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SCOTTISH BORDERS LICENSING BOARD FRIDAY, 19TH NOVEMBER, 2021

A HEARING of the SCOTTISH BORDERS LICENSING BOARD will be held VIA MICROSOFT TEAMS on FRIDAY, 19 NOVEMBER 2021 at 10.00 am

N McKINLAY

Clerk to the Licensing Board,
12 November 2021

BUSINESS	
1.	Apologies for Absence
2.	Order of Business
3.	Declarations of Interest
4.	Minute (Pages 3 - 10) Minute of Meeting held on 22 October 2021 to be approved and signed by the Convener. (Copy attached.)
5.	Licences dealt with under Delegated Powers (Pages 11 - 14) (Copy list attached.)
6.	Annual Financial and Functions Report (Pages 15 - 28) Consider report by the Clerk seeking approval of the Board's Financial and Functions Reports for 2020/21 for publication. (Copy attached.)
7.	Items likely to be Taken in Private 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"
8.	Minute (Pages 29 - 30) Private Minute of Meeting held on 22 October 2021 to be approved and signed by the Convener. (Copy attached.)
9.	Any other items previously circulated
10.	Any other items which the Convener decides are Urgent

NOTES

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

Please direct any enquiries to Fiona Henderson Tele: 01835 826502
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**SCOTTISH BORDERS COUNCIL
LICENSING BOARD**

MINUTE of Meeting of the SCOTTISH BORDERS LICENSING BOARD held via Microsoft Teams on 22 October 2021 at 10.00 am

- Present:- Councillors J. Greenwell (Convener), J. Brown, D. Paterson, N. Richards, S. R. Tatler, G. Turnbull, E. Thornton-Nicol.
- Apologies:- Councillors T. Weatherston, S. Scott.
- In Attendance:- Managing Solicitor (Property and Licensing), Licensing Standards and Enforcement Officers (M. Wynne and J. Scott), Inspector J. McGuigan, PC S. Lackenby, Democratic Services Officers (W. Mohieddeen and F. Henderson).
-

CONVENER

The Convener opened the meeting and welcomed Members of the Licensing Board and members of the public to Scottish Borders Licensing Board's open on-line meeting. He explained the meeting was being held remotely in order to adhere to guidance on public meetings and social distancing currently in place due to the Covid-19 pandemic.

1. **MINUTE**

There had been circulated copies of the Minute of the Meeting held on 20 August 2021.

DECISION

APPROVED the minute for signature by the Convener.

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

For Members' information there had been circulated copies of lists of licences dealt with under delegated powers for the periods 7 August – 16 September 2021 and 17 September – 14 October 2021.

DECISION

NOTED

3. **CHIEF CONSTABLE'S ANNUAL REPORT**

There had been circulated copies of the Chief Constable – Police Service of Scotland report to the Licensing Board for the period 1 April 2020 to 31 March 2021 in accordance with Section 12(A) Licensing (Scotland) Act 2005. The report summarised the work undertaken throughout this period. The Scottish Borders Licensing Board area was policed by J Division and Chief Superintendent John McKenzie was the Local Police Commander who had responsibility for all day-to-day policing functions. The Local Area Commander Chief Inspector Vincent Fisher was based at Galashiels and was responsible for performance management, community engagement, partnership working and the daily management of local personnel. Chief Inspector Fisher was supported by Inspector Jacqueline McGuigan who was also based at Galashiels. The Scottish Borders Licensing Boards were predominantly attended by Inspector McGuigan. The report outlined the local policing

priorities, description of Board area and information on the operation of the Licensing (Scotland) Act 2005. In the Scottish Borders, there were 200 recorded incidents in licensed premises between 1 April 2020 and 31 March 2021, showing a major decrease from 341 recorded incidents in the previous period equating to a reduction of 41%. There continued to be a notable trend in thefts of alcohol from 'off sales' premises over the reporting year, which may be due to the impact that Covid-19 has had on society. Police Scotland carried 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 continued to contribute to reducing repeat offending in licensed premises. Police Scotland set up 'Operation Talla' in response to the Covid-19 pandemic, to ensure a consistent and measured approach being taken to implement 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. The report also summarised the proposed activity for the year ahead which included the licensing officer to continue to work alongside partner agencies and LSO's to provide pertinent advice and support to licence holders and their staff, Local Community Police Officers to undertake a dedicated night-time economy policing plan focussing on alcohol-related incidents, anti-social behaviour, violence, disorder and drugs misuse, and 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.

DECISION

NOTED the report.

