

Public Document Pack



SCOTTISH BORDERS LICENSING BOARD/LOCAL LICENSING FORUM TUESDAY, 30 NOVEMBER 2021

A MEETING of the SCOTTISH BORDERS LICENSING BOARD will be held via MICROSOFT TEAMS on **TUESDAY, 30 NOVEMBER 2021 at 4.00 pm**

J. J. WILKINSON,
Clerk to the Council,

24 November 2021

BUSINESS		
1.	Welcome by Convener of Scottish Borders Licensing Board	
2.	Apologies for Absence	
3.	Order of Business	
4.	Declarations of Interest	
5.	Minute (Pages 3 - 6) Consider the Minute of Joint Meeting of 2 December 2020. (Copy attached.)	5 mins
6.	Licensing Board Annual Report December 2020 to November 2021 (Pages 7 - 10) Consider report by the Clerk presenting a summary of the work of the Scottish Borders Licensing Board and the staff supporting the Board (copy attached).	10 mins
7.	Chief Constable's Report to the Scottish Borders Licensing Board for the Period 1 April to 31 March 2021 (Pages 11 - 34)	10 mins
8.	Recruitment Update	10 mins
9.	Update on Impact of Coronavirus on Licensing	15 mins
10.	Any other items previously circulated	
11.	Any other items which the Convener decides are Urgent	

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.**

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

Membership of Forum:- S. Bell, S. Elliot, S. Dalrymple, S. Mabon, R. Mackay, R. McIntyre, G. Todd, M. Wynne and P.C. S. Lackenby (Police Scotland)

Please direct any enquiries to Fiona Henderson Tele: 01835 826502
E-mail: fhenderson@scotborders.gov.uk

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 2018-20 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

Scottish Borders Licensing Board

Report by Clerk

Annual Report December 2020 to November 2021

30 November 2021

1 PURPOSE AND SUMMARY

- 1.1 **The purpose of this report is to give a summary of the work of the Scottish Borders Licensing Board and the staff supporting the Board**
- 1.2 **It is hoped that this report will assist the Forum to facilitate its scrutiny role of how the Board discharges its duties and responsibilities in terms of the Licensing (Scotland) Act 2005 (the Act), as amended.**

2 RECOMMENDATIONS

- 2.1 **I recommend that the Board and the Forum note the report and request that the Clerk continues to provide updates to the joint meeting on an annual basis.**

**Nuala McKinlay
Clerk
Scottish Borders Licensing Board**

3 SUMMARY OF ACTIVITY

- 3.1 Since the last joint meeting on 2 December 2020, the Board have met 11 times. At each Board meeting, in addition to determining applications and reviews, members consider all matters which have been dealt with under the delegated powers of the Clerk where both the Act permits this method of determination and there have been no objection or representation in respect of the application.

3.2 Delegated Decisions

The majority of delegated decisions are in connection with grants of occasional licences which are a feature of sporting fixtures and local festivals in the Community, figures are below:

Occasional Licenses granted	426
Above includes Voluntary Organisations	36
Extended Hours granted	3

The other reported decisions relate to minor variations of premises licences, substitution of premises managers, grants of personal licences and transfers of premises licences.

3.3 **Hearings**

The hearings take place as part of the Board's business as narrated in the published agenda. The Licensing (Scotland) Act 2005 requires that hearings are held in public and parties have the right to address the Board or rely solely on their written submissions. However, the initial Covid-19 lockdown in March 2020 meant that holding hearings in public was not possible. The Coronavirus (Scotland) Act 2020 gives Boards the discretion to provide alternative means for persons to be heard such as by telephone, by video conferencing or by written communication including electronic means. As a consequence, the Board has continued to meet by Microsoft Teams Video Conferencing and this has enabled the Board to meet on a monthly basis as it had done prior to the Covid-19 outbreak.

3.4 **Variations**

The Board considered 20 applications to vary Premises Licenses. This included both major and minor variation applications which must be determined by the Board and applications which attracted objections or representations.

As in previous years much work has been generated by established businesses who realign their layout and/or operating plans or as a result of transfer of business to a new licence holder or manager. Such applications can be the outcome of visits by the Licensing Standards Enforcement Officer when it is apparent that the current operation does not comply with the Licence or the Licence Holders discuss how they can amend their Licence to move with their perceived training and business needs. When subsequent applications are submitted and processed often these do not generate objections and are granted by the Board at the meetings after due consideration of the application in relation to the statement of policy.

