

MINUTE OF JOINT MEETING OF THE
SCOTTISH BORDERS LICENSING BOARD
AND THE LOCAL LICENSING FORUM held
remotely via Microsoft Teams on 2
December 2020 at 4.00 p.m.

Present:- Licensing Board:- Councillors J. Greenwell (Convener), J. Brown, D. Paterson, N. Richards, S. Scott, R. Tatler, E. Thornton-Nicol, G. Turnbull and T. Weatherston.
Forum:- M. Hay (Convener), S. Bell, S. Dalrymple, S. Elliot, R. Mackay, R. McKintyre, G. Todd, I. Tunnah and M. Wynne.

Apologies:- Forum: G. Campbell.

In Attendance:- Managing Solicitor (Property and Licensing), Licensing Services Team Leader, PC Lackenby – Police Scotland, Democratic Services Officer (F. Walling).

1. **WELCOME BY CONVENER OF SCOTTISH BORDERS LICENSING BOARD**

The Convener of the Licensing Board, Councillor Greenwell welcomed everyone to the meeting, which this year was being held remotely. He referred to the fact that the joint meeting scheduled for last year was postponed from its scheduled date in December due to the involvement of Council officers in preparation for the UK General Election. It had been hoped to hold the meeting in Spring 2020 but this proved not to be feasible due to the Covid-19 outbreak. It had therefore been two years since the last joint meeting.

2. **MINUTE**

There had been circulated copies of the Minute of Meeting of 5 December 2018.

**DECISION
APPROVED**

3. **LICENSING BOARD ANNUAL REPORT DECEMBER 2018 TO NOVEMBER 2019 AND DECEMBER 2019 TO NOVEMBER 2020**

3.1 There had been circulated copies of a report by the Clerk to the Licensing Board presenting a summary of the work of the Scottish Borders Licensing Board and the staff supporting the Board, covering the two year period from December 2018 to November 2020. It was hoped that the report would assist the Forum to facilitate its scrutiny role of how the Board discharged its duties and responsibilities in terms of the Licensing (Scotland) Act 2005 (the Act) as amended. The Managing Solicitor, Ron Kirk, presented the report and highlighted the main points. Since the last joint meeting on 5 December 2018 the Board had met 11 times in the period from the last meeting to 30 November 2019; and 7 times in the following period to 30 November 2020. At each Board meeting, in addition to determining applications and reviews, Members considered all matters which had been dealt with under the delegated powers of the Clerk where both the Act permitted this method of determination and there had been no objection or representation in respect of the application. The majority of delegated decisions were in connection with grants of occasional licences which were a feature of sporting fixtures and local festivals in the Community. The number of Occasional Licences that had been granted in the periods 2018-19 and 2019-20 were 1,340 and 321 respectively. Of those, 382 and 101 respectively were granted to voluntary organisations. Extended hours were granted in response to 78 applications in 2018-19 and 25 in 2019-20