4. ALCOHOL PROFILE PRESENTATION

There had been circulated copies of the Annual Alcohol Profile for 2021 and Susan Elliot of Alcohol & Drugs Partnership Support Team on behalf of the Scottish Borders Local Licensing Forum presented the findings, which had been impacted by the Covid-19 pandemic. In February 2021, Public Health Scotland published findings from two studies commissioned to investigate the impact of Covid-19 pandemic and related restrictions on alcohol consumption in Scotland during its first few months. The weekly alcohol sales data found that the pandemic and related restrictions were associated with a 6% reduction in total volume of pure alcohol sold per adult in Scotland. There was a 28% increase per adult of off-trade sales however this did not fully replace the loss of on-trade sales as a consequence of lockdown restrictions. There was evidence of stockpiling around the time on-trade premises were required to close across the UK however this should not be interpreted as large increases in total consumption. The study also found a notable shift to later start times of drinking, and increased solitary drinking, impacting some sub-groups of the population more than others. Despite the overall reduction in alcohol sales, weekly averages equated to 17.5 units per adult in Scotland, and 16.7 in England & Wales. This remained in excess of the UK Chief Medical Officers' guideline of 14 units per week. There were 446 licensed premises recorded in January 2021 compared to 450 in March 2019. It was noted that of the 1009 recorded crimes of violence for the 2019-20 period, a total of 235 had the alcohol marker attached to the crime report and of that total 107 were in residential locations leaving 128 acts of violence in a public space where alcohol featured. Health data showed a 49% reduction in alcohol-related attendances in emergency departments during 2020-21, which was as a direct result of the impact of the Covid-19 pandemic. There was an increase in alcohol-related hospital stays for 2019-20 but this was lower than the Scottish average. Similar to national trends over time, there was an increase in the rate of alcoholic liver disease in the Borders. It was noted that new guidance developed by Alcohol Focus

Scotland had been launched for Licensing Forums. During discussion with Members, it was noted that alcohol-related deaths tended to be an outcome from long-term health effects related to alcohol and incidents including violence or deaths caused by drink-driving were not included in the alcohol specific death statistics. Susan Elliot answered members' questions and was thanked for the presentation.

DECISION

NOTED the presentation.

5.0 LICENSING (SCOTLAND) ACT 2005:

Section 29: Application for Variation of Premises Licence.

- 5.1 There had been received ten section 29 applications from Co-operative Group Food Limited and Mr Wynne explained that as many of the applications were requesting the same changes to the operating plan without objections they could be considered collectively. Members considered applications (i) – (vi) which were requesting amendments to question 5(f) together, applications (viii) to (x) which were requesting amendments to question 5(f) and background music together and application (vii) on its own as, , a letter of objection had been received. The Chair confirmed with members that they had read the letter of objection received.

(i) Co-operative Group Food Limited

Co-op
Station Yard
Newtown St Boswells
TD6 0PP

Amendment to question 5(f) (any other activities) of the operating plan to read:–

'The sale of food, non-food items and other household goods and the provision of ancillary consumer services within and outwith licensed hours. Home deliveries may be provided to customers. Alcohol will only be delivered in terms of and in compliance with the relevant provisions of the Licensing (Scotland) Act 2005'.

Representations received:

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

(ii) Co-operative Group Food Limited

Co-op
High Street
Melrose
TD6 9RU

Amendment to question 5(f) (any other activities) of the operating plan to read:–

'The sale of food, non-food items and other household goods and the provision of ancillary consumer services within and outwith licensed hours. Home deliveries may be provided to customers. Alcohol will only be delivered in terms of and in compliance with the relevant provisions of the Licensing (Scotland) Act 2005'.

Representations received:

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

(iii) Co-operative Group Food Limited

Co-op
Melrose Road
Earlston
TD4 6DL

Amendment to question 5(f) (any other activities) of the operating plan to read:
'The sale of food, non-food items and other household goods and the provision of ancillary consumer services within and outwith licensed hours. Home deliveries may be provided to customers. Alcohol will only be delivered in terms of and in compliance with the relevant provisions of the Licensing (Scotland) Act 2005'.

Representations received:

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

(iv) Co-operative Group Food Limited

Co-op
Peebles Road
Innerleithen
EH44 6QZ

Amendment to question 5(f) (any other activities) of the operating plan to read:–
'The sale of food, non-food items and other household goods and the provision of ancillary consumer services within and outwith licensed hours. Home deliveries may be provided to customers. Alcohol will only be delivered in terms of and in compliance with the relevant provisions of the Licensing (Scotland) Act 2005'.

Representations received:

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

(v) Co-operative Group Food Limited

Co-op
34 High Street
Coldstream
TD12 4AS

Amendment to question 5(f) (any other activities) of the operating plan to read:–
'The sale of food, non-food items and other household goods and the provision of ancillary consumer services within and outwith licensed hours. Home deliveries may be provided to customers. Alcohol will only be delivered in terms of and in compliance with the relevant provisions of the Licensing (Scotland) Act 2005'.

Representations received:

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

(vi) Co-operative Group Food Limited

Co-op
26/28 Roxburgh Street
Kelso
TD5 7DH

Amendment to question 5(f) (any other activities) of the operating plan to read:–
'The sale of food, non-food items and other household goods and the provision of ancillary consumer services within and outwith licensed hours. Home deliveries may be provided to customers. Alcohol will only be delivered in terms of and in compliance with the relevant provisions of the Licensing (Scotland) Act 2005'.