Such non contentious applications can relate to changes in opening hours often relating to the times for sales of alcohol where premises wish the opportunity to open earlier for the sale of breakfasts, coffees etc. Applications are also generated from store refits where national retailers change corporate layout and/or practice such as playing music in store. The majority of these have also contained an increase in the area of alcohol sales in shops and these have all been within policy and have not attracted objections from the statutory consultees.

3.5 **Reviews**

Premises Licences

The Board arranged Review hearings in respect of premises licences as detailed in the table below. All were in relation to notices for failure of premises to make a payment of the annual fee apart from 3 which were as a result of applications received from Police Scotland on the grounds of breach of licensing objectives. In 2 of these cases, the Board took no action pending the outcome of a criminal prosecution. In the other case the Licence holder undertook to surrender his licence during the meeting. In the 9 other cases relating to non-payment of annual fees, the Board suspended 4 licences, revoked 3 and took no action in respect of the other 2 as one Licence holder paid the annual fee prior to the hearing and the other licence was surrendered.

Premises Review	12
Ending in Suspension	4
Ending in Revocation	3
Outstanding fees paid prior to Hearing	1
Ending in no action	2
Licences Surrendered	2

3.6 Grants Including Provisional Grants

The Board must hold a hearing for the Grant or Provisional Grant of a Premises Licence. 7 new Provisional Premises Licences and 3 new Premises Licences were granted.

1 Licence Holder chose to surrender their Licence.

4 OTHER MATTERS

The Covid-19 pandemic has continued to have an effect on the Licensed trade and the Board's business. As referred to in para 3.3 above. The Licensing (Scotland) Act 2005 requires the Board to hold hearings in public. The initial lockdown in March 2020 meant that this was not possible. In addition, the 2005 Act contains a number of strict timescales and deadlines with little or no discretion available to the Board if they are not adhered to. Recognising the difficulties that this would cause to both the Licensed trade and to Boards, the Scottish Government passed the Coronavirus (Scotland) Act 2020 which allows the Board some flexibility with regard to the timescales and deadlines stipulated in the 2005 Act. In particular, the 2020 Act contains 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 continues to meet by Microsoft Teams Video Conferencing and this enables the Board to meet on a monthly basis as it normally did prior to the Covid-19 outbreak.

This page is intentionally left blank



**POLICE
SCOTLAND**

Keeping people safe

CHIEF CONSTABLE'S REPORT TO THE
SCOTTISH BORDERS LICENSING BOARD
FOR THE PERIOD
1ST APRIL 2020 to 31ST MARCH 2021

OFFICIAL
NOT PROTECTIVELY MARKED

Contents

FOREWORD.....	3
POLICE SCOTLAND LICENSING OVERVIEW.....	3
LICENSING BOARD AREA.....	4
Local Policing Priorities	5
Description of Board area	5
OPERATION OF THE LICENSING (SCOTLAND) ACT 2005	7
The intervention process.....	10
Summary	12
Partnership Working	15
PREVENTING THE SUPPLY OF ALCOHOL TO CHILDREN AND YOUNG PEOPLE	16
Introduction.....	16
Activity.....	17
Fake Identification	18
Offences relating to children and Young Persons.....	19
TACKLING SERIOUS AND ORGANISED CRIME	19
Examples of Serious and Organised Crime (SAOC) Activity in the Board area	20
PROPOSED ACTIVITY FOR THE YEAR AHEAD	20
CONCLUSION.....	22

OFFICIAL
NOT PROTECTIVELY MARKED

FOREWORD

In accordance with Section 12(A) Licensing (Scotland) Act 2005 I provide the Annual Licensing Report for 2020/21.

I would like to thank you for working with policing to keep the people of Scotland safe in what has been an extremely demanding year. During these challenging times Police Scotland has continued to work closely with Local Authorities and key stakeholders and, collectively, we have played a crucial role in supporting the national response to the COVID-19 pandemic, explaining the rules and encouraging our fellow citizens to do the right thing.

We have embraced new, flexible ways of working that have involved remote or home working where possible and the incorporation of new IT solutions. We have quickly adapted to these changes while continuing to provide a high standard of service to our communities.

We have also continued to deliver effective regulation of Liquor Licensing whilst taking full cognisance of the restrictions and requirements conferred by the Coronavirus Regulations. Our focus has been on preventing alcohol fuelled violence, disorder and antisocial behaviour along with supporting the national response to suppress the virus.

I would like to thank our many local partnerships and acknowledge the good work that they do; without their support we would not be able to maintain the high standard in licensing in the Scottish Borders area.

Police Scotland remains committed to working with others to achieve the licensing objectives. I am confident that through effective, collaborative working we will meet any challenges that may arise and will continue to improve licensing standards for the communities of Scotland.

