

Public Document Pack



LOCAL LICENSING FORUM TUESDAY, 21 JANUARY 2020

A MEETING of the LOCAL LICENSING FORUM will be held in the Council Chamber on
TUESDAY, 21 JANUARY 2020 at 4.00 pm

J. J. WILKINSON,
Clerk to the Council,

9 January 2020

BUSINESS		
1.	Apologies for Absence.	
2.	Order of Business.	
3.	Declarations of Interest.	
4.	Minute (Pages 3 - 8) Minute of meeting of the Local Licensing Forum of 22 October 2019 to be noted (copy attached).	2 mins
5.	Matters arising	10 mins
6.	AFS Annual Functions Report Briefing (Pages 9 - 16) Review of Annual Functions Reports for 2018-19 https://www.alcohol-focus-scotland.org.uk/media/310900/annual-function-report-briefing-dec-2019.pdf Also see copy of Scottish Borders Annual Functions report attached.	10 mins
7.	Provisions for licensing Sexual Entertainment Venues - Update https://www.gov.scot/publications/guidance-provisions-licensing-sexual-entertainment-venues-changes-licensing-theatres/	10 mins
8.	Occasional Licence Consultation Response https://consult.gov.scot/criminal-law/occasional-licences/consultation/published_select_respondent?_b_index=60	10 mins
9.	Licensing Standards Officers - Update	10 mins
10.	Police Update	10 mins
11.	Scottish Borders Licensing Board Minutes (Pages 17 - 22)	2 mins

	Licensing Board Minute of 25 October 2019 attached. Note dates of future meetings of Scottish Borders Licensing Board:- 24 January 2020 21 February 2020	
12.	Any Other Business	

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.**

Please direct any enquiries to:- Fiona Walling Tel 01835 826504
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**SCOTTISH BORDERS COUNCIL
LOCAL LICENSING FORUM**

MINUTES of Meeting of the LOCAL LICENSING FORUM held in Scottish Borders Council Headquarters, Newtown St Boswells on Tuesday, 22 October 2019 at 4.00 pm

Present:- M. Hay (Convener), S. Bell, G. Campbell, S Elliot, S Dalrymple, R Mackay, S. Mabon, G Todd, I. Tunnah and M. Wynne.

Apologies:- Councillor Turnbull (Licensing Board Member).

In Attendance:- J Turnbull (Democratic Services Officer).

1. WELCOME AND INTRODUCTIONS

The Convener welcomed everyone to the meeting and there was a round of introductions.

2. MINUTE

The Minute of the meeting held on 11 June 2019 had been circulated.

DECISION

APPROVED the Minute.

3. MATTERS ARISING

With reference to paragraph 5.2 of the Minute of 11 June 2019, Mr Tunnah advised that a response to the consultation on Occasional Licences had been submitted on behalf of the Forum.

DECISION

NOTED.

4. NATIONAL UPDATE AND LEARNING AND DEVELOPMENT NEEDS

4.1 The Convenor welcomed Aidan Collins from Alcohol Focus Scotland. Mr Collins explained that Alcohol Focus Scotland was a national charity, working to reduce alcohol harm. The presentation today would focus on licensing developments, the main three being: the production of the Board's Annual Functions Report; new policy statements; and, work to update Licensing Act guidance.

4.2 Mr Collins began by advising that the licensing system needed to be accountable to local communities. It was therefore essential that local communities understood the licensing system and how it operated in their area. Historically, there had been limited information available in an accessible format about the work of licensing boards. In response to these concerns, the Air Weapons and Licensing (Scotland) Act 2015 had introduced a new duty on licensing boards to produce an Annual Functions Report which was required to include: how boards had regard to the objectives and their policy statements; a summary of decisions taken; and, the number of licences held in the area. Annual Functions Reports were required to be published by July 2018, however, no guidance had been issued to help with understanding these obligations and there was different interpretations of what was required. Alcohol Focus Scotland had undertaken a review of all published Annual Functions Reports (32 out of 40) to assess the extent to which they

met statutory requirements and increased transparency. Their review had found that the majority met the statutory requirements, but several contained only minimal information. A report presenting the findings of their review had been published and this contained a number of recommendations for Scottish Government as well as for licensing boards and licensing forums. Alcohol Focus Scotland had recommended that “local licensing forums should use the Annual Functions Reports as a tool to help fulfil their statutory purpose of keeping under review the liquor licensing system and the functioning of licensing boards in their area.” Miss Elliot suggested that Alcohol Focus Scotland’s review be circulated to Licensing Forum members for further discussion at the joint meeting with the Licensing Board.

