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SCOTTISH BORDERS LICENSING BOARD FRIDAY, 15TH DECEMBER, 2023

A MEETING of the SCOTTISH BORDERS LICENSING BOARD will be held in the COUNCIL CHAMBER, COUNCIL HEADQUARTERS, NEWTOWN ST BOSWELLS on FRIDAY, 15 DECEMBER 2023 at 10.00 am. This will be a blended meeting in accordance with the Licensing (Scotland) Act 2005 and can be accessed remotely via Microsoft Teams.

All Attendees, including members of the public, should note that the public business in this meeting will be livestreamed and video recorded and that recording will be available thereafter for public view for 180 days .

N. McKINLAY,
Director of Corporate Governance

5 December 2023

BUSINESS	
1.	Apologies for Absence
2.	Order of Business
3.	Declarations of Interest
4.	Minute (Pages 3 - 6) Minute of Meeting of 24 November 2023 to be approved and signed by the Convener. (Copy attached.)
5.	Licences dealt with under Delegated Powers (Pages 7 - 12) (Copy attached.)
6.	Annual Financial and Functions Report (Pages 13 - 26) Consider report by the Clerk seeking approval of the Board's Financial and Functions Reports for 2022/23 for publication. (Copy attached.)
7.	Statement of Licensing Board Policy 2023 to 2028 (Pages 27 - 82) Consider report by the Clerk seeking approval of the Board's 2023-28 Licensing Board Policy Statement. (Copy attached.)

8.	Any other items previously circulated
9.	Any other items which the Convener decides are Urgent

NOTE

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 M. Douglas (Convener), J. Cox, D. Parker, J. PatonDay, N. Richards, F. Sinclair, E. Small and T. Weatherston

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**SCOTTISH BORDERS COUNCIL
LICENSING BOARD**

MINUTE of Meeting of the SCOTTISH
BORDERS LICENSING BOARD held via
Microsoft Teams on 24 November 2023 at
10.00 am

Present: - Councillors M. Douglas (Convener), J. Cox, J. Paton Day, D. Parker, N. Richards, E. Small, F. Sinclair, T. Weatherston.

In Attendance: - Managing Solicitor (Property and Licensing), Licensing Standards and Enforcement Officers (M. Wynne and J. Scott), Licensing Officers – (S. Lackenby and T. Thomson), PC S Dishington (Police Scotland), Democratic Services Officer (F. Henderson).

1.0 MINUTE

There had been circulated copies of the Minute of the Meeting held on 22 September 2023.

DECISION

APPROVED the minute for signature by the Convener.

2.0 LICENSES ISSUED UNDER DELEGATED POWERS

For Members' information there had been circulated copies of lists of licences dealt with under delegated powers for the period 9 October 2023 – 13 November 2023.

DECISION

NOTED.

LICENSING (SCOTLAND) ACT 2005

3.0 Section 20: Application for Grant/Provisional Grant of Premises Licence

Consider the following applications for Grant of Premises Licence.

3.1 Partnership of G Allicate & C Pinto

**Bella Sicily
12 Canongate
Jedburgh
TD8 6AJ
(Provisional)**

Proposed business activity - The premises is a ground floor terraced premises in Jedburgh town centre comprising of lower and upper seating areas, kitchen, toilet facilities and storage areas. Retail premises on either side with residential premises above. The proposal being to sell alcohol to compliment the restaurant facility, with alcohol served generally, but not exclusively as an accompaniment to food, as well as being offered as an Off Sale to accompany takeaway and delivery food orders.

Licensed hours applied for:

ON SALE

Mon to Sun - 11.00am to 12.00 midnight

OFF SALE

Mon to Sun - 11.00am to 10.00am

Representations received:

Police Scotland - none.

Licensing Standards Enforcement Officer - none.

Health - none.

Other - none.

The Applicant was not present, and it was agreed to continue in their absence. There had been circulated copies of an application for the grant of a Premises Licence. Mr Wynne, Licensing Standards and Enforcement Officer advised that the application was for a ground floor Italian Restaurant, which included seating on the 1st floor. The premises had been operating on an occasional licence without incident and there had been positive feedback. Police Scotland had no objections.

DECISION

AGREED TO Grant.

3.2 **Rafal Ziembra**

Scrummy & Scrumpy
29 High Street
Hawick
TD9 9BU
(Provisional)

Proposed business activity - The premise was a small ground floor retail unit situated in Hawick Town Centre. The premises consisted of a main shop area and backroom storage. The proposal being to sell alcohol on an Off-Sales basis, along with food produce from around the UK and home baked cakes.

Licensed hours applied for:

ON SALE

N/A

OFF SALE

Mon to Sun - 10.00am to 10.00am

Representations received:

Police Scotland - none.

Licensing Standards Enforcement Officer - none.

Health - none.

Other - none.

There had been circulated copies of an application for the grant of a Premises License. Mr Wynne, Licensing Standards and Enforcement Officer advised that the applicant was not present but had agreed that the application be considered in their absence. The application was in respect of a retail unit, with backroom storage behind and a residential property above, situated in Hawick Town Centre. The proposal was to sell alcohol on an Off-Sales basis only, together with food produced from around the UK and home baked cakes. The alcohol was a small display within the Unit which was within policy and no objections had been received. Police Scotland had no objections.

DECISION

AGREED to Grant.

4.0 FESTIVE SEASON EXTENDED HOURS POLICY

There had been circulated copies of a report by the Licensing standards and Enforcement Officer in respect of the Festive Hours for 2023/2024. The report explained that the Boards policy terminal hours were Sunday to Wednesday midnight and Thursday to Saturday 1.00 a.m. The vast majority of licensed premises in the Scottish Borders had a seasonal variation included in their operating plan allowing a terminal hour of 1.00 a.m. on Christmas Eve, Christmas Day, Boxing Day, New Year's Eve and New Year's Day. For 2023/24, Christmas Eve and New Year's Eve were on Sundays and Christmas Day and New Years Day being Monday and Boxing Day being on a Tuesday. As in previous years, it was proposed to allow premises, who did not have seasonal variations to apply for an extension to their core hours up to the same terminal hour (1 a.m.) on Christmas Eve, Christmas Day, Boxing Day, New Years Eve and New Years Day and that those applications be dealt with under delegated powers where no 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 an Occasional Licence.

- 4.1 In terms of Night Club/Late Hour premises, it was proposed to allow night club premises to apply for extensions to their existing hours on these festive dates allowing them to trade to their usual core weekend hours. This preserved their normal weekend time differential between specific late-night venues and other licensed premises. Any extended hours applications for these dates would be dealt with under delegated powers when no objections or representations were received.