Iain Livingstone QPM

Chief Constable

Police Service of Scotland

POLICE SCOTLAND LICENSING OVERVIEW

The Violence Prevention and Licensing Co-ordination Unit (VPLCU) sits within Safer Communities based at Dalmarnock Police Station, Glasgow.

The VPLCU upholds the two tier structure for licensing which supports both national and local priorities through service delivery. They have overall responsibility for determining and delivering national licensing strategy and policy, by providing advice, guidance and support to divisional licensing teams as well as undertaking other specialist functions.

The Violence Prevention and Licensing Co-ordination Unit is a specialist department which consists of a small team of officers, based in Glasgow. The officers within the unit work with divisional licensing teams and partner agencies to help shape policy and strategy around the police licensing function. They provide practical and tactical advice to police licensing practitioners, operational officers, supervisors and policing commanders.

The VPLCU seek to ensure that legislation governing the sale and supply of alcohol is applied consistently across the country and all opportunities are taken to stop the illegal or irresponsible sale, supply or consumption of alcohol with the intention of preventing and reducing crime and disorder.

During 2020/2021, from a licensing perspective, our particular focus was on the following;

- Scrutiny of the serious incidents of violence, disorder and antisocial behaviour linked to licensed premises.
- Working closely with Licenced Premises and Scottish Government to navigate the challenges of the COVID-19 pandemic through the 4Es approach by engaging, explaining, educating and enforcing.
- Governance and ongoing development of the National ICT Licensing System, known as “Inn Keeper”, to increase the efficiency and effectiveness of liquor and civic licensing administration and management. Police Scotland are

OFFICIAL
NOT PROTECTIVELY MARKED

currently working on upgrade to the National ICT system to ensure compliance with GDPR legislation.

Each of the 13 Local Policing Divisions have a licensing team responsible for the day to day management of licensing administration, complying with statutory requirements as well as addressing any issues that may arise within licensed premises in their local area.

LICENSING BOARD AREA

The Scottish Borders local authority area is policed by J Division. Chief Superintendent John McKenzie is the Local Police Commander who has the responsibility for all day-to-day policing functions. The Local Area Commander Chief Inspector Vincent Fisher is based at Galashiels. He is responsible for performance management, community engagement, partnership working and the daily management of local personnel.

Chief Inspector Fisher is supported by Inspector Jacqueline McGuigan who is based at Galashiels. The Scottish Borders Licensing Boards are predominantly attended by Inspector McGuigan.

The Licensing Department is part of the Divisional Co-ordination Unit based at Dalkeith Police Station. The senior officers who have responsibility for Licensing are Inspector John McEwan and Sergeant Karen Harling.

The local liquor Licensing Department is based at Duns Police Station. This consists of one police officer, PC Sharon Lackenby, supported by administration staff based at Dalkeith Police Station.

Local Policing Priorities

Following our public consultation process, the policing priorities for J Division, as set out in our Local Policing Plan are as follows;

OFFICIAL
NOT PROTECTIVELY MARKED

- Protecting the most vulnerable people
- Reducing Violence & Antisocial Behaviour
- Tackling Serious and Organised Crime
- Improving Road Safety
- Tackling Acquisitive Crime

In response to the local policing priorities, J divisions will continue to address violence, including focusing on alcohol related violence as well as dealing with disorder and antisocial behaviour related to the sale, and consumption of alcohol. It is recognised that education, prevention, partnership working and robust policing are all key factors in reducing crime and disorder in this area.

Description of Board Area

The command area of Scottish Borders serves, as of 30th June 2019, a population of 115,510 people in an area covering over 1827 square miles, reaching from the Midlothian/East Lothian borders in the north to the border with England in the south and to Lanarkshire in the West. The age group 25-44 saw a 24.7% decline in numbers over the last 20 years while the 65 - 74 age group saw a 49.4% increase in population over the same period (National Records of Scotland). Approximately 35,516 persons residing in the Scottish Borders are in the 45-64 age group which represents 30.7% of the population. Between 2018 and 2028, the population of the Scottish Borders is projected to increase from 115,270 to 116,435. This is an increase of 1% which compares to a projected increase of 1.8% for Scotland as a whole.

There are currently:

- 47 'on sales' only premises,
- 109 'off sales' only premises, and
- 296 combined on/off sales premises

Giving a total of 452 premises in the Scottish Borders licensed to sell alcohol.

OFFICIAL
NOT PROTECTIVELY MARKED

There are significant demands on police resources placed in the Scottish Borders area by the Common Ridings and Rugby 7's tournaments. There are currently 3 premises trading until 3am at the weekends, with annual occasional extensions for some Common Riding Town Balls extending to 5am.