- 3.2 Hearings took place as part of the Board's business as narrated in the published agenda. Hearings were held in public and parties had the right to address the Board or rely solely on their written submissions. The Board considered 27 applications to vary Premises Licences (17 in the period to 30 November 2019 and a further 10 to 30 November 2020). This included both major and minor variation applications which must be determined by the Board and applications which attracted objections or representations. The Board arranged 12 Review hearings in 2018-19 and 9 in 2019-20 in respect of premises licences. All but 3 were in relation to notices for failure of premises to make payment of the annual fee. The Board must hold a hearing for the Grant or Provisional Grant of a Premises Licence. There were 7 new Premises Licences granted in the period to 30 November 2019 and 10 in the following period to 30 November 2020. 3 Licence Holders chose to surrender their Licence.
- 3.3 The lockdown initially impacted on the Board's business. The Licensing (Scotland) Act 2005 required the Board to hold hearings in public. The lockdown meant that this was not possible. With both businesses and licensing authorities under unprecedented disruption as a result of the Covid-19 outbreak, the Scottish Government moved swiftly and passed the Coronavirus (Scotland) Act 2020 which allowed the Board some flexibility with regard to the timescales and deadlines stipulated in the 2005 Act. In addition, the 2020 Act contained provisions which gave the Board a new discretion to dispense with the requirement to hold meetings in public and to instead provide alternative means for persons to be heard by telephone, video conferencing or by written communication including by electronic means. As a consequence, the Board was able to recommence meetings by Microsoft Teams Video Conferencing and held its first meeting by this medium on 31 July 2020. This has subsequently enabled the Board to meet on a monthly basis as it normally did prior to the Covid-19 outbreak.
- 3.4 The Board was required to produce and publish annual finance and functions reports for the period 1 April to 31 March. The Board considered and approved these reports for the year to 31 March 2019 at its meeting on 21 June 2019 and the reports were subsequently published thereafter. The Coronavirus (Scotland) Act 2020 extended the timescale for publishing these reports, for the period to 31 March 2020, to 31 December 2020 and as such the Board will consider its annual finance and functions reports at its next meeting on 18 December 2020 with a view to having the reports published immediately thereafter. Since the last meeting, the Board had also been required to review its Statement of Principles under the Gambling Act 2005 for the period 31 January 2019 to 30 January 2022. At its meeting on 22 March 2019 the Board agreed a draft Statement of Principles for consultation. A six week period of consultation took place from 5 April 2019 to 17 May 2019. Officers considered the responses on behalf of the Board and concluded that the responses raised matters that were either covered by the draft statement of principles or related to matters that were outwith the Board's control. As a result it was the considered view of these officers that no changes were required to the draft and a recommendation to this effect was considered and approved by the Board at its meeting on 19 July 2019 and the finalised Statement of Principles was published shortly thereafter.

**DECISION
AGREED to:-**

- (a) note the report; and**
- (b) request that the Clerk continue to provide updates to the joint meeting on an annual basis.**

4. LOCAL LICENSING FORUM ANNUAL REPORT 2018-2020

- 4.1 Ian Tunnah, Licensing Standards Officer, presented the Forum's Annual Report for the two years from December 2018 to December 2020, which had been circulated, and gave

an overview of the activities during this period. Membership had changed over the recent two years with several new members being recruited. The Police Scotland representative had changed to P.C. Sharon Lackenby on her appointment as the area's Licensing Officer and Mark Hay was appointed as Convener of the Forum in January 2019 and had remained in that role to date. Ongoing support had been received from Alcohol Focus Scotland, which the Forum would like to acknowledge. Forum members had struggled to be able to attend meetings of the Licensing Board but the Board's Minutes continued as a standing item at Forum meetings which allowed discussion on decisions made.

4.2 In terms of continuous professional development (CPD), the Forum was kept up to date on national licensing developments. This year input was received on:

- Underage Drinking 'Don't Buy it, Don't Supply it' – Safer Communities Scottish Borders Council. This campaign continued from the previous year and was again supported by the Licensing Standards Officers, who updated the Forum on activities around the usual major events in the Scottish Borders.
- Best Bar None Scotland – Safer Communities Scottish Borders Council. This national voluntary accredited award scheme was again successfully supported in the area with a record number of awards gained.
- Equalities Training – Joint CPD session with Licensing Board members, provided by the Council's Equalities and Diversity Officer.
- Alcohol Byelaws – The Board's Managing Solicitor, Ron Kirk, gave a presentation on the proposed introduction of alcohol byelaws and the required consultation process to be followed.
- Aiden Collins, Alcohol Focus Scotland, was welcomed to a meeting in October 2019 to give a presentation on Licensing Developments with the three main subjects being: the Board's Annual Functions Report; New Policy Statements; and work to update Licensing Act guidance.

4.3 The Scottish Government consultation on reviewing the fee for occasional licences along with limiting numbers and duration was considered by the Forum. The views of the Forum were submitted as a response to the Consultation. The general view of the Forum was that the current £10 fee was inadequate and that a fee of £50 was more appropriate. It was not felt that numbers of applications should be limited.

DECISION

NOTED the update.