**DECISION
NOTED.**

5.0 DRAFT LICENSING POLICY STATEMENT

There had been circulated copies of a note to update Members, together with a copy of the Draft Policy Statement 2023-2028 and responses to the consultation with regard to the review of the Board's Statement of Licensing Policy for the period November 2023 to November 2028.

- 5.1 As it happened, the Licensing Forum, which the Licensing (Scotland) Act 2005 required each local authority to have, set up its own consultation, a Community Insight into Alcohol Impacts and Licensing in the Scottish Borders. The Forum consultation ran for the period 25 May 2023 to 16 July 2023, and it was understood that the responses received aided the Forum framing its response to the Boards own consultation process. In order to avoid confusion with the Forum's consultation, the Board's consultation process was held back until and made available from 21 July 2023 to 17 September 2023. Unfortunately, it appeared that those who responded to the Forum's consultation did not respond to the Board's consultation and as a result only three responses were received, one from the Licensing Forum, one from the Borders Alcohol and Drugs Partnership and one from the Jethart Callants Festival. Following the public consultation period Licensing Officers had reviewed the responses received and after consideration feel that no further changes were required to these highlighted on the draft policy statement.

- 5.2 Councillor Weatherston, proposed an amendment at the end of paragraph 7.3 as follows; -

'As with any policy, the Licencing board must allow for the possibility of exceptions in considering an application for additional licenced hours outwith the standard Licencing hours, the Licencing board will have regard to the impact that the licenced hours sought may have on one or more of the Licencing objectives and in terms of the suitability of the premises for sale of alcohol during the hours applied for, and each application will be considered on its own merits.'

Councillor Weatherston, amendments was unanimously approved and otherwise Members were content with the changes proposed by officers.

DECISION

AGREED that Changes proposed to draft Policy Statement together with the amendment were sufficient and that a report seeking approval of the finalised statement would be brought to the next meeting.

The meeting concluded at 10.27 a.m.

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

14 November 2023 - 04 December 2023

NAME OF APPLICANT	LICENCE TYPE	LICENCE DETAILS	VENUE
Hawick Lodge No 111	OCCLIC	Occasional Licence - 90th Birthday Party Friday, 1st December 2023 6.00pm - 12.00midnight	Masonic Lodge, Hawick
Hawick Lodge No 111	OCCLIC	Occasional Licence - Presentation Night for Hawick Cycling Club Saturday 25 November 2023 - 6.00pm - 12.00midnight	Masonic Lodge, Hawick
Jedburgh Bowling Club	OCCLIC	Occasional Licence - Jedforest Angling Club - Presentation of Prizes Saturday 25 November 2023 7.00pm - 12.00midnight	Bowling Club, Jedburgh
Tempest Brewing Company Ltd	OCCLIC	Occasional Licence - Tempest - Christmas Party Friday 1 December 2023 and Saturday 2 December 2023 - 11.00am - 11.00pm (both days)	Unit 8A, Tweedside Park, Tweedbank
Tempest Brewing Company Ltd	OCCLIC	Occasional Licence - Tempest - Christmas Party Friday 8 December 2023 and Saturday 9 December 2023 - 11.00am - 11.00pm (both days)	Unit 8A, Tweedside Park, Tweedbank
Tempest Brewing Company Ltd	OCCLIC	Occasional Licence - Tempest - Christmas Party Friday 15 December 2023 and Saturday 16 December 2023 - 11.00am - 11.00pm (both days)	Unit 8A, Tweedside Park, Tweedbank
Tempest Brewing Company Ltd	OCCLIC	Occasional Licence - Tempest - Christmas Party Friday 22 December 2023 - Sunday 24 December 2023 - 11.00am - 11.00pm (both days)	Unit 8A, Tweedside Park, Tweedbank
Tempest Brewing Company Ltd	OCCLIC	Occasional Licence - Tempest - Christmas Party Thursday 28 December 2023 - Sunday 31 December 2023 - 11.00am - 11.00pm (both days)	Unit 8A, Tweedside Park, Tweedbank
Tempest Brewing Company Ltd	OCCLIC	Occasional Licence - Tempest - Christmas Party Thursday 4 January 2024 - Saturday 6 January 2024 - 11.00am - 11.00pm (both days)	Unit 8A, Tweedside Park, Tweedbank
The Cross Inn	OCCLIC	Occasional Licence - Wedding Saturday, 25th November 2023 - 1.00pm - 12.00midnight	Paxton House, Paxton
West Linton Bowling Club	OCCLIC	Occasional Licence - Surprise 70th Birthday Party Saturday 18 November 2023 7.00pm - 12.00midnight	Bowling Club, West Linton
West Linton Bowling Club	OCCLIC	Occasional Licence - Christmas Dinner with DJ Saturday 2 December 2023 6.30pm - 12.00midnight	Bowling Club, West Linton
Aileen Dyer	OCCPLH	Occasional Licence - Peebles Christmas Light Switch On Sunday 26 November 2023 3.00pm - 7.00pm	High Street, Peebles
Allan Walker	OCCPLH	Occasional Licence - Sale of Artisan Spirits made by Selkirk Distillers Saturday 2nd December 2023 - 10.00am - 3.00pm	Market Place, Selkirk
Allan Walker	OCCPLH	Occasional Licence - Sale and Sample of Artisan Spirits Sunday, 3rd December 2023 10.00am - 2.00pm	Outside The Tapestry Building, Galashiels
Allan Walker	OCCPLH	Occasional Licence - Market Stall - Sample and Sale of Artisan Spirits Sunday, 26 November 2023 11.00am - 2.00pm	High Street, Jedburgh
Andrew Robertson	OCCPLH	Occasional Licence - Cafe/Restaurant on Caravan Park Friday 17 November 2023 - Thursday 30 November 2023 11.00am - 11.00pm	Springwood Park, Springwood Village, Kelso