In the Alcohol Outlet Availability and Harm report (April 2018) published by Alcohol Focus Scotland, Scottish Borders is ranked 15th out of 30 local authority areas for alcohol outlet availability in Scotland (11th for on-sales and 27th for off-sales outlets). Scottish Borders has an alcohol outlet availability lower than Scotland as a whole. Other key findings for Scottish Borders include;

- Crime rates in the neighbourhoods with the most alcohol outlets were 4.4 times higher than in neighbourhoods with the least.
- The link between alcohol outlet availability and harm was found even when other possible explanatory factors, such as age, sex, urban/rural status and levels of income deprivation, had been taken into account.
- The most deprived neighbourhoods had 2.5 times the number of alcohol outlets than the least deprived neighbourhoods.
- The total number of alcohol outlets in Scottish Borders has increased by 9 (2%) from 453 in 2012 to 462 in 2016.

COVID-19 PANDEMIC

The year 1st April 2020 to 31st March 2021 was very unique in many ways, particularly in relation to the licensed trade due to the various restrictions placed on premises on how, when and where they can safely operate throughout the Covid-19 Pandemic.

Police Scotland set up 'Operation Talla' in response to the pandemic, ensuring a consistent and measured approach was taken to implementing restrictions throughout the country. Lothian & Scottish Borders Licensing Department worked closely with Operation Talla, as well as Liquor & Civic Licensing Policy Unit to provide clear and consistent advice to operational officers, to enable them to support premises as they introduced special measures in their premises in response to restrictions.

OFFICIAL
NOT PROTECTIVELY MARKED

Police Licensing, in partnership with Licensing Standard Officers (LSO's) and Environmental Health Officers worked closely with the licensed trade, including legal representatives, throughout this difficult time, providing guidance, advice and support to them and their staff to assist in the safe operation of licensed premises through the unprecedented challenges that faced them over the reporting period.

Changes to the levels system introduced by the Scottish Government as part of the route-map out of lockdown meant that the Scottish Borders was one of the areas where 'on sales' premises moved progressively from being closed to limited sales indoors in the lead up to Christmas.

Whilst the pandemic is not yet over, with the introduction of vaccines in the coming year, it is expected that society, including the hospitality trade can start returning to a level of 'normality' including the re-opening of pubs, restaurants, nightclubs, sporting venues and other licensed premises throughout the division. Police Licensing will continue to work closely with both internal and external partners to help ensure the safe and successful return of customers to licensed premises throughout the division, as well as the return of many of the annual events.

OPERATION OF THE LICENSING (SCOTLAND) ACT 2005

The Licensing Officer is responsible for processing all correspondence received from the Licensing Board. The officer reviews applications on behalf of the Chief Constable as part of the consultation process in conjunction with the Area Commander. This consultation process forms part of the Police support of the Licensing Objectives.

This section concentrates on how the Act has been applied by the licensing team and other local policing officers to support the Licensing Objectives in tandem with the local/national policing priorities.

In the Scottish Borders, there were 200 recorded incidents in licensed premises between 1st April 2020 and 31st March 2021, this figure shows a major decrease from 341 recorded incident equating to 41% on the year before. There continues to be a notable trend in thefts of alcohol from 'off sales' premises over the reporting year, this may be due to the impact that Covid-19 has had on society. Police Scotland carried

OFFICIAL
NOT PROTECTIVELY MARKED

out 696 recorded inspections of licensed premises in the Borders during the reporting year.

On Friday and Saturday evenings police officers are deployed on foot where other incidents permit, to aid with dispersal of licensed premises and reduce antisocial behaviour and violence related incidents between the hours of 2200-0400.

The proactive use of exclusion orders and antisocial behaviour legislation continues to contribute hugely to reducing repeat offending in licensed premises.

The misuse of alcohol is regularly cited as a contributory factor in relation to crimes of violence, domestic abuse, disorder and antisocial behaviour occurring on our street and within our homes. In addition, alcohol is also known to lower inhibitions and can render an individual as much a victim as a perpetrator of crime.

We continue to ensure there is a concerted focus on the issues surrounding the sale and supply of alcohol within our communities and work together in partnership with Licensed Premises and other agencies to promote responsible trading practices, ultimately keeping people safe.

Violence and ASB Data Where Alcohol Is a Factor

Violence recording indicates an “Alcohol” marker as a clearly defined aggravator to indicate where the presence of alcohol is deemed a factor in the act of violence. Of the 979 recorded crimes of violence for the 2020-21 period, a total of 239 had the alcohol marker attached to the crime report. Of that total 134 were in residential locations leaving 105 acts of violence in a public space where alcohol featured.