Representations received:

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

(vii) Co-operative Group Food Limited

Co-op
21-23 Main Street
West Linton
EH46 7EE

Amendment to question 5(f) (any other activities) of the operating plan to read:–
'The sale of food, non-food items and other household goods and the provision of ancillary consumer services within and outwith licensed hours. Home deliveries may be provided to customers. Alcohol will only be delivered in terms of and in compliance with the relevant provisions of the Licensing (Scotland) Act 2005'.

Representations received:

Police Scotland - none
Licensing Standards Officer - none
Health – none
Other – Mrs M Smith

(viii) Co-operative Group Food Limited

Co-op
1 Edinburgh Road
Lauder
TD2 6TW

Amendments to the operating plan, which include the following:-

- the addition to the permitted activities referred to in question 5 (columns 2, 3 & 4) of the Operating Plan, to include background music, both within and outwith core hours; and
- the addition of wording (relating to home deliveries) in question 5(f) (any other activities) of the operating plan to now read :– 'The sale of food, non-food items and other household goods and the provision of ancillary consumer services within and outwith licensed hours. Home deliveries may be provided to customers. Alcohol will only be delivered in terms of and in compliance with the relevant

provisions of the Licensing (Scotland) Act 2005'.

Representations received:

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

(ix) Co-operative Group Food Limited

Co-op
70 High Street
Selkirk
TD7 4DD

Amendments to the operating plan, which include the following:-

- the addition to the permitted activities referred to in question 5 (columns 2, 3 & 4) of the Operating Plan, to include background music, both within and outwith core hours; and
- the addition of wording (relating to home deliveries) in question 5(f) (any other activities) of the operating plan to now read :- 'The sale of food, non-food items and other household goods and the provision of ancillary consumer services within and outwith licensed hours. Home deliveries may be provided to customers. Alcohol will only be delivered in terms of and in compliance with the relevant provisions of the Licensing (Scotland) Act 2005'.

Representations received:

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

(x) Co-operative Group Food Limited

Co-op
Main Street
Chirnside
TD11 3XR

Amendments to the operating plan, which include the following:-

- the addition to the permitted activities referred to in question 5 (columns 2, 3 & 4) of the Operating Plan, to include background music, both within and outwith core hours; and
- the addition of wording (relating to home deliveries) in question 5(f) (any other activities) of the operating plan to now read :- 'The sale of food, non-food items and other household goods and the provision of ancillary consumer services within and outwith licensed hours. Home deliveries may be provided to customers. Alcohol will only be delivered in terms of and in compliance with the relevant provisions of the Licensing (Scotland) Act 2005'.

Representations received:

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

Other – none

- 5.2 There had been circulated copies of applications to vary the premises license, together with the current Operating plan and the proposed Operating plan from the Co-operative Group Food Limited. Mr Wynne, Licensing Standards Officer advised that the applications (i) – (x) included the inclusion of alcohol with home delivery services in terms of and in compliance with the relevant provisions of the Licensing (Scotland) Act 2005. Furthermore, applications (viii) – (x) included applications for the broadcast of background music in store. The Convener welcomed Eilidh McGuire, Co-operative Group Food Limited. Ms McGuire explained that home deliveries had been undertaken across Scotland and the applications were to bring their stores in the Borders in line with their national practices, Ms McGuire emphasised that the application was compliant with the provisions of the Licensing (Scotland) Act 2005 and that Challenge 25 procedures were in use. Ms McGuire explained procedures for Co-op alcohol deliveries clarifying that alcohol products were only delivered in-person and that alcohol would never be ‘in a safe place’ if a customer was not present for the delivery. It was further explained that all Co-op delivery drivers received a mandatory two-hour licensing training with the same provisions being required of third-party delivery drivers.
- 5.3 There had been an objection received in respect of application (vii), which raised concern about the possibility of increased deliveries causing traffic jams within the village. Ms McGuire acknowledged the concerns raised and re-assured the Board that adjusting the operating plan would not result in increased deliveries. It was noted that the West Linton store was smaller and would only have the capacity for a comparatively limited number of deliveries, however the Co-op felt obliged to extend this service to the West Linton store. It was anticipated that orders would predominantly be made from elderly customers or people that would normally drive thereby contributing to congestion at the store. Ms McGuire further explained that deliveries would be made from existing store stock.
- 5.4 Following discussion, Members agreed that including alcohol with the home delivery service was reasonable and noted that expansion of the home delivery service would relieve workload from community support and resilience groups who would make deliveries for people who could not easily make it into stores. Responding to a question regarding the availability of drivers that were trained, Ms McGuire explained that as all available staff required licensing training the Co-op were satisfied that relief drivers would be suitable for alcohol deliveries.

DECISION GRANTED.