Andrew Robertson	OCCPLH	Occasional Licence - Cafe/Restaurant on Caravan Park Friday 1 December 2023 - Thursday 14 Decmeber 2023 11.00am - 11.00pm	Springwood Park, Springwood Village, Kelso
Andrew Telfer	OCCPLH	Occasional Licence - Mosstroopers Ball Saturday 1 December 2023 6.30pm - 1.00am	Town Hall, Hawick
Andrew Telfer	OCCPLH	Occasional Licence - Hogmanay Disco Saturday 31 December 2023 6.30pm - 1.00am	Town Hall, Hawick
Angus MacPherson	OCCPLH	Occasional Licence - ABBA Tribute Act and Disco Friday, 25th November 2023 - 5.00pm - 12.30am	Memorial Hall, Innerleithen
Blair Riddell	OCCPLH	Occasional Licence - Wedding - Neidpath Castle Saturday 25 November 2023 12.00noon - 12.00midnight	Neidpath Castle, Peebles
Carol Shanley	OCCPLH	Occasional Licence - Provision of alcohol along with High Teas and Light Lunches during December / festive season Thursday 30 November, Friday 1 December, Saturday 2 December and Sunday 3 December 2023 - 12.00noon - 4.00pm (every day)	Branxholme Castle, Hawick
Catherine Maxwell Stuart	OCCPLH	Occasional Licence - Small Farmers Market Friday 24 November 2023 12.00noon - 2.30pm	St Peters Primary School, Galashiels
Christopher Lightfoot	OCCPLH	Occasional Licence - National Hunt Horse Racing Meeting Wednesday 29 November 2023 - 11.00am - 6.00pm	Racecourse, Kelso
Christopher Lightfoot	OCCPLH	Occasional Licence - National Hunt Horse Racing Meeting Sunday 10 November 2023 - 11.00am - 9.00pm	Racecourse, Kelso
David Blair	OCCPLH	Occasional Licence - Christmas Event - "Christmas Cracker" Saturday 2 December 2023 - Sunday 3 December 2023 10.00am - 5.00pm	Paxton House, Paxton
David Kinghorn	OCCPLH	Occasional Licence - Cultural Residential Weekend Sunday 26 November 2023 - Sunday 3 December 2023 Sunday till Wednesday - 11:00am - 12:00midnight and Thursday till Saturday 11.00am - 1.00am	Marchmont House, Greenlaw
David Kinghorn	OCCPLH	Occasional Licence - Musical Performance and Dinner Saturday 9 December 2023 - 11.00am - 1.00am	Marchmont House, Greenlaw
David Kinghorn	OCCPLH	Occasional Licence - Private Concert and Dinner Saturday 16 December 2023 - 11.00am - 1.00am	Marchmont House, Greenlaw
Esther McLuckie	OCCPLH	Occasional Licence - Market Stall - Heartlands Market, Galashiels Saturday 2 December 2023 and Sunday 3 December 2023 10.00am - 4.00pm	Channel Street, Galashiels
Garry Rennie	OCCPLH	Occasional Licence - Selling Whiskies and Spirits Peebles Auction House Wednesday 29 December 2023 - Tuesday 12 December 2023 - 10.00am - 10.00pm - every day	Auction House, Peebles
Graeme Cannon	OCCPLH	Occasional Licence - Fundraising Night for Hawick Linden Rugby Club Saturday 18 November 2023 - 7.00pm - 12.00midnight	Hawick Catholic Church Hall, Hawick
Helen Corcoran	OCCPLH	Occasional Licence - Community Bar Night - Stow Station House Friday 17 November 2023 6.00pm - 10.00pm	Stow Station House, Stow
Helen Corcoran	OCCPLH	Occasional Licence - Community Bar Night - Stow Station House Friday 24 November 2023 6.00pm - 10.00pm	Stow Station House, Stow
Helen Corcoran	OCCPLH	Occasional Licence - Craft Fair - Sale of Mulled Wine - Stow Station House Sunday 26 November 2023 11.00am - 5.00pm	Stow Station House, Stow

Helen Corcoran	OCCPLH	Occasional Licence - Community Bar Night - Stow Station House Friday 1 December 2023 6.00pm - 10.00pm	Stow Station House, Stow
Helen Corcoran	OCCPLH	Occasional Licence - Live Podcast - Stow Station House Saturday 2 December 2023 7.00pm - 11.00pm	Stow Station House, Stow
James Henderson	OCCPLH	Occasional Licence - 70th Birthday Party Saturday, 17th February 2024 6.00pm - 12.30am	Village Hall, Heiton
James Henderson	OCCPLH	Occasional Licence - Switching on of the Xmas lights Saturday 25 November 2023 4.00pm - 9.00pm	Kelso Square, Kelso
James Henderson	OCCPLH	Occasional Licence - Charity Ball - live music Saturday, 9th December 2023 6.00pm - 1.00am	Border Events Centre, Kelso
James Henderson	OCCPLH	Occasional Licence - Funeral Wake Friday 1 December 2023 12.00noon - 5.00pm	Village Hall, Heiton
Joyce Adamson	OCCPLH	Occasional Licence - Musical Bingo Fundraiser for Cash for Kids Saturday 2 December 2023 7.00pm - 11.45pm	Focus Ability Centre, Galashiels
Kate Moss-Jones	OCCPLH	Occasional Licence - Live Music - Rock Saturday 2 December 2023 - 7.00pm - 11.00pm	Mac Arts, Galashiels
Kate Moss-Jones	OCCPLH	Occasional Licence - Live Music - Indie/Rock Thursday 7 December 2023 - 7.00pm - 11.00pm	Mac Arts, Galashiels
Kate Moss-Jones	OCCPLH	Occasional Licence - Live Rock Music from Gun and The Godfathers Friday 8 December 2023 - 7.00pm - 11.00pm	Mac Arts, Galashiels
Kate Moss-Jones	OCCPLH	Occasional Licence - Live Music from Torridon and Support TBA Saturday 9 December 2023 - 7.00pm - 11.00pm	Mac Arts, Galashiels
Kate Moss-Jones	OCCPLH	Occasional Licence - Live Music from Hit the Road Sunday 10 December 2023 - 7.00pm - 11.00pm	Mac Arts, Galashiels
Kate Moss-Jones	OCCPLH	Occasional Licence - Private Hire for Heriot Watt New Designers Thursday 14 December 2023 - 6.30pm - 12.00midnight	Mac Arts, Galashiels
Kate Moss-Jones	OCCPLH	Occasional Licence - Live Music from Galashiels Town Band Friday 15 December 2023 - 6.00pm - 11.00pm	Mac Arts, Galashiels
Kate Moss-Jones	OCCPLH	Occasional Licence - Live Music from Killer Instinct Saturday 16 December 2023 - 7.00pm - 12.00midnight	Mac Arts, Galashiels
Kate Moss-Jones	OCCPLH	Occasional Licence - Private Party and Disco Friday 22 December 2023 - 7.00pm - 12.00midnight	Mac Arts, Galashiels
Kate Moss-Jones	OCCPLH	Occasional Licence - Semi Acoustic Live Music Friday 1 December 2023 - 7.00pm - 11.00pm	Mac Arts, Galashiels
Kate Moss-Jones	OCCPLH	Occasional Licence - Live Semi-Acoustic Music - Harris Trust Showcase Friday 24 November 2023 - 6.30pm - 11.00pm	Mac Arts, Galashiels
Leslie Mallin	OCCPLH	Occasional Licence - 50th Birthday Party Saturday 25 November 2023 6.30pm - 12.00midnight	Community Centre, Tweedbank
Lindsay Girvan	OCCPLH	Occasional Licence - 150 Year Dinner Friday 17 November 2023 5.00pm - 1.00am	Hawick RFC, Hawick
Lynsey Russell	OCCPLH	Occasional Licence - Live Eagles Tribute Show Friday 24 November 2023 7.00pm - 11.30pm	Volunteer Hall, Galashiels