The following map has been produced indicating the locations of public space violence where alcohol is a factor. The red dots indicate alcohol while the green dots are the other crimes where no such aggravator has been added.



OFFICIAL
NOT PROTECTIVELY MARKED

The areas showing as high for alcohol crimes are obviously the towns of Galashiels, Hawick, Kelso, Selkirk and Peebles as expected. The alcohol data clock is replicate below. The late evening into early morning for the weekend is showing as the most prominent.

The towns of Galashiels, Hawick, Kelso, Selkirk and Peebles show the highest levels for alcohol related violence with the alcohol data clock (below) indicating that most incidents happen in the late evening/ early morning across the weekend.



The Intervention Process

As detailed in previous reports to the Licensing Board, issues in licensed premises are assessed using a well-established intervention process. Incidents connected to premises are identified by licensing officers who evaluate the Licensing Objectives to determine if any have been compromised.

Police intervention usually results in a meeting with the appropriate representatives of the premises concerned e.g. premises licence holder, designated premises manager and if appropriate, any stewarding company to discuss concerns and agree a way forward to resolve these.

OFFICIAL
NOT PROTECTIVELY MARKED

Premises being monitored by way of the above system are subject to weekly visits by either local officer's or licensing officers to monitor progress, measure improvement and ensure that agreed remedial measures are implemented.

The intervention system is ultimately designed to support the licence holder before any premises review is sought, although a serious or significant incident may obviously merit an immediate review application.

Depending on the severity of the incident and history of the premises, licensing officers will categorise the premises/incident as follows:

Police Intervention Categories		Number this reporting Year
RED	Problematic Premises – those operating in a manner inconsistent with the Licensing Objectives or out with the conditions of a premises licence and where local police intervention and support has failed or is unlikely to succeed in resolving the issues. A premises review request to the local Licensing Board is considered the most appropriate way to address the issue.	5
AMBER	Premises that require Formal Intervention. Issues have arisen and a formal intervention agreement is entered into between premises licence holders and Divisional Licensing teams to resolve them. This action may be taken with more serious or repeat issues.	2
GREEN	Monitored – the premises have come to note for a minor adverse issue and are being monitored. This may result in an informal intervention in terms of advice/support to the premises along with police visits.	3
NO ACTION	Action – An incident review has highlighted no issues regarding the management of the premises or licensing legislation. No further police action.	0

OFFICIAL
NOT PROTECTIVELY MARKED

Over the last calendar year there has been three premises in the Scottish Borders which have been classed as 'Monitored'. Two of these license holders are no longer trading in these premises.

During the reporting year there was five problematic premises in the Scottish Borders.

During the reporting year there are two premises that will be subject of ongoing formal intervention (amber) one premise in Berwickshire and the other in Roxburghshire. Both of these premises were afforded previous informal interventions and support from both Police and partner agencies. The premise in Berwickshire will be the subject of formal amber intervention process prior to the re-opening on or after 26th April 2021. This intervention has resulted following ongoing issues in relation to covid-19 and breach of formal regulations and disorder within and out with the premises.

The premise in Roxburghshire will also be the subject of formal amber intervention process prior to re-opening, again commenced due to Covid-19 breach of regulations, poor preparation for customers during the pandemic and disorder both within and out with the premises.

Summary

Section 1 – Unlicensed Sale of Alcohol

Alcohol is not to be sold on any licensed premises except and in accordance with a Premises Licence or Occasional Licence. During the reporting year no premises or events were found to be operating unlicensed.

Section 22 - Applications

Over the reporting year, there were 17 Provisional Premises Licences, an increase of 4 from last year and 6 Confirmation of a Provisional Premises Licence granted by the Board, an increase of 2 on the previous reporting year. Some of these applications were for home delivery of alcohol gift packages.

Section 36 – Application for Review of Licence

Police Scotland only seek review of a premises licence when an intervention has failed, is likely to fail or there is a serious risk to public safety if the premises continues to operate in the same manner e.g. the resulting problems as well as community impact must be considered.

In this reporting year there were no review applications of this type submitted by Police Scotland in the Scottish Borders.

Section 63 – Sale or Supply out with licensed hours

Officers in The Scottish Borders monitor the sale or supply of alcohol out with licensed hours closely. Local officers continue to make pro-active visits to licensed premises, particularly at weekends, to ensure premises are being managed appropriately. The police Innkeeper IT solution can be accessed by police control staff and officers alike, twenty four seven, providing any information on licensed hours etc. that are required, out with normal office hours of the Licensing Department. Close monitoring of premises through the use of Innkeeper, tasking's, and night time economy dispersal details continue to assist in reducing offending of this nature. In this reporting year, there has been one licence holder reported for this type of offence, resulting in a report being submitted to the Procurator Fiscal. The holder of this licence is no longer trading.