- 4.3 Mr Collins then went on to discuss new licensing policy statements, highlighting that the consultation process had improved, with some boards proactive in meeting with groups that had not had much input in the past, such as young people. Mr Collins, gave as an example, Highland Licensing Board’s consultation which had received 4,217 responses, demonstrating a high level of public interest in the availability of alcohol and licensing. Mr Collins further advised that licensing boards had become more transparent, with many publishing the evidence received, with explanations of strengths/weaknesses of data. Some boards had included a new approach to licensing objectives in response to the increase from off-sales for consumption at home and an increased awareness of alcohol related harm in private spheres as well as public. Mr Collins gave as an example Glasgow Licensing Board’s decision to refuse off-sales applications on the grounds of public health in areas of high alcohol harm, even where there was no overprovision. Some boards had identified that gender based violence had strong associations with alcohol and were working with local agencies to play their part. Many boards were also asking applicants to supply written statements on how their application would impact on licensing objectives. Similarly, some boards were requesting applicants to complete risk assessments to demonstrate how they would comply with the objectives. Many boards were also setting out an approach to manage repeated occasional licences and events targeted at children. Mr Collins advised that the Alcohol Focus Scotland would be reviewing the published policies and a full report on their findings would be available in the next few months.
- 4.4 Mr Collins concluded his presentation by advising that Scottish Government had launched a consultation in March 2019, on revised guidance for licensing boards. The consultation had now closed and an analysis of responses would be published. Alcohol Focus Scotland’s response had included: the overall purpose of the guidance; clarification as to the purpose of the licensing system; providing more detail on the meaning and interpretation of the licensing objectives; and, how boards should assess overprovision. Mr Tunnah advised that with regard to overprovision, the number of public houses in the Scottish Borders remained consistent, any new licensing applications were for niche offerings and the licensing policy asked new applicants for an explanation of the facilities they were offering, Mr Collins highlighted the issue with remote sales, particularly affecting the Scottish Borders, which had been flagged up with Scottish Government as requiring a national approach. Miss Elliot added that the Forum had also submitted a response to the consultation.
- 4.5 Members discussed the presentation and the role of the Local Licensing Forum going forward. Several members felt that a national review of forums was required, as local level training would only ever achieve so much. A national review could identify, across the country, whether forums were functioning as intended and if not what support they may need. Referring to the Forum’s scrutiny function, Mr Tunnah advised that initially in 2009, the Forum had made some challenges to the Licensing Board, and was pleased to note that the Board were now consistent in their decision making with good relationships and communication both within the Forum itself and between the Forum and Board. The vast majority of licensing applications are submitted to licensing officers, with any issues discussed with the applicant before submitting an application to the board. When asked

what had worked well and less well the Forum had noted previous support to local campaigns, and felt that this had been beneficial.

- 4.6 There was uncertainty over how to involve the community, or engage with the community more and highlighted that the time between meetings meant that it could be challenging to progress actions e.g. things tended to move on between meetings. However, having more regular meetings would place additional time/resource commitments on people. Members from the trade felt that attendance at the Forum was useful as it enabled them to keep up to speed with what was happening in the area, although it was also acknowledged within the Forum that this was not its intended purpose. There were examples of good practice within the Board, such as in relation to not allowing alcohol to be sold during early morning hours for sporting events like the rugby world cup. It was also felt that the Board had taken a sensible approach to alcohol being available at children/young person's events. It was discussed how the Forum could potentially have more of a role in providing positive feedback to the Board about where/how things are going well.
- 4.7 The Forum then discussed training. It was discussed how forums have a high membership turnover, which meant that any training provided would need to be repeated for new members. It was generally felt that training covering the role and purpose of the Forum would be the most beneficial, particularly for new members. It was suggested that a welcome pack developed at a national level, which included templates etc. which could be adapted at a local level, would be helpful. It was also suggested that eLearning modules could be particularly useful – this would enable new members to access training at whatever time they joined a forum, and would be available to people regardless of their location or availability to attend training in person. The Convenor thanked Mr Collins for his attendance and his informative presentation.