6. FESTIVE SEASON EXTENDED HOURS POLICY

- 6.1 There had been circulated copies of a briefing note which detailed proposed extensions for festive season opening hours. Mr Wynne explained that most licenced premises include seasonal variations in the Operating Plans allowing a closing time up to 1.00am on Christmas Eve, Christmas Day, Boxing Day, New Year’s Eve and New Year’s Day. However the Festive season for 2021-22, Christmas Eve, Christmas Day, New Year’s Eve and New Year’s Day were on Fridays and Saturdays with Boxing Day being on a Sunday. In relation to Boxing Day, as in previous years, it was proposed to allow the premises who do not have this seasonal variation, to apply for an extension to their core hours up to the same terminal hour (1am) on this day and for those applications to be dealt with under delegated powers where no other objections or representations were received. Where applications attract objections or representations, these would be referred to the Board for a decision as required by legislation. In addition, it was proposed that the same policy be applied to events being catered for in unlicensed premises by way of Occasional Licences.

6.2 As in previous years and with regard to consistency, it was proposed that nightclub premises be allowed to apply for extensions to their existing hours on Boxing Day 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. Any extended hours applications for Boxing Day could be dealt with under delegated powers only where no objections or representations were received. In a case of an application attracting objections or representations, it would be referred to the Board for a decision as required by legislation. Any applications for a terminal hour other than for the days or late times stated above would be referred to the Board for a decision on their own individual merits.

DECISION

AGREED that:-

- (a) In relation to Boxing Day, premises who do not have the seasonal variation, be allowed to apply for an extension to their core hours up to the same terminal hour (1am) on this day;
- (b) that the same policy be applied to events being catered for in unlicensed premises by way of Occasional Licences;
- (c) Night Club premises be allowed to apply for extensions to their existing hours on Boxing Day allowing them to trade to their usual core weekend hours;
- (d) Authority to grant the above Licence be delegated to Licensing Officers; and
- (e) Any applications for a terminal hour other than for the days or late times stated above would be referred to the Board for a decision on their own individual merits.

7.0 **PRIVATE BUSINESS
DECISION**

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

8.0 **LICENSING (SCOTLAND) ACT 2005: SECTION 84 – REVIEW OF PERSONAL LICENCE**

The Board considered a report for revocation of Personal Licence on the grounds that the licence holder's conduct was inconsistent with licensing objectives.

9.0 **MINUTE**

The Board considered the Private Minute of the Meeting held on 20 August 2021.

The meeting concluded at 10.50am.

**SCOTTISH BORDERS LICENSING BOARD
LICENCES ISSUED UNDER DELEGATED POWERS**

15 October - 10 November 2021

NAME OF APPLICANT	LICENCE TYPE	LICENCE DETAILS	VENUE
Stella George	PERLIC	Personal Licence - Grant	n/a
Fraser Kyle	PERLIC	Personal Licence - Grant	n/a
Michael Fascia	PERLIC	Personal Licence - Grant	n/a
Leanne McDowall	PERLIC	Personal Licence - Grant	n/a
Katrina O'Neil	PERLIC	Personal Licence - Grant	n/a
David McIver	PERLIC	Personal Licence - Grant	n/a
Jack Cuddigan	PERLIC	Personal Licence - Grant	n/a
Fay Bohea	PERLIC	Personal Licence - Grant	n/a
Douglas Steedman	PERLIC	Personal Licence - Grant	n/a
James Moore	PERLIC	Personal Licence - Grant	n/a
Sophie Adie	PERLIC	Personal Licence - Grant	n/a
Holly Ellis	PERLIC	Personal Licence - Grant	n/a
Eathryn Rennie	PERLIC	Personal Licence - Grant	n/a
Margaret Lavender	PERLIC	Personal Licence - Grant	n/a
Christie Bone	PERLIC	Personal Licence - Grant	n/a
Sharon Halliburton	PERLIC	Personal Licence - Grant	n/a
John Henderson	PERLIC	Personal Licence - Renewal	n/a
Angle Park Leisure Limited	OCCEXT	Occasional Extension - Each Thursday from 28 October 2021 to 25 November 2021 12.00midnight - 1.00am	Reivers, Galashiels
Lodge St James BURA No.424	OCCLIC	Occasional Licence - 30th Birthday Party Saturday 6 November 2021 6.00pm - 12.00midnight	Masonic Lodge, Hawick
St John Masonic Hall	OCCLIC	Occasional Licence - Thank You Evening Friday 12 November 2021 - 7.00pm - 11.00pm	St Johns Lodge Of Freemasons, Coldstream
Verdant Leisure Limited	OCCLIC	Occasional Licence - Sale of Food, Alcoholic Beveridges and Soft Drinks Monday 25 October to Sunday 7 Novemberber 2021 11.00am - 10.00pm	Pease Bay Leisure Park, Cockburnspath
Verdant Leisure Limited	OCCLIC	Occasional Licence - Sale of Food, Alcoholic Beveridges and Soft Drinks Monday 8 November to Sunday 21 Novemberber 2021 11.00am - 10.00pm	Pease Bay Leisure Park, Cockburnspath
Alan Miller	OCCPLH	Occasional Licence - Wedding Saturday 6 November 2021 -2.00pm - 12.00midnight	Paxton House, Paxton
Allan Walker	OCCPLH	Occasional Licence - Sale of Artisan Spirits made by Selkirk Distillers Saturday 6 November 2021 10.00am - 1.00pm	Market Place, Selkirk
Allan Walker	OCCPLH	Occasional Licence - Sale of Artisan Spirits made by Selkirk Distillers Thursday 4 November to Wednesday 17 November 2021 10.00am - 10.00pm	6 High Street, Selkirk