5. CHIEF CONSTABLE'S REPORT TO THE SCOTTISH BORDERS LICENSING BOARD FOR THE PERIOD 1 APRIL 2019 - 31 MARCH 2020

There had been circulated copies of Police Scotland's Annual Licensing Report for 2019/20. PC Lackenby was in attendance to present the report and answer questions. The report explained that Police Scotland continued to work closely with local authorities and partnership agencies to deliver effective regulation in liquor licensing. Preventing alcohol fuelled violence, disorder and antisocial behaviour was a priority. Within the Scottish Borders there were currently 104 'on sales' 128 'off sales' and 370 combined on/off premises. There were significant demands on police resources placed in the Scottish Borders area by the Common Riding festivals and Rugby 7s tournaments. In the Alcohol Outlet Availability and Harm report (April 2018) published by Alcohol Focus Scotland, Scottish Borders was ranked 15th out of 30 local authority areas for alcohol outlet availability in Scotland. Crime rates in the neighbourhoods with the most alcohol outlets were 4.4 times higher than in neighbourhoods with the least. In the Scottish Borders there were 341 recorded incidents in licensed premises between 1 April 2019 and 31 March 2020, this figure showed a slight decrease of 1.15% on the year before. Police Scotland carried out 1,389 recorded inspections of licensed premises in the Borders during the period of the report. The report went on to outline the well-established Intervention Process whereby incidents connected to premises were identified by

Licensing Officers who evaluate the Licensing Objectives to determine if any had been compromised. Over the last calendar year there had been just one premise in the Scottish Borders which had been monitored for a period of a month. During the reporting year there were no declared problematic premises in the Scottish Borders. The local Police Licensing Officer continued to work alongside the Council's Licensing Standards Officers to maintain effective information sharing procedures and establish good partnership working. This unified approach had resulted in a number of successful resolutions in the Scottish Borders. The Police Licensing Officer was also an active member of the Scottish Borders Licensing Forum and over the last year there had been a lot of work carried out around the Statement of Licensing Policy as well as consultation and feedback on other licensing policy and guidance.

DECISION

NOTED the report

6. ONGOING IMPLICATIONS OF CORONAVIRUS REGULATIONS/RESTRICTIONS ON LICENSED TRADE

The final part of the meeting was dedicated to an open discussion, about the ongoing implications of Coronavirus regulations on the licensed trade, led by an update from the Licensing Standards Officer Mike Wynne. Mr Wynne explained that, at the start of the Coronavirus outbreak, the Licensing Team were working from home and giving advice by e-mail and telephone. As time went on premises were visited in person if required. The Licensing Team worked closely with Environmental Health colleagues, the most appropriate agency to keep the trade up to date with changes in guidance throughout the different stages of the regulations. The ethos was to Engage, Educate and, as a last resort, to Enforce. Updates in the regulations tended not to be published for a few days so consequently were often open to interpretation by the Licensed Trade. There were two issues which had led to some misunderstanding. In terms of outdoor drinking until 10 pm, some marquees had been erected to provide outside premises, but there was sometimes failure to appreciate that this area required to be open to the fresh air. Also some premises had misunderstood the guidance in relation to Track and Trace requirements, only collecting information from one person from a group. The guidance was that contact details were required from one person per household within the group. Environmental Health and Police Scotland were taking the lead in explaining the regulations and ensuring compliance. As a publican and licensee, Mark Hay described the devastating effect of the last few months on the licensed trade. The timings contained in the current Tier 2 regulations were causing complications, where the rules were different for hotel guests and non-residents. He believed it was just a case of premises trying to survive until the vaccine brought some normality, but that the most difficult months could still be ahead. Members of the Forum who worked in the trade raised the particularly difficult situation currently facing 'wet' pubs which, as they did not serve food, were required to close under the current Tier 2 regulations. A move into Tier 1, even if just for a limited period leading up to Christmas, would allow premises like these to open and would assist the viability of those businesses. Members of the Licensing Board expressed concern about apparent inconsistencies within the regulations which affected businesses in the trade. For example there appeared to be different interpretations around the definition of a snack as compared to a 'substantial meal', which led to frustration and had implications in terms of when alcohol could be served and whether certain businesses could remain open. Members expressed sympathy with the position the licensed trade was facing and offered their strong support.

The Convener thanked everyone for their attendance at the joint meeting and encouraged Members of the Licensing Board to attend future meetings of the Forum.

DECISION

NOTED

The meeting concluded at 4.35 pm