DECISION AGREED

- (a) **To request that Alcohol Focus Scotland's review on Annual Functions Reports be circulated for discussion at the joint meeting of the Local Licensing Forum and Licensing Board;**
- (b) **To request that Alcohol Focus Scotland's review of licensing policy statements be circulated when available;**
- (c) **To request that Alcohol Focus Scotland consider developing online training for Local Licensing Forums; and**
- (d) **That the Local Licensing Forum consider providing a welcome pack for new members.**

5. LICENSING STANDARDS OFFICERS - UPDATE

- 5.1 Mr Tunnah advised that there no issues to report. However, a couple of the Rugby 7s events would be given more attention next year. The wristband to identify different age groups had been successful at these events. There had been a tranche of new personal licence holder applications which had been slightly delayed because of staff sickness. These had now been issued.
- 5.2 Occasional licence applications would increase for the Festive season. The Licensing Board would be considering the festive season policy hours at their next meeting. The majority of premises already had licences which permitted seasonal variations. Mr Tunnah advised it was expected that opening hours would be extended to 1 am for most licences for Christmas Eve, Christmas Day, Boxing Day, New Year's Eve and New Year's Day.

- 5.3 The Convenor asked if officers were aware of an increase in residential bars. Mr Tunnah advised that they were not aware of any, and that a residential bar requesting donations should be licensed.

**DECISION
NOTED the update.**

6. **POLICE UPDATE**

There was no police update. Mr Tunnah advised that a Police Licensing Officer had been appointed and would attend future meetings to provide updates to the Forum.

**DECISION
NOTED.**

7. **CHIEF CONSTABLE'S ANNUAL REPORT TO THE LICENSING BOARD 2018-2019**

Copies of the Chief Constable's Annual Report to the Licensing Board had been circulated with the agenda, for information.

**DECISION
NOTED.**

8. **SCOTTISH BORDERS LICENSING BOARD MINUTES**

- 8.1 There had been circulated, for information, copies of the Scottish Borders Licensing Board Minutes of 31 May 2019, 21 June 2019, 19 July 2019, 23 August 2019, and 20 September 2019. Members were encouraged to attend meetings of the Licensing Board as observers. Dates of future meetings were noted as follows:-

25 October 2019
22 November 2019
20 December 2019

- 8.2 All meetings are held at Council Headquarters and start at 10 am unless otherwise advised on the agenda.

- 8.3 Mr Tunnah explained to new members, that the Licensing Board minutes enabled the Forum to scrutinise the Board's decisions. He and Mr Wynne would be happy to provide clarification on any decisions or matters to Forum members. Mr Tunnah went on to advise that there was no contentious issues in the minutes. The Forum welcomed the Board's decision not to extend opening hours prior to normal operating hours for the Rugby World Cup, which had highlighted that that sport should not automatically be linked with alcohol.

**DECISION
NOTED the minutes.**

9. **DATE OF JOINT MEETING WITH LICENSING BOARD**

The date of the annual joint meeting of Scottish Borders Licensing Board and Local Licensing Forum was scheduled for Wednesday, 4 December at 4.00 pm in the Council Chamber, Council Headquarters.

**DECISION
NOTED the date of the joint meeting of Scottish Licensing Board and Local Licensing Forum was scheduled for Wednesday, 4 December 2019 at 4.00 pm.**

10. **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

11. **MINUTE**

The private section of the Minute of 11 June 2019 was approved.

The meeting moved back into public business.

12. **ANY OTHER BUSINESS**

Mr Tunnah explained that if a personal licence had elapsed, a new application was required to be submitted and full training undertaken.