Neil Adamson	OCCPLH	Occasional Licence - Sale Of Timber Botanical Rum Saturday 2 December 2023 - 10.00am - 2.00pm	Channel Street, Galashiels
Nicholas Bullard	OCCPLH	Occasional Licence - Whisky Market stall Thursday 30 November 2023 - 5.00pm - 9.00pm	Raemartin Square, West Linton
Nicole Pickering	OCCPLH	Occasional Licence - Wedding Saturday 2 December 2023 1.00pm - 12.00midnight	Neidpath Castle, Peebles
Peter Rossborough	OCCPLH	Occasional Licence - Stall at Selkirk Farmers Market - Sale and Sampling of Craft Beer Saturday 2 December 2023 10.00am - 5.00pm	Market Place, Selkirk
Rat Race Adventure Sports	OCCPLH	Occasional Licence - Trail Running Event - Mighty Deerstalker Saturday 2 December 2023 and Sunday 3 December 2023 2.00pm - 12.30midnight	Traquair House, Traquair
Sam Kellie	OCCPLH	Occasional Licence - Monthly Farmers Market - Sale of Bottled and Canned Beer Saturday 25 November 2023 10.00am - 1.30pm	Market Square, Kelso
Sara-Louise Paterson	OCCPLH	Occasional Licence - Quiz Night Friday 24 November 2023 6.30pm - 12.00midnight	Village Hall, Cockburnspath
Sara-Louise Paterson	OCCPLH	Occasional Licence - Quiz Night Friday 15 December 2023 6.30pm - 12.00midnight	Village Hall, Cockburnspath
Sara-Louise Paterson	OCCPLH	Occasional Licence - Quiz Night Friday 19 January 2024 6.30pm - 12.00midnight	Village Hall, Cockburnspath
Sara-Louise Paterson	OCCPLH	Occasional Licence - Northumberland Theatre Company - Stage Play Friday 1 December 2023 6.30pm - 11.00pm	Village Hall, Cockburnspath
Shaun Turnbull	OCCPLH	Occasional Licence - Xmas Party Saturday, 9th December 2023 6.00pm - 1.00am	Legends Function Room, Newcastleton
Shaun Turnbull	OCCPLH	Occasional Licence - Pool and Darts Competition Tuesday, 26th December 2023 12.00noon - 1.00am	Legends Function Room, Newcastleton
Shaun Turnbull	OCCPLH	Occasional Licence - Hogmanay Party Sunday, 31st December 2023 6.00pm - 1.00am	Legends Function Room, Newcastleton
Shaun Turnbull	OCCPLH	Occasional Licence - Golf Dinner Saturday, 2nd December 2023 6.00pm - 1.00am	Legends Function Room, Newcastleton
Tabatha McCree-Cox	OCCPLH	Occasional Licence - Sampling and Off Sales for Gin and Hand Sanitiser Products Thursday 30 November 2023 5.00pm - 9.00pm	Primary School, West Linton
Tabatha McCree-Cox	OCCPLH	Occasional Licence - Sampling and Off Sales for Gin and Hand Sanitiser Products Saturday 2 December 2023 10.00am - 1.00pm	Primary School, West Linton
Torben Hutchings	OCCPLH	Occasional Licence - Sale of Sealed Bottles of Mead - Christmas Market Saturday 25 November 2023 and Sunday 26 November 2023 - 10.00am - 5.00pm	Traquair House, Traquair
1st Tweedbank Guides	OCCVOL	Occasional Licence - Gin Tasting Led by Abbey Fine Wines - Tweedbank Community Centre Friday 17 November 2023 7.00pm - 12.00midnight	Community Centre, Tweedbank
Burgh Primary School Parent Council	OCCVOL	Occasional Licence - Christmas Wreath Making Event Friday 1 December 2023 7.30pm - 10.30pm	Burgh Primary School, Galashiels
Coldstream Community Trust	OCCVOL	Occasional Licence - Indoor Market Sunday 19 November 2023 10.30am - 3.00pm	Community Centre, Coldstream
Coldstream Community Trust	OCCVOL	Occasional Licence - Christmas Concert Friday, 8th December 2023 4.00pm - 10.00pm	Community Centre, Coldstream