Angelena Johnson	OCCPLH	Occasional Licence - The sale of goods and provisions associated with a Convenience Store Thursday 4 November to Wednesday 17 November 2021 10.00am - 10.00pm	53 High Street, Hawick
Anne Mark	OCCPLH	Occasional Licence - Wedding Saturday 30 October 2021 12.00noon - 12.00midnight	Ayton Castle, Eyemouth
Ben Glasgow	OCCPLH	Occasional Licence - Sale of Gin Products Saturday 13 November 2021 10.00am - 3.00pm	Eastgate, Peebles
Carolyn Campbell	OCCPLH	Occasional Licence - Shooting Party in Residence Sunday 7 November 2021 to Saturday 20 November 2021 - 11.00am - 12.00midnight	Lylestane Farmhouse, Lauder
Cecilia Benson	OCCPLH	Occasional Licence - Wedding Tuesday 9 November 2021 - 2.00pm - 11.00pm	Neidpath Castle, Peebles
Christopher Harrison	OCCPLH	Occasional Licence - Craft Fair Thursday 21st, Friday 22nd, Saturday, 23rd and Sunday 24th October 2021 11.00am - 5.00pm	Newcastleton Village Hall, Newcastleton
Emma McNab	OCCPLH	Occasional Licence - Village Event for Bonfire Friday 5 November 2021 - 6.00pm - 8.00pm	Field At End Of Burnside, Eddleston
Julie-Ann Reeley	OCCPLH	Occasional Licence - Dinner and Dance Saturday 23 October 2021 - 6.30pm - 11.30pm	The Lodge, Carfraemill, Oxton
Kate Moss-Jones	OCCPLH	Occasional Licence - Live Theatre (Twisted Tales Vol 2) Friday 15 October 2021 7.00pm - 11.00pm	Mac Arts, Galashiels
Kate Moss-Jones	OCCPLH	Occasional Licence - Live Rock Gig (Revival Black) Friday 22 October 2021 7.00pm - 11.00pm	Mac Arts, Galashiels
Kate Moss-Jones	OCCPLH	Occasional Licence - Fundraising Night For MND Scotland Saturday 23 October 2021 6.30pm - 11.30pm	Mac Arts, Galashiels
Kate Moss-Jones	OCCPLH	Occasional Licence - Live Semi Acoustic Music (Wrest and The Boy With The Lion Head) Friday 29 October 2021 7.00pm - 12.00midnight	Mac Arts, Galashiels
Kate Moss-Jones	OCCPLH	Occasional Licence - Live Tribute Band (The Complete Stone Roses) Saturday 30 October 2021 6.30pm - 11.30pm	Mac Arts, Galashiels
Kate Moss-Jones	OCCPLH	Occasional Licence - Live Theatre (King Leak - One Man Show) Tuesday 9 November 2021 7.00pm - 11.00pm	Mac Arts, Galashiels
Kathleen Mallan	OCCPLH	Occasional Licence - Wedding and Reception Saturday 23 October 2021 - 5.00pm - 12.00midnight	Wedderburn Castle, Duns
Kenneth Maybury	OCCPLH	Occasional Licence - Tribute Concert - Pink Floyd Saturday 6 November 2021 6.30pm - 12.00midnight	Volunteer Hall, Galashiels
Kenneth Maybury	OCCPLH	Occasional Licence - Tribute Band Concert - Jersey Boys Saturday 23 October 2021 6.30pm - 12.00midnight	Tait Hall, Kelso
Kenneth Maybury	OCCPLH	Occasional Licence - Tribute Concert - McFleetwood Friday 29 October 2021 6.30pm - 12.00midnight	Hawick Town Hall, Hawick
Kibrea Khan	OCCPLH	Occasional Licence - Indian Restaurant Friday 22 October to Thursday 4 November 2021 - Sunday to Wednesday 11.00am - 12.00midnight and Thursday to Saturday 11.00am - 1.00am	Saltaans Contemporary Indian Restaurant, Hawick