The meeting concluded at 5.30 pm

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APPENDIX 1

SCOTTISH BORDERS LICENSING BOARD

**LICENSING (SCOTLAND) Act 2005
SECTION 9A: ANNUAL FUNCTIONS REPORT
1 APRIL 2018 - 31 MARCH 2019**

1 INTRODUCTION – SCOTTISH BORDERS LICENSING BOARD

- 1.1 Scottish Borders Licensing Board (“the Board”) is the Licensing Authority for the local government area of the Scottish Borders for the purposes of the Act. The current Board which was formed in May 2017 comprises nine Members all of whom are elected members of Scottish Borders Council. The Board is responsible for the functions set out in paragraphs 1.3 and 1.4 below within the Scottish Borders.
- 1.2 The Council boundaries cover 4,742 square kilometres. The estimated population as identified by the 2011 Census is 113,870. The area is divided into ten Wards of three Councillors and one Ward of four Councillors totalling 34 Councillors of whom nine sit on the Board. All have completed the statutory training required under the Act.
- 1.3 The Licensing (Scotland) Act 2005 (as amended) (“the Act”) makes provision for regulating the sale of alcohol and for regulating licensed premises and other premises on which alcohol is sold. The number of licensed premises within the Board’s area averaged 456 in number during the period.
- 1.4 Under the Act, Licensing Boards are responsible for considering applications for:
- Premises Licences
 - Occasional Licences
 - Provisional Licences
 - Temporary Licences
 - Personal Licences
 - Transfer of Premises Licences
 - Variation of Premises Licence
 - Extensions of licensing hours in respect of:
 - The sale of alcohol by retail, and
 - The sale of alcohol in members clubs

2 ANNUAL FUNCTIONS REPORT

- 2.1 The Air Weapons and Licensing (Scotland) Act 2015 amended the Act to place a statutory duty on Licensing Boards to publish an Annual Functions within three months of the end of each financial year.
- 2.2 In terms of Section 9A of the Air Weapons and Licensing (Scotland) Act 2015, the Board has the following key obligations:
- To publish an Annual Functions Report within three months of the end of the relevant financial year and to include within the Annual Functions Report:
- a Statement explaining how the Board has had regard to the licensing objectives and its policy statement in the exercise of its functions;
 - the Board’s Policy Statement in exercise of its functions under

the Act;

- a summary of decisions taken by each Board over the relevant financial year including decisions taken by officers under delegated powers;
- the number of licences held under the Act in the Board's area including the number of occasional licences issued during the financial year;
- other information as determined as necessary by the Licensing Board

3 LICENSING OBJECTIVES

3.1 The Act sets out the following five Licensing Objectives ("the Licensing Objectives") as set out below:

- Preventing crime and disorder
- Securing public safety
- Preventing public nuisance
- Protecting and improving public health
- Protecting children and young persons from harm.

3.2 The Licensing Objectives provide a basis for the administration of the licensing regime. They also provide potential reasons for refusal of an application for the grant or variation of a Premises Licence, an Occasional Licence or a Personal Licence. Breach of the objectives may provide grounds for reviewing a Premises Licence or a Personal Licence. Conditions attached to a Premises Licence or an Occasional Licence may be based on any one or more of the Licensing Objectives.

4 FUNCTIONS OF THE BOARD

4.1 The functions of the Board are set out in Schedule 1 of the Act and are summarised below:

- Determining the Board's policy for the purposes of a Licensing Policy Statement or Supplementary Licensing Policy Statement;
- Determining for the purposes of any such Statement whether there is overprovision of licensed premises or licensed premises or any particular description in any locality
- Determining a Premises Licence application/ Provisional Premises Licence application.
- Determining a Premises Licence Variation application where the variation sought is not a minor variation
- Determining an application for the Transfer of a Premises Licence where the applicant has been convicted of a relevant offence or a foreign offence
- Determining a Personal Licence application or a Personal Licence renewal application where the applicant has been convicted of a relevant offence or a foreign offence
- Conducting a hearing in respect of a Review of a Premises

Licence

- Conducting a hearing in respect of revoking, suspending or endorsing a Personal Licence
- Making a Closure Order

5 HOW THE BOARD HAS REGARD TO THE LICENSING OBJECTIVES

- 5.1 In exercising its functions under the Act, the Board is required to have regard to the Licensing Objectives as stated at paragraph 3.1.
- 5.2 Promotion of the Licensing Objectives is always at the forefront of the Board's consideration in determining its policies for the purposes of its policy statement.
- 5.3 When determining licence applications, the Board verifies that all applications are consistent with the Licensing Objectives and ensures that any potential issues are addressed through appropriate measures to safeguard full compliance with the Licensing Objectives. Such measures include attaching local and special conditions to licences if necessary.
- 5.4 The Board is confident that it has been able to pursue the crime and disorder objective by taking into account and recognising that certain criminal activity or associated problems may take place or be taking place despite the best efforts of the licensee and the staff working at the premises. In such circumstances the Board will endeavour to take any steps it feels are appropriate to remedy the problem. The Board has strived to promote this objective in the interests of the wider community rather than determining the guilt or innocence of the individual which the Board recognises is a matter for the courts of law.
- 5.5 The Board is confident that it has been able to pursue the Public Safety and Public Nuisance objectives by endeavouring to take any necessary steps it feels are appropriate to address any such problems which may contravene these objectives. In doing so, the Board is mindful that it cannot take into account any issues that are dealt with by other legislation such as the Environmental Protection Act 1990.
- 5.6 The Board is confident that it has pursued the protecting Children and Young Persons from harm objective by applying appropriate conditions to licences with a view to ensuring that children and young persons are adequately protected within licensed premises or at licensed events. There have also been occasions when the Board has not been satisfied that an application sufficiently complies with this objective and on these occasions the Board has refused the applications accordingly.
- 5.7 The Board is confident that it has been able to pursue the Public Health objective to mitigate the public health risk when considering licensing applications. The Local Health Board is a statutory consultee who are invited to make representations with regard to each application which is considered by the Board. Whilst in most cases they have no comments to make, there are occasions when they do make representations and a representative is invited to attend the