Gala Academy Tanzania Fund	OCCVOL	Occasional Licence - Quiz Night Friday 24 November 2023 6.30pm - 10.00pm	Galashiels Academy, Galashiels
GAOS Musical Theatre	OCCVOL	Occasional Licence - Galashiels Christmas Fair - Sale of Prosecco Saturday 25 November 2023 2.00pm - 5.00pm	Volunteer Hall, Galashiels
Gungreen House Trust	OCCVOL	Occasional Licence - Annual Christmas Shopping Event - Sampling and Sale of Gungreen House Gin Thursday 30 November 2023 6.00pm - 10.00pm	Gungreen House, Eyemouth
Gungreen House Trust	OCCVOL	Occasional Licence - Pop Up Shop - Sampling and Sale of Gungreen House Gin Friday 1 December 2023 10.00am - 5.00pm	Gungreen House, Eyemouth
Gungreen House Trust	OCCVOL	Occasional Licence - Festival Afternoon Tea - Sampling and Sale of Gungreen House Gin Tuesday 5 December 2023 - Monday 18 December 2023 12.00noon - 3.00pm	Gungreen House, Eyemouth
Lauder Christmas Lights Festival	OCCVOL	Occasional Licence - Christmas Lights Switch On Saturday, 2 December 2023 - 12.00noon - 10.00pm	Market Place, Lauder
Lauder Ex-Cornets Association	OCCVOL	Occasional Licence - Race Night for Lauder Ex-Cornets Association Saturday 18 November 2023 7.00pm - 12.00midnight	Primary School, Lauder
Lauderdale Hunt	OCCVOL	Occasional Licence - Fundraising Ball for Lauderdale Hunt Saturday 18 November 2023 - 6.00pm - 1.00am	Victoria Halls, Selkirk
Oxton And Channelkirk Community Council	OCCVOL	Occasional Licence - Christmas Event Sunday 3 December 2023 - 5.00pm - 8.00pm	War Memorial Hall, Oxton
Scott's Selkirk	OCCVOL	Occasional Licence - Christmas Fair Saturday, 25th November 2023 - 11.00am - 4.00pm	Victoria Halls, Selkirk
Scott's Selkirk	OCCVOL	Occasional Licence - Gazebo/ Stall at Selkirk Farmers / Christmas Market Saturday, 2nd December 2023 - 11.00am - 4.00pm	Market Place, Selkirk
St Mary's Village Hall, Cappercleuch	OCCVOL	Occasional Licence - Quiz Night Saturday 25 November 2023 7.00pm - 10.00pm	St Marys Hall, Cappercleuch, Selkirk
St Peters Primary School Parent Council	OCCVOL	Occasional Licence - Wreath Making with Christmas Shopping Stalls Wednesday 29 November 2023 6.00pm - 9.30pm	St Peters Primary School, Galashiels
William Laidlaw Memorial Hall	OCCVOL	Occasional Licence - Bingo Night Friday, 1st December 2023 6.00pm - 11.00pm	Laidlaw Memorial Hall, Bonchester Bridge
Martino Dolce	PERLIC	Grant	N/A
Callum Gregson	PERLIC	Grant	N/A
Sajeef Perinapmoorthy	PERLIC	Grant	N/A
Emily Dodds	PERLIC	Grant	N/A
Callum McLauchlan	PERLIC	Grant	N/A
Graham McIntosh	PERLIC	Grant	N/A
Fraser Wright	PERLIC	Grant	N/A
Mark Scott	PERLIC	Grant	N/A
Carol Weir	PERLIC	Grant	N/A
Lisa Towers	PERLIC	Grant	N/A
Amy Barber	PERLIC	Grant	N/A
Thomas Davidson	PERLIC	Grant	N/A
Susan Taylor	PERLIC	Grant	N/A

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SCOTTISH BORDERS LICENSING BOARD FUNCTIONS AND FINANCIAL REPORTS 2022/2023

Report by the Clerk to the Licensing Board

SCOTTISH BORDERS LICENSING BOARD

15 DECEMBER 2023

1 PURPOSE AND SUMMARY

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 2023 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 2022 to 31 March 2023.
- 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 2022 to 31 March 2023.
- 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 impact of the Covid-19 pandemic which in the previous two years had a major impact on the Board’s income abated considerably during the year as the Licensed trade began to recover. In particular, the number of Occasional Licence applications received greatly increased during the period from the previous year.
- 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 further scrutiny of its income and expenditure.

4.3 Integrated Impact Assessment

There is no impact or relevance to Equality Duty or the Fairer Scotland Duty for this report.

4.4 Sustainable Development Goals

There are no sustainable development goals arising from the proposals contained in this report.

4.5 Climate Change

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

4.6 Rural Proofing

There are no rural proofing impacts 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

No changes to either the Scheme of Administration or the Scheme of Delegation are required as a result of the recommendations in this report

5 CONSULTATION

- 5.1 The Director of Corporate Governance, the Chief Officer Audit and Risk, Director of People, Performance and Change, the Clerk to the Council and Corporate Communications have been consulted and any comments received have been incorporated into the final report.

Approved by

Name Nuala McKinlay

Title Clerk, Scottish Borders Licensing Board Signature

Author(s)

Name

Ron Kirk

Designation and Contact Number

Managing Solicitor, Property and Licensing. 01835 826764

Background Papers: None

Previous Minute Reference: None

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SCOTTISH BORDERS LICENSING BOARD

**LICENSING (SCOTLAND) Act 2005
SECTION 9A: ANNUAL FUNCTIONS REPORT
1 APRIL 2022 - 31 MARCH 2023**

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 2022 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 2023 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 of a relevant offence or a foreign offence
- Determining a Personal Licence application or a Personal Licence renewal application where the applicant has been convicted of a relevant offence or a foreign offence
- Conducting a hearing in respect of a Review of a Premises Licence
- Conducting a hearing in respect of revoking, suspending or endorsing a Personal Licence
- Making a Closure Order

5 HOW THE BOARD HAS REGARD TO THE LICENSING OBJECTIVES

- 5.1 In exercising its functions under the Act, the Board is required to have regard to the Licensing Objectives as stated at paragraph 3.1.
- 5.2 Promotion of the Licensing Objectives is always at the forefront of the Board's consideration in determining its policies for the purposes of its policy statement.
- 5.3 When determining licence applications, the Board verifies that all applications are consistent with the Licensing Objectives and ensures that any potential issues are addressed through appropriate measures to safeguard full compliance with the Licensing Objectives. Such measures include attaching local and special conditions to licences if necessary.
- 5.4 The Board is confident that it has been able to pursue the crime and disorder objective by taking into account and recognising that certain criminal activity or associated problems may take place or be taking place despite the best efforts of the licensee and the staff working at the premises. In such circumstances the Board will endeavour to take any steps it feels are appropriate to remedy the problem. The Board has strived to promote this objective in the interests of the wider community rather than determining the guilt or innocence of the individual which the Board recognises is a matter for the courts of law.
- 5.5 The Board is confident that it has been able to pursue the Public

Safety and Public Nuisance objectives by endeavouring to take any necessary steps it feels are appropriate to address any such problems which may contravene these objectives. In doing so, the Board is mindful that it cannot take into account any issues that are dealt with by other legislation such as the Environmental Protection Act 1990.

5.6 The Board is confident that it has pursued the protecting Children and Young Persons from harm objective by applying appropriate conditions to licences with a view to ensuring that children and young persons are adequately protected within licensed premises or at licensed events. There have also been occasions when the Board has not been satisfied that an application sufficiently complies with this objective and on these occasions the Board has refused the applications accordingly.

5.7 The Board is confident that it has been able to pursue the Public Health objective to mitigate the public health risk when considering licensing applications. The Local Health Board is a statutory consultee who are invited to make representations with regard to each application which is considered by the Board. Whilst in most cases they have no comments to make, there are occasions when they do make representations and a representative is invited to attend the Board meeting and address the Board accordingly.