Section 72 – Personal Licence Applications

There were 75 applications made for the grant or renewal of personal licences during this reporting year in the Scottish Borders. This is a significant decrease on the previous year from 345 applications in 2019-2020 reporting period. This equates to a 78% decrease.

The amendment to legislation in terms of the Criminal Justice and Licensing (Scotland) Act 2010 and the Police and Fire Reform (Scotland) Act 2012 permitting the Chief Constable to request refusal for the purposes of 'any' Licensing Objective has widened the scope for making appropriate representations to the Board. During this reporting

OFFICIAL
NOT PROTECTIVELY MARKED

year there has been one representation of this type made to the Licensing Board, resulting in the applicant being refused his personal license.

Section 84 (84A) – Personal Licence Reviews

Police Licensing Officers are responsible for monitoring the conduct of personal licence holders. Again, the amendment to legislation has widened the ability for the Chief Constable to report conduct inconsistent with the Licensing Objectives.

There were two Personal Licence Reviews requested by Police Scotland in this reporting year.

Section 94 – Exclusion Orders

When a person has been charged with a violent offence within or in the immediate vicinity of any licensed premises, a request for an Exclusion Order is included in the 'remarks' section of the police report. Exclusion Orders are granted by the Courts, 'on conviction', and can exclude a person from specific licensed premises for between three months and up to two years. The Police Licensing Officer proactively drives the request for exclusion orders whenever there is an incident in or in the immediate vicinity of licensed premises. Persistent offenders can also be dealt with under the Anti-Social Behaviour legislation. The use of Exclusion Orders are fully supported by the licensed operators in the Scottish Borders.

Section 97 – Closure Orders

There were no closure orders used within the Scottish Borders during the reporting year. It is fully expected that should a premises require to cease trading, due to a serious risk to public safety, that we would receive full cooperation from the licence holder or person in charge.

Sections 111-116 – Drunkenness / Disorder Offences

The following licensing offences have been reported to the COPFS during the reporting year.

OFFICIAL
NOT PROTECTIVELY MARKED

Number of offences reported – Scottish Borders	2019-20	2020-21
Section 111 (drunk persons within licensed premises)	1	1
Section 112 (obtaining alcohol by or for a drunk person)	0	1
Section 113 (sale of alcohol to a drunk person)	0	1
Section 114 (DPM drunk whilst on duty)	2	0
Section 115 (disorderly conduct within licensed premises)	0	0
Section 116 (refusal to leave licensed premises)	8	3

The numbers reported to COPFS above remains relatively low as a result of officers using their discretion in many cases. Due to the Covid-19 pandemic, we have seen a decrease in reported incidents in licensed premises as would be expected given the initial lockdown and subsequent tiering system and return to further lockdown. We remain committed to keeping people safe and improving the quality of life for residents in the Scottish Borders.

Partnership Working

The Licensing Officer supported by local policing officers, have promoted the Police Service of Scotland's Force Priorities in conjunction with the five licensing objectives and the overarching principles and aims of the Licensing (Scotland) Act 2005.

Police management in Scottish Borders continues to enjoy a positive working relationship with partner agencies, in particular with Scottish Borders Council and the Licensing Board. The local licensing officer works regularly with a number of partner agencies and organisations to improve local licensing issues including Trading Standards, Environmental Health, HM Revenue & Customs, Immigration, Scottish Borders Licensing Forum, Scottish Borders Drug and Alcohol Partnership, Best Bar None initiatives, Community and Alcohol Partnership Initiative, Security Industry Authority, NHS Borders, Scottish Ambulance Service and Scottish Fire and Rescue.

During the course of this unprecedented year, the licensing officer has carried out a considerable amount of joint working to ensure compliance to the Covid-19 regulations. Many licensed premises were issued with corrective advice and guidance.

OFFICIAL
NOT PROTECTIVELY MARKED

This joint working practise also forged new links and provided reassurance and much need support to licence holders. Going forward this working practise will continue.

Licensing Standards Officer (LSO)

The local Police Licensing Officer works regularly with a number of partner agencies including the Local Authority. She continues to work alongside the two LSO's within the Scottish Border to maintain effective information sharing procedures and establish good partnership working. This unified approach has resulted in a number of successful resolutions in the Scottish Borders.