Kibrea Khan	OCCPLH	Occasional Licence - Indian Restaurant Friday 5 November to Thursday 18 November 2021 - Sunday to Wednesday 11.00am - 12.00midnight and Thursday to Saturday 11.00am - 1.00am	Saltaans Contemporary Indian Restaurant, Hawick
Kieran McGuckian	OCCPLH	Occasional Licence - Wedding Ceremony and Reception Saturday 23 October 2021 12.00noon - 12.00midnight	Neidpath Castle, Peebles
Kieran McGuckian	OCCPLH	Occasional Licence - Wedding Ceremony and Reception Wednesday 27 October 2021 12.00noon - 12.00midnight	Neidpath Castle, Peebles
Laura Sutherland	OCCPLH	Occasional Licence - 40th Birthday Saturday 30 October 2021 - 7.00pm - 1.00am	Hillhouse Farm, Oxton
Mark Hay	OCCPLH	Occasional Licence - Renewal of Wedding Vows Saturday, 30 October 2021 - 1.00pm - 1.00am	Kelso Racecourse, Kelso
Michael MacKenzie	OCCPLH	Occasional Licence - Wedding Saturday 6 November 2021 2.00pm - 12.00midnight	Neidpath Castle, Peebles
Moira Dalgliesh	OCCPLH	Occasional Licence - National Hunt Horse Racing Saturday 23 October 2021 11.00am - 6.00pm	Kelso Racecourse, Kelso
Moira Dalgliesh	OCCPLH	Occasional Licence - National Hunt Horse Racing Saturday 6 November 2021 11.00am - 7.00pm	Kelso Racecourse, Kelso
Peter Allan	OCCPLH	Occasional Licence - Wedding Reception Saturday 23 October 2021 6.00pm - 12.00midnight	Community Centre St Cuthberts, Coldstream
Peter Allan	OCCPLH	Occasional Licence - National Hunt Horse Racing Saturday 23 October 2021 11.00am - 7.00pm	Kelso Racecourse, Kelso
Peter Allan	OCCPLH	Occasional Licence - National Hunt Horse Racing Saturday 6 November 2021 11.00am - 7.00pm	Kelso Racecourse, Kelso
Peter Allan	OCCPLH	Occasional Licence - Wedding Reception Friday 29 October 2021 2.30pm - 12.00midnight	Paxton House, Paxton
Rory Steel	OCCPLH	Occasional Licence - Wedding Ceremony and Reception Sunday 31 October 2021 1.00pm - 11.00pm	Aikwood Tower, Selkirk
Rory Steel	OCCPLH	Occasional Licence - Wedding Ceremony and Reception Saturday 6 November 2021 12.30pm - 12.00midnight	Aikwood Tower, Selkirk
Rosemary Cully	OCCPLH	Occasional Licence - Kelso Races Saturday 23 October 2021 11.00am - 7.00pm	Kelso Racecourse, Kelso
Rosemary Cully	OCCPLH	Occasional Licence - Kelso Races Saturday 6 November 2021 11.00am - 7.00pm	Kelso Racecourse, Kelso
Scott Dodds	OCCPLH	Occasional Licence - Wedding Saturday 30 October 2021 1.00pm - 12.00midnight	Neidpath Castle, Peebles
Scott Dodds	OCCPLH	Occasional Licence - Borders Book Festival Tuesday 2 November until Sunday 7 November 2021 - 10.00am - 10.00pm each day	Abbotsford House, Melrose
Scott Paterson	OCCPLH	Occasional Licence - Braw Lads Gathering Celebratory Dinner Friday 22 October 2021 6.00pm - 1.00am	Volunteer Hall, Galashiels
Tabatha McCree-Cox	OCCPLH	Occasional Licence - Sampling and Off Sales for Gin and Hand Sanitiser Products Saturday 6 November 2021 10.00am - 1.00pm	West Linton Primary School, West Linton
William Hamilton	OCCPLH	Occasional Licence - Lauderdale Hunt Ceilidh Saturday 6 November 2021 - 7.00pm to 12.30am	Huntington Farm, Lauder

Blainslie Village Hall	OCCVOL	Occasional Licence - Curry Night Saturday 30 October 2021 - 7.00pm - 12.00midnight	Village Hall, Blainslie
Denholm Folk Festival	OCCVOL	Occasional Licence - Folk Music Concert Performances Friday, 5th November and Saturday, 6th November 2021 - 6.00pm - 1.00am	Village Hall, Denholm
Gavinton Village Hall	OCCVOL	Occasional Licence - Film Night Friday 22 October 2021 - 6.30pm - 10.30pm	Village Hall, Gavinton
Heriot Country Kids	OCCVOL	Occasional Licence - Community Fundraising Event - Fireworks and Bonfire Saturday 6 November 2021 6.30pm - 10.30pm	Williams Field, Heriot
Kelso Music Society	OCCVOL	Occasional Licence - Concert Sunday, 24 October 2021 - 7.00pm - 9.00pm	Kelso Old Parish Church, Kelso
MacFie Hall Committee	OCCVOL	Occasional Licence - Pub Night Friday and BBQ Saturday Friday 22 October 2021 7.00pm - 12.00midnight Saturday 23 October 2021 2.00pm - 12.00midnight	Macfie Hall, Heriot
Reston Young Farmers	OCCVOL	Occasional Licence - Halloween Dance Saturday 30 October 2021 - 7.00pm - 12.00midnight	Community Centre, Chirside
Scott's Selkirk Association	OCCVOL	Occasional Licence - Scott's Selkirk Event Saturday 23 October 2021 - 11.00am - 4.30pm	High Street, Selkirk
Yetholm Primary School Parent Council	OCCVOL	Occasional Licence - Yetholm Primary School Fundraiser Saturday, 23 October 2021 - 12.00noon - 7.00pm	Village Green, Town Yetholm