6 HOW THE BOARD HAS REGARD TO 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 2022 to 31 March 2023 the Board met 9 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 17 new Premises License and 1548 Occasional Licenses were issued by the Board during the period. 284 of the Occasional licences were granted to voluntary organisations. The Board also considered 8 applications to vary Premises Licences. This included both major variations which must be determined by the Board and applications which attracted objections or representations. In addition, 17 Section 31 substitution of designated premises manager applications and 5 Section 33 transfer applications were dealt with.

8.2 The Board arranged a review hearing in respect of 1 premises licence during the period. This was in connection with a review request received from one of the Council's Licensing Standards and Enforcement officers for non-compliance with mandatory condition 10 attached to all premises licences relating to the non-payment of annual fees. In this instance payment of the annual fees due on 1 October 2021 and 1 October 2022 were outstanding. At the first review hearing, the Board continued consideration of the review request and afforded the licence holder the opportunity to make payment of the fees due for 2021. At the second review hearing the Board was advised that payment of the fees outstanding for 2021 had not been paid and as a result the licence was revoked.

8.3 The Board received 94 new Personal Licence applications and 2 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 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 met on a few occasions throughout the year. The Forum held its annual joint meeting with the Board on 29 November 2022. At the Board meeting both the Board and Forum members were provided with Equalities training

9.2 Impact of Covid-19 Pandemic

During the period, the impact of the Covid-19 pandemic continues to lessen on the Licensed trade and as a result the number of applications received began to increase during the period. In particular the number of Occasional Licence applications received increased from 765 to 1548.

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 currently consists of, a Licensing Team Leader, three Licensing Standards and Enforcement Officers and two Licensing Officers 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.

Licensing (Scotland) Act 2005**Scottish Borders Licensing Board Financial Report****Financial Year: 2022/23**

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 2023 due to the coronavirus pandemic. This report has been prepared using financial data taken for year ending 31 March 2023.

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	
	Annual Fees	£150,390
Extensions/Variations/Transfers/Personal		£9,800
	Occasional Licences	£15,140
	Total	£175,330

Direct Staff Costs²:

Licensing Standards Enforcement Officers		£26,052
	Licensing Services	£45,688
	Legal Services	£73,010
	Total	£144,750

Other Direct Costs³:

	Board Members	£3,718
	Transport Costs, Members	£0
	Transport Costs, Officers	£0
	IT Software Licences	£2,981
	Postages	£3,775
	Committee Members	£744
	Total	£11,218

Indirect Costs⁴:

Apportionment of central admin costs		£23,710
Net Income – Expenditure		- £4,348

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.



SCOTTISH BORDERS LICENSING BOARD STATEMENT OF LICENSING POLICY

Report by the Clerk to the Licensing Board

Scottish Borders Licensing Board

15 December 2023

1 PURPOSE AND SUMMARY

1.1 This report requires members of the Scottish Borders Licensing Board to:

- (i) consider the proposed amendments on the draft Statement of Licensing Policy ;
- (ii) approve the Statement; and
- (iii) arrange to have it published.

2 RECOMMENDATIONS

2.1 I recommend that the Licensing Board:-

- (a) review the Draft Statement;
- (b) Approve that Draft Statement and adopt it as the Statement of Licensing Policy for the period from November 2023 to November 2028; and
- (c) instruct the Clerk to the Licensing Board to take all necessary steps to publish the Statement

3 STATEMENT OF LICENSING POLICY

- 3.1 At the Board's meeting on 28 April 2023 the Board agreed a draft Statement of Licensing Policy for November 2023 to November 2028 for consultation. A consultation took place from 21 July 2023 until 17 September 2023. The consultation was slightly later than anticipated. This was because the Local Licensing Forum set up and ran its own consultation, a Community Insight into Alcohol Impacts and Licensing in the Scottish Borders, from 25 May 2023 to 16 July 2023. In order to avoid possible confusion with the Forum's consultation, the Board's consultation was delayed accordingly.
- 3.2 It is understood that the responses received by the Local Licensing Forum to their consultation aided the Forum in framing its response to the Board's consultation. Unfortunately, it appears that those who responded to the Forum's consultation did not respond to the Board's consultation and as a result only three responses were received, one from the forum, one from the Borders Alcohol and Drugs Partnership and one from the Jethart Callant's Festival. The responses received from the Licensing Forum and the Borders Alcohol and Drugs Partnership were broadly the same and made the same observations and suggestions.
- 3.3 Attached to this report are the following appendices:

Appendix 1- The draft Policy Statement with suggested changes highlighted in red in paragraphs 1.8, 2.1, 4.1, 6.3, 7.3, 8.1 and 8.3

Appendix 2- The Licensing Forum response.

Appendix 3- The Borders Alcohol and Drugs Partnership response.

Appendix 4- The Jethart Callant's Festival's response.

Licensing Officers have reviewed the responses received and after consideration have formed the view that no further changes are required to those as highlighted on the draft policy statement.

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 further scrutiny of its statement of licensing policy.

4.3 Integrated Impact Assessment

There is no impact or relevance to the Equality Duty or the Fairer Scotland Duty for this report.

4.4 Sustainable Development Goals

There are no sustainable development goals arising from the proposals contained in this report.

4.5 Climate Change

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

4.6 Rural Proofing

There are no rural proofing impacts 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

No changes to either the Scheme of Administration or the Scheme of Delegation are required as a result of the recommendations in this report.

5 CONSULTATION

5.1 The Director of Corporate Governance, The Chief Officer Audit and Risk, Director of People, Performance and Change, the Clerk to the Council and Corporate Communications have been consulted and any comments received have been incorporated into the final report.

Approved by

Name Nuala McKinlay **Signature**
Title Clerk, Scottish Borders Licensing Board

Author(s)

Name	Designation and Contact Number
Ron Kirk	Managing Solicitor, Property and Licensing, 01835 826764

Background Papers:

Previous Minute Reference: Licensing Board, 28April 2023

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Legal@scotborders.gcsx.gov.uk

Appendix 1

DRAFT

SCOTTISH BORDERS LICENSING BOARD

STATEMENT OF LICENSING POLICY

LICENSING (SCOTLAND) ACT 2005

November 2023 - November 2028

Contents

1. Introduction
2. The Licensing Objectives
3. Board Business
4. Overprovision
5. Occupancy
6. Premises Licences
7. Licensed Hours and Extended Hours
8. Home Deliveries/Remote Sales
9. Members Clubs
10. Garages
11. Outside Drinking Areas
12. Occasional Licences
13. Irresponsible Promotions
14. Personal Licences
15. Designated Premises Managers
16. Annual Fees
17. Licensing Standards Enforcement Officers

1 INTRODUCTION

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

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

This Statement fulfils that statutory duty for the Scottish Borders for the period from November 2023 to November 2028.