Board meeting and address the Board accordingly.

6 HOW THE BOARD HAS REGARD TO ITS LICENSING POLICY STATEMENT

- 6.1 The Board is aware that all applications before it are to be dealt with in an open and transparent manner in accordance with licensing legislation and the Board's policy documents.
- 6.2 Information and assistance was made available to persons wishing to apply for a licence, make representations or lodge objections.
- 6.3 The Board, when making their determinations, took into account their Policy Statement and any supplementary arrangements which it had agreed on extended hours for special events of local or national significance and the Board policy hours.
- 6.4 The Board is aware of its quasi-judicial function and its obligation to objectively determine facts and draw conclusions from them. The Board always aims to follow best practice to ensure proportionate, accountable and consistent decision making by listening to all the information provided by applicants, any objectors and Licensing Standards Officers weighing up the relevant information, reviewing this against its policies and coming to an informed decision.
- 6.5 The Board is confident that its Statement of Licensing Policy which was reviewed during the year is sufficiently robust to enable it to make appropriate decisions when the question of over-provision is a consideration. On reviewing its Statement of Licensing Policy, the Board took into account the work carried out by the Scottish Borders Licensing Forum who by way of a multi-agency data gathering public project produced the report "Scottish Borders Alcohol Profile". This Profile provides an invaluable evidence base which has been most useful to the Board in the review of its Policy and the Board has regard to it when determining applications

7 DECISIONS MADE BY (OR ON BEHALF OF) THE BOARD

- 7.1 In the year from 1 April 2018 to 31 March 2019 the Board met ten times to determine applications.
- 7.2 Each application for a new Premises Licence, Variation of a Premises Licence, Occasional Licence or Extended hours was decided on its own merits.
- 7.3 In assessing applications, the Board used a number of different sources of information to enable them to reach determinations. As well as the statutory consultees these sources included others with an interest including Community Councils, local residents, the Licensing Standards Officers, Police Scotland, the local Health Board, application objectors and established licensing practitioners. As referred to in paragraph 6.5 above, the Board also took into account the information provided in the Scottish Borders Alcohol Profile provided by the Scottish Borders Licensing Forum as well as the Licensing Objectives and its Statement of Licensing Policy.
- 7.4 All objections received to any applications were taken into account in the decision making process.

8 NUMBER OF LICENCES PROCESSED IN THE BOARD'S AREA

- 8.1 The Board granted 10 new Premises Licences and 1356 Occasional Licences were issued by the Board during the period. 384 of those Occasionals were granted to voluntary organisations whilst 95 applications by the holders of a Premises Licence for extended hours were granted. The Board also considered 26 applications to vary Premises Licences. This included both major variations which must be determined by the Board and the applications which attracted objections or representations. In addition, 75 minor variations and transfers were dealt with.
- 8.2 The Board arranged review hearings in respect of 12 premises during the period. All were in relation to notices for failure of premises to make payment of the annual fee. This resulted in 3 licences being revoked and 4 being suspended. The remaining 5 licence holders made payment of the annual fee prior to the hearing taking place. After hearing the circumstances of non-payment, the Board took no action in respect of 2 premises and issued written warnings to 3.
- 8.3 The Board received 136 new Personal Licence applications during the period. 134 were granted and 2 were refused. Review hearings were arranged in respect of 2 Personal Licence holders and the Board took no action for one whilst the other was revoked. 4 Personal Licences were surrendered during the period with a further 98 revoked due to the required refresher training not being undertaken.

