.

Other - none.

(c) **Iceland Foods Ltd**

Iceland Foods Ltd  
43 Victoria Road  
Hawick

Amendments to operating and layout plan\* as follows:

- a change to the core Off Sale Hours:

Current Off Sale Hours

10.00am – 8.00pm Mon to Sun

Proposed Off Sale Hours

10.00am – 10.00pm Mon to Sun

remove reference to seasonal variation at question 4;

- addition to the permitted activities referred to in question 5 (a-e) (columns 2, 3 & 4) of the Operating Plan, to include Recorded Music during and outwith core licensed hours;
- change to explanation in question 5 (a-e), as to 'Yes' in column 4 – to read 'sale of groceries, including fresh and frozen foods and other non-food items to be provided both within and outwith the core licensing hours. But not before 7.00am or after 11.00pm. Activities outwith core licensed hours may occur as ancillary';
- change to explanation at question 5 (f) – any other activities – to read 'the sale of alcohol by retail consumption off the premises is ancillary to the sale of groceries and other non-food items. The above shall include deliveries made using our home delivery and ecommerce services, subject to compliance with Sections 119 and 120 of the Licensing (Scotland) Act 2005. The premises will also, on occasion, be used to launch new products, have product sampling and food tasting events and host 'family friendly' membership evenings'; and
- reduction in capacity of alcohol display area (from 11 m<sup>2</sup> to 6.6 m<sup>2</sup>).

Representations received:

Police Scotland - none.

Licensing Standards Officer - none.

Health - none.

Other – none.

There had been circulated copies of the Application and operating plan for both stores in Galashiels and Hawick. The Licensing Standards and Enforcement Officer advised that the application was for a variation of the existing provisional Premises Licence to extend the core hours from 8.00pm to 10.00pm. Niall Hassard, legal agent for the applicant and a representative for the applicant were present and explained that this would bring consistency within both stores.

## **DECISION GRANTED.**

### **4. SECTION 37: REVIEW OF PREMISES LICENCES**

The Board carried out a review of the following Premises Licences on the basis that each of them was in breach of a condition to which the licences were subject namely Mandatory condition 10 of Schedule 3 to the Act, failure to pay the annual fee as required by regulation made under the terms of Section 136 of the Act.

- (a) Allan Ramsay Hotel, Carlops

The Licensing Standards and Enforcement Officer advised that the business had ceased trading and the Premises Licence had now been paid. A letter had been received from Mrs Ramsay explaining the reason for the delay in making payment and asked if the matter could be dealt with in her absence.

## **DECISION**

- (a) **NOTED that the outstanding fee had been paid.**

- (b) **AGREED that a written warning be hand delivered.**

- (b) Glentress Hotel, Innerleithen Road, Peebles  
The Licensing Standards and Enforcement Officer advised that the fee had been paid and the premises had ceased trading. A representative, Mr Bony, was present who explained that the hotel was being sold. As Mr Bony was in attendance the Board were content that a verbal warning be given and Mr Bony acknowledged the warning accordingly.

**DECISION**

**NOTED that the outstanding fee had been paid.**

- (c) Craw Inn, Auchencrow  
The Licensing Standards and Enforcement Officer advised that the fee had been paid and there had been no other communication. There was no one present at the meeting and it was agreed that a warning letter would be hand delivered to assess the situation.

**DECISION**

**(a) NOTED that the outstanding fee had been paid.**

**(b) AGREED that a written warning be hand delivered.**

- (d) Cross Keys, Greenlaw  
The Licensing Standards and Enforcement Officer advised that the fee was still outstanding but the premises had appeared to have stopped trading with no response to any communication.

**DECISION**

**AGREED that the Premises Licence be suspended with effect from 12 noon on Friday 21 December 2018.**

- (e) Naba Tandoori, 8-10 Market Place, Eyemouth  
The Licensing Standards and Enforcement Officer advised the fee is still outstanding with no response to any communication and the premises were still trading.

**DECISION**

**AGREED that the Premises Licence be suspended with effect from 12 noon on Friday 21 December 2018.**

- (f) Heatherlie House Hotel, Heatherlie Park, Selkirk  
The Licensing Standards and Enforcement Officer advised the fees from this year and last year were still outstanding and the premises had ceased trading.

**DECISION**

**AGREED that the Premises Licence be revoked with immediate effect.**

- (g) New Happy Gathering Chinese, 31 West Port, Selkirk  
The Licensing Standards and Enforcement Officer advised the fee was still outstanding. Mr Zheng was present and explained that there had been a misunderstanding and would pay the fee today.

**DECISION**

**AGREED:-**

**(a) to accept the payment of the fee today; and**

**(b) that a written warning be issued with a view to ensuring that Mr Zheng fully understood the importance of paying the annual fee and the consequences of failing to do so.**

- (h) Selkirk Football Club, Yarrow Park, Selkirk  
The Licensing Standards and Enforcement Officer advised the fee was still outstanding and no correspondence had been received.

**DECISION**

**AGREED that the Premises Licence be suspended with effect from 12 noon on Friday 21 December 2018.**

- (i) High Level Bar, 11 Green Terrace, Hawick  
The Licensing Standards and Enforcement Officer advised the fee was still outstanding and the bar was closed.

**DECISION**

**AGREED that the Premises Licence be revoked with immediate effect.**

- (j) Stags Head Bar, 13 Drumlanrig Square, Hawick  
The Licensing Standards and Enforcement Officer advised the fee was still outstanding and the bar was closed. It was understood that the current owner was endeavouring to sell the premises and therefore any revocation could hinder any future sale. In the circumstances the Board considered that a suspension may be more appropriate.

**DECISION**

**AGREED that the Premises Licence be suspended with effect from 12 noon on Friday 21 December 2018.**

- (k) The Taste of Bengal, 4 Station Buildings, Hawick  
The Licensing Standards and Enforcement Officer advised the fee was still outstanding and they appear to still be trading. Despite numerous attempts, no response had been received from any communication.

**DECISION**

**AGREED that the Premises Licence be suspended with effect from 12 noon on Friday 21 December 2018.**

- (l) Fletchers, Hillside Terrace, Selkirk  
The Licensing Standards and Enforcement Officer advised the fee was still outstanding for a second year. It was understood that the premises were still trading but were not selling alcohol.

**DECISION**

**AGREED that the Premises Licence be revoked with immediate effect.**

***The meeting concluded at 10.45 am***

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