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

1.4 The licensing objectives are:

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

1.5 The Board will consider the individual circumstances of each application based on the information provided to it. This Policy will assist applicants to put in place appropriate measures to ensure the licensing objectives are met. The Board is aware of the importance of sporting, local traditional festival and historical common riding events

within its area. Evidence of the potential impact on the licensing objectives within the Board area is highlighted in the Scottish Borders Alcohol Profile which can be accessed on the Council's website <http://www.scotborders.gov.uk/licensingforum>

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

1.6 Overall the number of licensed premises in the Scottish Borders has remained relatively stable over previous years (now - 443 as at October 2022 compared with 466 in October 2017). The Act requires Boards to produce a statement of overprovision and with this in mind, Scottish Borders Licensing Board may take the view that if premises are not trading and annual fees remain unpaid for a period in excess of twelve months a premises review application may require to be considered.

1.7 The Board's licensing powers are not the main statutory mechanism for dealing with all regulatory regimes. Responsibility for meeting any other statutory requirements rests with individual applicants. A contacts list for other regulatory functions is provided at Appendix 1.

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

1.8 The Board complies with its duties under the Equality Act 2010 and its current Equalities Outcomes and Mainstreaming Report **is incorporated into the wider Council Report and** has been published on its website. It opposes all forms of unlawful discrimination and will expect all parties to work to delivering equality for all people.

1.9 You can contact the Licensing Unit of Scottish Borders Council by:

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

2 LICENSING OBJECTIVES

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

2.1.1 Preventing Crime and Disorder

Underage drinking:

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

Drunkenness on the premises:

- Effective and responsible management of premises
- Training and supervision of staff
- Clear notices stating zero tolerance for any patrons appearing to be under

the influence of alcohol

- Drink driving awareness and consideration of designated driver policy

Illegal possession and/or use of drugs:

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

Violent, aggressive behaviour and antisocial behaviour:

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

2.1.2 **Securing Public Safety**

- Premises to be kept in a safe manner including the occupancy, design, stability, layout of the premises and provision of adequate internal and external lighting
- All access and exits to the premises for pedestrians and vehicles to ensure ease of access for emergency vehicles
- Measures to limit the accumulation of glass bottles or litter on the premises including outside areas and immediate vicinity
- Compliance with the Fire (Scotland) Act 2005 as amended and associated Regulations (see Appendix 9)

2.1.3 **Protecting and Improving Public Health**

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

2.1.4 **Preventing Public Nuisance**

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

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

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

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

The following are suggested control measures

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

3 BOARD BUSINESS

- 3.1 The Board will deal with all its business in an open, accessible and transparent way. Meetings will be held in public but for legal reasons, some matters may require to be held in private. The procedure at Board hearings is attached at Appendix 2.
- 3.2 The Board has adopted a Scheme of Delegation to ensure that decisions can be made in an efficient and timely manner. This is attached as Appendix 4 to this Statement and will be kept under review by the Board.
- 3.3 For applications that cannot be dealt with by delegated powers, the Board will normally meet on a monthly basis in the premises of Scottish Borders Council. The Board will give notice of applications received and publish application forms, agendas and minutes of its meetings on Scottish Borders Council's website www.scotborders.gov.uk. These are available in alternative formats on request.
- 3.4 The Board will consider all applications on their own merits with regard to its Policy and the licensing objectives.

4. OVERPROVISION

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

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

- 4.2 The Board acknowledges the work carried out by and on behalf of the Scottish Borders Licensing Forum by way of the multi agency data gathering project and the subsequently produced report "Scottish Borders Alcohol Profile". The Alcohol Profile forms an invaluable evidence base which has been most useful in the compilation of this Policy and the Board will have regard to the Profile when determining applications.
- 4.3 When considering applications for a particular type of premises in a particular area the Board will consider the locality as the Intermediate Geographies detailed in the Alcohol

Profile as the area within which the premises are situated, but will also take into account the immediate adjoining areas.

- 4.4 The Board is aware that almost three-quarters of alcohol is sold in supermarkets and off sale premises. Given the rural spread of the Scottish Borders area, alcohol may not be consumed and associated harm may not take place in the area it was purchased. When considering overprovision in a specific locality, the Board will also take into account the overall availability in the Borders.
- 4.5 The number of licensed late night hours entertainment premises (after 1.00am) within Scottish Borders is currently four. The Board is of a view that any increase beyond that number could be overprovision.
- 4.6 The Board strongly considers well run on sale premises are a preferred and safer environment for alcohol consumption and should be encouraged over drinking in the home or any other unlicensed environment. On sale premises which provide a full range of services, for example food and quality accommodation, will be encouraged in most areas.
- 4.7 With regard to off sales, the Board is conscious of the fact that the capacity required to be shown within the premises can sometimes be confusing and even seem somewhat irrelevant. The Board does acknowledge that display areas can be a factor in encouraging purchase and ultimately consumption and as such will look for detailed justification for any application to have a display area in excess of 10% of the overall sales area of premises, other than dedicated wine and spirit merchants.

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

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

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

5. OCCUPANCY

- 5.1 Occupancy capacity is a factor in the assessment of overprovision and a factor for premises and events to achieve the licensing objectives.
- 5.2 The Board will take account of any maximum occupancy limit set by Scottish Borders Council's Building Standards service if deemed appropriate to ensure safety of persons in premises and safe escape in the case of emergency. If there are additional concerns about crime and disorder or public nuisance, the Board may consider setting a lower maximum occupancy limit than recommended by Building Standards.
- 5.3 The Board will expect applicants to consider various factors when assessing the appropriate capacity for premises or events. Depending on the individual premises, examples of these include:
 - The design and layout of the premises
 - The location, availability and size of exits including emergency exits
 - The provision of adequate internal and external lighting

- The nature of the premises or event
- The nature of the activities being provided
- The provision or removal of temporary structures such as a stage or furniture
- The number of staff available to supervise customers both ordinarily and in the event of an emergency
- The profile of the customers
- The attendance of customers with disabilities
- The provision of suitable and sufficient accessible toilet facilities
- The nature and provision of facilities for ventilation