9 OTHER INFORMATION ABOUT THE EXERCISE OF THE LICENSING BOARD'S FUNCTIONS

9.1 Statement of Licensing Policy

One of the main functions of the Board is to finalise its statement of Licensing Policy. During the year the Board carried out a review of its Policy for the period November 2013 to November 2018. At its meeting on 20 April 2018 the Board agreed a draft Statement of Licensing Policy for consultation. A twelve week period of consultation took place from 8 May 2018 until 31 July 2018. A total of 35 responses were received. 19 were from individuals, nine were from Licensees and seven were from organisations including the Licensing Forum and Alcohol Focus Scotland.

The consultation asked specific questions which covered the five Licensing Objectives, the period of licensed hours, the events

including children and invited the consultees for other comments or suggestions. 12 of the consultees who responded agreed with the proposed draft Statement and made no additional comments or suggestions. 14 agreed with the proposed draft statement but provided additional comments or suggestions for consideration and nine stated that they did not agree with some parts of the draft Policy and made comments or suggestions they wished to be considered in the final Policy Statement.

Following the close of the consultation period, officers on behalf of the Board considered all responses received and thereafter proposed revisions to the draft Policy Statement for consideration by the Board. The Board considered the proposed revisions at its meeting on 26 October 2018 when the proposed revisions were accepted and the revised draft Policy Statement was approved by the Board for the period November 2018 to November 2023 and subsequently published

9.2 **Equalities Outcomes and Mainstreaming**

The Board has specific duties in terms of the Equalities Act 2010 (Specific Duties (Scotland) Regulations 2012). In particular the Board must publish Equality Mainstreaming Reports every four years. The Board produced such a report in 2017. One of the outcomes in said report was to increase the Board's knowledge and understanding of equality issues. In order to meet this outcome the Board were provided with awareness training in December 2018. This highlighted the issues which may arise and provided Members with the relevant guidance as to how these issues should be addressed. During the year, the Forum has continued to strive to add new members.

9.3 **Licensing Forum**

The Licensing Forum continues to meet four times a year and additionally held its joint meeting with the Board on 5 December 2018. The Forum consists of a cross-section of members including Licensing Standards Officers, representatives from public health, the Police, the licensed trade and the general public. The Forum continues to work well with the Board and provided valuable input during the Board's review of its Statement of Licensing Policy.

9.4 **Statement of Gambling Principles**

During the period, the Board has commenced a review of its Statement of Gambling Principles in accordance with Section 349 of the Gambling Act 2005 and the Board will adopt its new Statement in the near future.

9.5 **Licensing Team**

The Board is assisted by a unit of officers who sit within the Council's Legal and Licensing Team. The unit consists of a Licensing Team Leader, two Licensing Standards and Civic Government Enforcement Officers, two Licensing Officers and a Licensing Assistant with administrative support staff. They offer guidance and advice in the processing and issuing of licences under delegated powers, provide support to the Clerk and make referrals to the Board. The Licensing Team as a unit ensure that the functions of the Board are fulfilled as

efficiently as possible.

10 CONCLUSION

The Board is pleased to report that licenced premises in the Scottish Borders have been well run and generally problem free during the period covered by this report. The Board is thankful to the licensed trade in its efforts of promoting and upholding the licensing objectives and complying with the Board's Policy and to the Local Licensing Forum for their continued role in reviewing and updating the Alcohol Profile in support of its Policy. The Board also acknowledges the hard work applied by and the achievements made by those licence holders who were recognised in the annual Best Bar None awards.

11 ADDITIONAL INFORMATION

Further information relating to the Board's functions including public access to Agendas and Minutes, its Statement of Licensing Policy, application forms, statutory public adverts and the Local Licensing Forum can be accessed via the undernoted links.

[Licensing Board](#)

[Licensing Board Agenda and Minutes](#)

[Local Licensing Forum](#)

**SCOTTISH BORDERS COUNCIL
SCOTTISH BORDERS LICENSING BOARD**

MINUTE of Meeting of the SCOTTISH BORDERS LICENSING BOARD held in Committee Rooms 2 and 3, Council Headquarters, Newtown St Boswells on Friday 25 October 2019 at 10.00 am

Present:- Councillors J. Greenwell (Convener), D. Paterson, N. Richards, G. Turnbull, T. Weatherston

Apologies:- Councillors J. Brown, S. Scott, R. Tatler, E. Thornton-Nicol
In Attendance:- Managing Solicitor (Property and Licensing), Licensing Services Team Leader, Licensing Standards and Enforcement Officer (I Tunnah), Chief Inspector Reid, PC J. Fortune - Police Scotland, Democratic Services Officer (F. Henderson), Trainee Democratic Services Officer

1. **MINUTE**

The Minute of Meeting of 20 September 2019 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 4 September 2019 to 9 October 2019.