SCOTTISH BORDERS LICENSING BOARD FUNCTIONS AND FINANCIAL REPORTS 2020/2021

Report by the Clerk to the Licensing Board

SCOTTISH BORDERS LICENSING BOARD

19 November 2021

1 PURPOSE AND SUMMARY

- 1.1 This report seeks approval from the Licensing Board for the Annual Functions Report and Annual Financial Report.

2 RECOMMENDATIONS

2.1 It is recommended that Members:

- (a) approve the annual Functions Report set out in Appendix 1 to this report;**
- (b) approve the annual Financial Report set out in Appendix 2 to this report; and**
- (c) authorise the Clerk to the Board to proceed with the publication of the Annual Functions Report and Annual Financial Report.**

3 BACKGROUND

- 3.1 In terms of Section 9A of the Licensing (Scotland) Act 2005 (“the 2005 Act”) Licensing Boards are required to provide an Annual Functions Report. In addition, in terms of Section 9B of the 2005 Act, Licensing Boards are also required to produce and publish an Annual Financial Report. As a consequence, Licensing Boards have a statutory duty to publish these reports within three months of the end of each financial year. However, as a result of the Covid-19 outbreak, Schedule 5 Paragraph 4 of the Coronavirus (Scotland) Act 2020 extended the timeframe for the preparation and publishing of annual finance and functions reports and allowed Licensing Boards to prepare and publish their annual reports no later than 31 December 2021 due to the coronavirus pandemic.
- 3.2 The Board’s Annual Functions Report must include a statement explaining how the Board has had regard to the licensing objectives and the Board’s Policy Statement in the exercise of its functions under the Act as well as a summary of decisions made by the Board and information about the number of licences held in the Board’s area, including occasional licences.
- 3.3 The draft report at Appendix 1 hereto therefore provides all the required information as an accurate representation of the Board’s functions for the period 1 April 2020 to 31 March 2021.
- 3.4 The Financial Report must include:
- (a) a statement of:
 - (i) the amount of relevant income received by the Licensing Board during the financial year; and
 - (ii) the amount of relevant expenditure incurred in respect of the Board’s area during the year; and
 - (b) an explanation of how the amounts in the statement were calculated.
- 3.5 The draft report at Appendix 2 hereto therefore provides all required financial information and is an accurate representation of the Board’s financial position for the period 1 April 2020 to 31 March 2021.
- 3.6 Members are asked to note that the Licensing Board income cannot be guaranteed in any financial year, this being completely dependent on the number of licensed premises which continue to operate as the vast majority of Board income stems from annual Premises Licence fees. The ongoing Covid-19 pandemic has had a major impact on the Board’s income for the period as a number of premises surrendered their licences and the number of applications received during the financial year was greatly reduced all of which resulted in the Board’s income being significantly lower when compared to previous years.
- 3.7 It is also the case the Board income and expenditure is kept under review on a regular basis.

4 IMPLICATIONS

4.1 Financial

There are no costs attached to any of the recommendations contained in this report.

4.2 Risk and Mitigations

The information provided within these reports ensures transparency and helps to mitigate reputational risk to the Council by allowing ongoing scrutiny of the Licensing Boards functions and income and expenditure.

4.3 Integrated Impact Assessment

There is no impact or relevance to the Equality Duty or the Fairer Scotland Duty for this report. This is a routine annual monitoring report as required by Section 9A and 9B of the Licensing (Scotland) Act 2005 which forms part of the governance of the management of the Licensing Board.

4.4 Sustainable Development Goals

Whilst there are no economic, social or environmental effects arising from the proposals contained in this report there are through the activities reported upon positive impacts upon the economy and the community by the exercise of the Licensing objectives being preventing crime and disorder, securing public safety, preventing public nuisance, protecting and improving public health and protecting children and young persons from harm. Consider each of the UN Sustainable Development Goals (complete the checklist) and decide whether your project/action plan/recommendations will make a difference to any of these.

4.5 Climate Change

There are no effects on climate change arising from the proposals contained in this report.

4.6 Rural Proofing

There are no effects on rural proofing arising from the proposals contained in this report.

4.7 Data Protection Impact Statement

There are no personal data implications arising from the proposals contained in this report.

4.8 Changes to Scheme of Administration or Scheme of Delegation

There are no changes required to the Scheme of Administration or Scheme of Delegation arising from the proposals contained in this report.