Scottish Borders Licensing Forum

The police licensing officer is an active member of the Scottish Borders Licensing Forum however during this last reporting year there has not been much activity as a direct result of the Covid-19 pandemic.

Best Bar None (BBN)

Best Bar none is a unique National Award Scheme aimed at raising standards and rewarding licensed premises who undertake positive management practices in support of a safe night out.

The purpose of the Best Bar None Scheme is to

- Reduce alcohol related crime
- Promote social responsibility and duty of care.
- Improves knowledge and skills to assist in responsible management.
- Promotes partnership working to identify good practices and areas for improvement.
- Supports due diligence
- Awards both locally and nationally to reward success.

OFFICIAL
NOT PROTECTIVELY MARKED

- Operating more responsibly can improve the commercial viability and attractiveness of a venue and locality.

During this reporting year the 'Best Bar None' scheme was sisted due to the majority of the premises being closed for most of the reporting period. The BBN scheme is something that Police Scotland will continue to drive forward as it promotes and encourages responsible management of licensed premises.

Campaigns

During this reporting year there were no campaigns run by J division a direct result of the Covid-19 pandemic.

PREVENTING THE SUPPLY OF ALCOHOL TO CHILDREN AND YOUNG PEOPLE

Introduction

Police Scotland can make a positive impact on the future outcomes for children and families, by addressing the sale and supply of alcohol to young persons and working with our partners, taking the appropriate action to address both the potential and actual misuse of alcohol within the early years.

Activity

Officers continue to routinely proactively visit premises licensed for 'off-sales' to ensure that they are aware of their responsibilities under the 2005 Act, and in particular in the run up to and during school holidays.

Likewise, officers will continue to routinely proactively visit premises licensed for 'on-sales' to ensure that management have taken all appropriate measures to prevent the sale or supply of alcohol to young people under age.

The provision of 'Test Purchasing', in terms of Section 105 of the principal legislation, is a tactic that is used by Police Scotland, and the Scottish Borders command area

OFFICIAL
NOT PROTECTIVELY MARKED

will continue to use this tactic as and when required as an effective tool in the fight against underage sales.

Due to the 'code of practice' introduced by Government on 1st March 2018, a Directed Surveillance Authority under the terms of the RIP(S)A (Regulation of Investigatory Powers Scotland Act) must now be sought before a Test Purchase Operation is carried out.

Scottish Borders have the ability to carry out test purchase operations on an intelligence led basis. When initial intelligence is received pertaining to premises selling alcohol to persons under 18, the first stage in the process is to issue a warning letter to the premises. This letter is delivered by hand by the licensing officer who will also inspect the premises and discuss expectations regarding the responsible sale of alcohol with the licensee. If further intelligence is received after this intervention then at this juncture there will be a discussion around a test purchase operation being implemented.

A 'National Proxy Purchase Campaign' was scheduled to take place in 2020 where Police and partners would engage with premises to raise awareness of the issue of adults buying alcohol for children and young people. This was aimed at providing education, support and advice to premises, as well as using local and social media to highlight the impacts of it to communities, in an effort to reduce proxy purchases in the division as a whole. Unfortunately, this campaign was also postponed as a result of Covid-19 pandemic.

There are three dedicated School Link Officers based in high schools in the Scottish Borders and they are seen as one of the main links between Police and children and young persons in the area. The local licensing officer continues to work alongside School Link Officers to provide education and support to students around the dangers of alcohol not only to their own health but also the impact on the community.

OFFICIAL
NOT PROTECTIVELY MARKED

Fake Identification

The trade in fake identification is very lucrative, and there appears to be more circulating amongst our young people than ever before, especially fake driving licences, resulting in then having access to alcohol.

The Police Licensing Officer and Community Officers continue to educate licensed premises in order to keep up with trends and how to target the use of fake identification. This collaborative working approach has proven successful in the past and has led to increased training for new staff members and more stringent practices and procedures in place.

Offences relating to children and Young Persons

The following licensing offences have been reported to the COPFS during the reporting year.

Number of offences reported – Scottish Borders	2019-20	2020-21
Section 102 (sale of alcohol to a child or young person)	0	0
Section 103 (allowing the sale of alcohol to a child or young person)	0	0
Section 104A (supply of alcohol to a child)	2	1
Section 104B (supply of alcohol to a young person)	5	5
Section 105 (purchase of alcohol by or for a child or young person)	2	0

Section 104A and 104B is a new addition following the amendment made to the Act by the Air Weapons and Licensing (Scotland) Act 2015. This has proved to be a very useful weapon in the fight against ‘agent purchase’ or ‘proxy purchasing’ and will continue to be used by local officers whilst out on patrol.