**DECISION
NOTED.**

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

(i) **Section 20: Application for Premises Licence.** Consider the following application for Provisional Grant of Premises Licence:

(a) Scott Hunter	40 Bridge Street Kelso (Provisional)
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Proposed business activity – ground floor bistro/restaurant/coffee shop with table service of drinks provided by on sale facility. No off sale requested. Licensed hours applied for:

<u>On Sale</u>	<u>Off Sale</u>
Sun to Thurs – 11.00am to 12 midnight	None
Fri & Sat – 11.00am to 1.00am	

Representations received:

Police Scotland - none.

Licensing Standards Officer - none.

Health - none.

Other - none.

There had been circulated copies of an application for provisional grant of premises licence, together with the proposed Operating Plan and layout plan. Mr Tunnah, Licensing Standards and Enforcement Officer advised that the application was to allow the premises to operate as a bistro/restaurant/coffee shop with alcoholic drinks to be served by table service within the core hours. The Convener welcomed the applicant Mr Scott Hunter who explained that he presently owned the butcher shop and this application was an expansion of his existing business to open a café/bistro/restaurant next to his butcher shop which he considered would be an asset to the town. Members welcomed this proposal which was in a prime location in Kelso. There were no representations and the application was granted.

**DECISION
GRANTED**

(b) Whitbread Group plc

Premier Inn
Borders Gateway
Tweedbank Drive
Tweedbank
(Provisional)

Proposed business activity – three storey hotel with accommodation, food and beverage area and associated facilities. Restaurant would be open to the general public. Licensed hours applied for:

On Sale

Sun to Thurs – 11.00am to 12 midnight
Fri & Sat – 11.00am to 1.00am

Off Sale

Monday to Sun – 10.00am – 10.00pm

Representations received:

Police Scotland - none.
Licensing Standards Officer - none.
Health - none.
Other - none.

There had been circulated copies of an application for provisional grant of premises licence, together with the proposed Operating Plan. The layout plans had been available for inspection in the licensing unit prior to the meeting and was on display at the meeting. Mr Tunnah, Licensing Standards and Enforcement Officer advised that the application was for a proposed development of a Premier Inn in Tweedbank which was a standard hotel licence for accommodation, food and beverage area with associated facilities. The restaurant would also be open to the general public. In accordance with the Board's policy, the application also proposed for the extension of on sale core hours until 1.00am on Christmas Eve, Christmas Day, Boxing Day, New Year's Eve and New Year's Day. The Convener welcomed Mr Grunert, representative for Whitbread plc, who advised that the proposed development was adjacent to Tweedbank Industrial Estate and would act as a gateway to the Borders and was near to the railway station. The establishment would comprise of a 71 bed unit, with the core hours within the Board's policy. There would be very limited display areas for alcohol and would not provide an off sale facility other than for those dining at the premises who could take a bottle of wine away. The plan also proposed an outside drinking area. Mr Grunert intimated an amendment to the operating plan to include gaming activity within core hours only. Members were in unanimous support of the application. There were no representations and the application was granted, subject to the amendment to the operating plan to remove gambling outwith core hours.

DECISION

GRANTED subject to the amendment to the operating plan.

(ii) **Section 29: Applications for Variation of Premises Licence.** Consider the following applications for Variation of Premises Licence

(a) **Hawick Rugby Ltd**

Hawick RFC Clubrooms
Mansfield Park
Mansfield Road
Hawick

Amendments to Operating Plan, which include the following:

- a change to the core On Sale Hours –

<u>Current On Sale Hours</u>	<u>Proposed On Sale Hours</u>
12.30pm – 11.00pm Sun	11.00am – 12 midnight Sun to Wed
11.00am – 11.00pm Mon to Thurs	11.00am – 1.00am Thurs, Fri & Sat
11.00am – 1.00am Fri & Sat	
- a change to the core Off Sale Hours –

<u>Current Off Sale Hours</u>	<u>Proposed Off Sale Hours</u>
12.30pm – 10.00pm Sun	11.00am – 10.00pm Sun to Sat
11.00am – 10.00pm Mon to Sat	
- the addition to the permitted activities referred to in question 5 (column 4) of the Operating Plan, to include restaurant facilities, bar meals, club or other groups meetings etc, recorded music, live performance, dance facilities, theatre, films, indoor/outdoor sports and televised sport, outwith core hours; and
- a change to the terms/explanation at question 5(f) of the Operating Plan relating to any other activities.