5 CONSULTATION

- 5.1 The Director (Finance & Corporate Governance), the Monitoring Officer/Chief Legal Officer, the Chief Officer Audit and Risk, the Director (People Performance & Change), the Clerk to the Council and Corporate Communications are being consulted and any comments received will be incorporated into the final report.

Approved by

Nuala McKinlay

Clerk, Scottish Borders Licensing Board Signature

Author(s)

Name	Designation and Contact Number
Ron Kirk	Managing Solicitor, Property and Licensing 0

Background Papers: None

Previous Minute Reference: None

Note – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Ron Kirk can also give information on other language translations as well as providing additional copies.

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SCOTTISH BORDERS LICENSING BOARD

**LICENSING (SCOTLAND) Act 2005
SECTION 9A: ANNUAL FUNCTIONS REPORT
1 APRIL 2020 - 31 MARCH 2021**

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.
- However, as a result of the Covid-19 outbreak, Schedule 5 Paragraph

4 of the Coronavirus (Scotland) Act 2020 extended the timeframe for the preparation and publishing of annual functions reports and allowed Boards to prepare and publish their annual reports no later than 31 December 2021 due to the coronavirus pandemic.

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 or 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 THEIR 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 is sufficiently robust to enable it to make appropriate decisions when the question of over-provision is a consideration. When 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

7.1 In the year from 1 April 2020 to 31 March 2021 the Board met 8 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 HELD IN THE BOARD'S AREA

- 8.1 The Board granted 1 new Premises License and 88 Occasional Licences were issued by the Board during the period. 2 of those Occasionals were granted to voluntary organisations whilst no applications by the holders of a Premises Licence for extended hours were received. The Board also considered 10 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, 5 minor variations, 28 notifications of substitution of manager and 4 transfers were dealt with.
- 8.2 The Board arranged review hearings in respect of 2 premises during the period. Both were in relation to notices for failure of premises to make payment of the annual fee. This resulted in both licences being revoked.
- 8.3 The Board received 55 new Personal Licence applications and 24 Personal Licence renewal applications during the period, all of which were granted.

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

9.1 Licensing Forum

The Licensing Forum continues to meet regularly throughout the year although the ongoing Covid 19 pandemic has meant that it has not been able to meet as regularly as it has in previous years. The Forum held its annual joint meeting with the Board on 20 December 2020. 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.

9.2 Impact of Covid-19 Pandemic

During the period, the impact of the Covid-19 pandemic had an adverse impact on the Board's business. A number of premises surrendered their licences and the number of applications received greatly reduced during the period which resulted in the Board's income being significantly lower when compared with previous years.

9.3 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 licenses 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.

Licensing (Scotland) Act 2005**Scottish Borders Licensing Board Financial Report****Financial Year: 2020/21**

The Scottish Borders Licensing Board is required under section 9B of the Licensing (Scotland) Act 2005 to publish an annual financial report within three months of the end of the relevant financial year.

As a result of the Covid-19 outbreak, Schedule 5 Paragraph 4 of the Coronavirus (Scotland) Act 2020 extended the timeframe for the preparation and publishing of annual functions reports and allowed Boards to prepare and publish their annual reports no later than 31 December 2021 due to the coronavirus pandemic. This report has been prepared using financial data taken for year ending 31 March 2021.

It should be noted that expenditure in the statement has been calculated based upon estimates of the direct time spent by legal and licensing service staff on licensing functions. The report excludes allocation of indirect central support costs properly incurred by Scottish Borders Council which would include a share of total costs associated with accommodation, ICT, financial services, catering, telephone calls, printing, stationery and equipment.

The report accordingly should not be relied on as an accurate statement of income and expenditure for the exercise of the Board's functions under the Licensing (Scotland) Act 2005.

The financial statement is as follows:

Income¹:	
Premises inc	£145,580
Annual Fees	£11,430
Extensions/Variations/Transfers/Personal Occasional Licences	£880
Total	£157,890
Direct Staff Costs²:	
Licensing Standards Enforcement Officers	£33,534
Licensing Services	£69,532
Legal Services	£65,516
Total	£168,582
Other Direct Costs³:	
Board Members	£3,164
Transport Costs, Members	£0
Transport Costs, Officers	£10
IT Software Licences	£2,981
Postages	£3,775
Committee Members	£687
Total	£10,617
Indirect Costs⁴:	
Apportionment of central admin costs	£22,216

Notes:

1. Denotes income from applications and annual fees received under the Licensing (Scotland) Act 2005
2. Denotes salary, superannuation, national insurance and pension costs associated with the Clerk, Licensing Standards Officers and other Council legal and licensing staff responsible for support to the Board under paragraph 8 of Schedule 1 to the Licensing (Scotland) Act 2005.
3. Denotes direct budgetary costs associated with the exercise of the Licensing Board function.
4. Figures exclude any apportionment of central costs such as accommodation, ICT, financial services, catering, telephone calls, printing, stationery and equipment, etc that are expended towards the Council's statutory duty to provide the Licensing Board function.

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