TACKLING SERIOUS AND ORGANISED CRIME

The Serious Organised Crime Task Force was set up by the Scottish Government to provide direction and co-ordination for all organisations involved in tackling Serious Organised Crime in Scotland.

OFFICIAL
NOT PROTECTIVELY MARKED

The task force has a remit to disrupt, dismantle and pursue Serious Organised Crime Groups (SOCGs). Key partners include Police Scotland, NCA, HMRC, COPFS, SOLACE and the Scottish business Resilience Centre, amongst others.

If SOCGs gain a foothold in licensed premises then this would afford the criminal group a seemingly legitimate income stream, which could be no more than a veneer for other criminal activities such as money laundering, tax evasion, drug and people trafficking and other dishonest activities.

SOCG's pose a serious threat to communities, individuals and businesses. We use intelligence and enforcement to break the cycle of crime and reduce opportunities for criminals to profit from illegal activity.

Examples of Serious and Organised Crime Activity in the Board area

Over the past year, the police Licensing Officer has scrutinised and interrogated licence applications to identify where Serious and Organised Crime Groups (SOCGs) may be trying to enter legitimate businesses. This is particularly detailed when processing new premises and transfer applications, where the applicant may be asked to evidence the source of any financing. Unfortunately a lot of SOCGs already have a foothold in licensed premises which makes it very difficult to object to these applications because more often than not they have no relevant convictions to comment on. In some cases they do not actually transfer the licence, they are 'tenants', who neither hold the premises licence or the Designated Premises Manager position and therefore are not 'relevant' persons.

The police Licensing Officer continues to monitor the persons connected to licensed premises in Scottish Borders, who are known to have links to SOCGs. All opportunity is taken to disrupt the running of these licensed premises whenever an opportunity arises. Proactive visits to these premises keeps the pressure on these operators and ultimately they tend to leave an area as quickly as they arrived.

The use of intelligence is now an option when objecting to a licence, however the process is strictly managed. In an effort to educate and prepare the Scottish Borders Licensing Board members, the police Licensing Officer will be making arrangements

OFFICIAL
NOT PROTECTIVELY MARKED

for specialised officers based at the Scottish Crime Campus, Gartcosh to give an input on its use.

PROPOSED ACTIVITY FOR THE YEAR AHEAD

The division has an operation which focuses on violence in all forms and recognises that alcohol has a significant part to play in a large amount of the recorded crimes and incidents.

We will continue to work towards both divisional and national priorities in particular in connection to the consumption of alcohol by carrying out the following proposed activity over the coming year.

- The licensing officer will continue to work alongside partner agencies and LSO's to provide quality and pertinent advice and support to licence holders and their staff in order to ensure they keep both their staff and customers safe during these unprecedented times and are aware of the legislation and licensing objectives.
- Local Community Police Officers' will undertake a dedicated night time economy policing plan which focusses on alcohol related incidents, antisocial behaviour, violence, disorder and drugs misuse. They provide a targeted and coordinated approach in conjunction with the local licensing officer to deter, disrupt and detect antisocial behaviour. This activity will include licence premise visits to ensure compliance and good practice. Any incidents occurring at or near any licensed premise are further followed up on by the local licensing officer.
- Local Licensing Officer will continue to analyse intelligence and disseminate to colleagues allowing for a measured and focussed tasking approach.

OFFICIAL
NOT PROTECTIVELY MARKED

- All reports of proxy purchase will continue to be prioritised and interventions with premises to educate and provide advice and support. Further use of social media platforms to provide awareness.
- To engage with licensees to deliver any national campaigns including providing 'Bystander' training to licence premise staff with a view to education to protect vulnerable persons within licensed premises and help tackle sexual violence connected to alcohol consumption.
- Engage with any major event organisers to agree alcohol management plans for the events, work alongside partner agencies and events planning to provide advice from a licensing perspective at any safety and advisory group meeting in relation to any such event.
- Continue to raise objections, representations and other appropriate concerns in relation to applications for all types of alcohol licences. Furthermore continue to review incidents and submit licensing reviews to the local authority to be reviewed by the Licensing Board.
- Work towards ensuring a safe and successful transition out of this current Covid-19 pandemic, providing support, education and advice to patrons and operational Police Officers encouraging safe re-opening of licensed premises and the return of major events to the Scottish Borders.

OFFICIAL
NOT PROTECTIVELY MARKED

CONCLUSION

We would like to thank you for your continued support during what has been a challenging year for all. We have had to adapt to a new way of working and ever changing circumstances which has been embraced by all.

We look forward to a safe and healthy 2021 / 2022.

This page is intentionally left blank