Representations received:

Police Scotland - none.

Licensing Standards Officer - none.

Health - none.

Other - none.

There had been circulated copies of an application for variation of Premises Licence, together with current and proposed Operating Plans. Mr Tunnah, Licensing Standards and Enforcement Officer advised that the application was a variation to the existing licence due to revisiting the operating plan which was very restrictive on activities outwith core hours. He further advised that the plan proposed was within the policy. The Convener welcomed Mr Anderson, the Club's representative who confirmed that the application was to update the current Operating Plan in line with the Board's policy statement and incorporated the amendments to the core hours. There were no representations and the application was granted.

DECISION GRANTED

(b) **Selkirk RFC**

Selkirk RFC
Philiphaugh
Ettrickhaugh Road
Selkirk

Amendment to Operating Plan and layout plan as follows:

- Change on and off sale core hours to commence at 11.00am Monday to Sunday (currently 5.00pm Monday to Thursday, 11.00am Friday and Saturday and 12.30pm Sunday).
- Change terminal core hours for on sale to 12.00midnight Sunday to Wednesday and 1.00am Thursday to Saturday (currently 11.00pm Sunday to Thursday and 1.00am Friday and Saturday).
- Change the terms of the seasonal variation in line with the Board's Policy over

the festive period.

- Change question 5 listed activities to include restaurant facilities, bar meals, theatre, films and outdoor drinking facilities within and outwith core hours.
- Change question 5 existing listed activities recorded music live performances, dance facilities and televised sport to take place outwith core hours.
- Change question 5 listed activities to include gaming within core hours.
- Change the explanation of activities outwith core hours and amend the statement under any other activities at question 5(f)
- Change the children and young persons access statement to permit children for the purposes of participating in or supporting any sporting activity associated with the Club until 10.00pm and for attending any pre-arranged, private function for its duration whilst accompanied by an adult and young persons at the same times and for the same reasons without the need to be accompanied.
- Amended layout plan to include new extension within licensed footprint of the premises.

Representations received:

Police Scotland - none.

Licensing Standards Officer - none.

Health - none.

Other - none.

There had been circulated copies of an application for variation of Premises Licence, together with current and proposed Operating Plans and layout plan. Mr Tunnah, Licensing Standards and Enforcement Officer advised that the application was a variation to the existing licence due to a review of the operating plan which was very restrictive relating to the permitted activities both during and outwith core hours. He further advised that the proposed changes were within policy. The Convener welcomed Mr Findlater, the Club's representative who confirmed that the application was to update the current Operating Plan in line with the Board's policy statement and incorporated the extended times for core hours. This would allow opportunities to hold events such as weddings/functions, the sevens tournament, junior rugby events or funerals. There were no representations and the application was granted.

**DECISION
GRANTED.**

4. FESTIVE SEASON EXTENDED HOURS POLICY

4.1 There were circulated at the meeting copies of a briefing paper regarding a proposed Festive Season Extended Hours policy. Mr Tunnah, 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 Year's Eve and New Year's 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.

4.2 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 2019 and 1 January 2020) 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 2019 and 1 January 2020); 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.

5. **PRIVATE BUSINESS**

Before proceeding with the private business, the following motion should be approved:

“That under Section 50A(4) of the Local Government (Scotland) Act 1973 the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 14 of Part 1 of Schedule 7A to the aforementioned Act.”

6. **LICENSING SCOTLAND ACT 2005: PERSONAL LICENCE HEARING**

Section 84A: Hearing to consider review of Personal Licence on report of conduct inconsistent with licensing objectives received from Police Scotland.

In the absence of the applicant, the Board unanimously agreed to defer this item to a future meeting.

7. **MINUTE**

The private Minute of Meeting of 20 September 2019 had been circulated.

DECISION

APPROVED.

The meeting concluded at 10:25am

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