6. PREMISES LICENCES

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

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

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

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

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

6.1.1 Notification of Premises Licence applications.

The Licensing Board must give notice of a Premises Licence application to the following:

- Chief Constable, Police Scotland
- Scottish Fire and Rescue Service
- Scottish Borders Council
- the local Health Board for the area

- each person having a notifiable interest in neighbouring land
- any Community Council within whose area the premises are situated

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

6.1.2 **Objections and Representations.**

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

6.1.3. **Consideration of Premises Licence application.**

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

The Board will have particular regard to:

- The nature of the premises, the style and type of use, the potential number and profile of the customers likely to attend the premises;
- The proposed hours of operation;
- The means of access to the premises including the location of customer entrances and exits taking account of accessibility;
- The provision of toilet facilities including consideration to provision of sufficient accessible toilet facilities;
- Whether children and/or young persons are to have access to the premises or part(s) of the premises and upon what terms;
- Areas or activities which have potential crime and disorder or public nuisance and any measures to mitigate those issues ie the requirement for CCTV and door steward arrangements to be put in place.

6.1.4 **Conditions.**

Mandatory Conditions for all Premises Licences are prescribed in the Act attached as Appendix 4, and Regulations. In determining an application, the Board may impose additional conditions to promote one or more of the licensing objectives or otherwise give effect to the terms of its Policy Statement or the provisions of the Act.

6.2 **Management of Premises.**

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

- Proof of Age
- Staff Training
- Incident Book
- Noise
- Dispersal of Patrons
- Smoking and monitoring the behaviour of patrons in the vicinity of licensed premises in particular beer gardens and outside smoking areas
- Litter and Waste Management

- CCTV
- Compliance with the requirements of the Equality Act 2010
- Safe evacuation of all patrons in the case of emergency
- Consideration of undertaking and reviewing an Access Audit
- the prevention of the misuse of drugs on the premises.

6.2.2 **Condition of Premises.**

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

6.2.3 **Seating Provision.**

The Board will expect adequate seating to be available within on sale premises.

6.2.4 **Pubwatch.**

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

6.2.5 **Best Bar None.**

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

6.2.6 **Door Stewarding.**

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

6.3 **Adult Entertainment.**

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

(Note: The Air Weapons and Licensing (Scotland) Act 2015 has from 26 April 2019 amended the Civic Government (Scotland) Act 1982 to introduce a discretionary power for Local Authorities in Scotland to licence Sexual Entertainment Venues within their individual areas. Accordingly on 25 March 2021, Scottish Borders Council adopted a resolution to licence Sexual Entertainment Venues and on 27 October 2022 introduced a Sexual Entertainment Policy. As a consequence, any premises operating plan including adult entertainment will be restricted to a maximum of three such occasions a year, otherwise a separate Sexual Entertainment Venue Licence may be required. In terms of the Council's policy, the Council determined that the number of Sexual Entertainment venues permitted in the Scottish Borders area would be nil.)

7. **LICENSED HOURS AND EXTENDED HOURS**

7.1 Whilst the Act removes set permitted hours for on sales and leaves applicants to decide what is appropriate to include in the operating plan, the Board recognises the

impact licensing hours have in an area. They will consider the individual requirements of applicants and premises and how such hours may impact on a particular area.

- 7.2 Off sale hours may only be permitted between the hours of 10.00am and 10.00pm and the Board may restrict off sale hours where it is satisfied that any of the licensing objectives may not be met. Licence holders should be aware that any off sale should be off the premises within 15 minutes of the terminal hour. The Board must refuse any application for off sales hours outwith the permitted times.
- 7.3 As far as on sale hours are concerned, the Board will not normally grant applications for more than 14 hours in any 24 hour period. Where there is no significant entertainment and alcohol consumption is the principal activity, hours should not extend beyond 12.00midnight Sunday to Wednesday and 1.00am Thursday to Saturday, with a commencement time of 11.00am seven days a week. **As with any policy, the Licensing Board must allow for the possibility of exceptions in considering an application for additional hours outwith the standard licensing hours, the Licensing Board will have regard to the impact that the licensed hours sought may have on one or more of the Licensing Objectives and in terms of the suitability of the premises for the sale of alcohol during the hours applied for, and each application will be considered on its own merits.**
- 7.4 Applicants for on sale licensed premises with an off sale facility should be aware that the off sale hours on the licence cannot extend either prior to 10.00am or after 10.00pm. They should also be aware that this applies to customers who purchase a drink intended as an on sale and subsequently carry it off the licensed premises.
- 7.5 Where applicants intend to apply for any core on sale hours outwith those detailed in 7.3 above, they will be expected to show how any activity to be carried out on the premises is consistent with the licensing objectives. Any inclusion of seasonal variations should state precise fixed dates and times.

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

- 7.6 While all applications will be subject to the Mandatory Conditions under the Act, attached as Appendices 4 and 5, the Board reserves the right to apply further conditions where it sees fit in order to promote one or more of the licensing objectives or otherwise give effect to the terms of its Policy Statement or the provisions of the Act. Examples of additional conditions which may be considered appropriate are attached as Appendix 7.
- 7.7 It is acknowledged that there will be events and occasions which cannot be catered for or anticipated within the core hours of an operating plan and as such the Board will consider applications for Extended Hours on their individual merits in relation to its policy at 7.3 above and the licensing objectives.
- 7.8 **Late Hours.** Applicants should be aware of the additional mandatory conditions as attached at Appendix 5, applied to late opening premises (after 1.00am) and the Board reserves the right to consider further additional conditions to promote the licensing objectives. **In order to comply with the licensing objective of securing public safety. Premises with late hours trading in their operating plans should have in place a policy with a view to ensuring as far as possible the safety of staff at the conclusion of licensing hours.**

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

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

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

If granting an application for occasional licence or extended hours which includes the late hours period, the Board will consider attaching some or all of the **additional or late hours conditions as set out in appendices 4 and 5 as appropriate. In order to comply with the licensing objective of securing public safety, applicants applying for an occasional licence with late hours trading should have a policy in place with a view to ensuring as far as possible the security of staff at the conclusion of licensing hours.**

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

8. HOME DELIVERIES/REMOTE SALES

- 8.1 The Board expects that premises which intend to provide home deliveries of alcohol must specify this activity in their operating plan and provide details of how this will operate with particular regard to the licensing objectives. These details should include the hours of delivery, the steps taken to identify the age of the person ordering and receiving **including Challenge 25**, payment arrangements, and arrangements to protect the safety of those delivering alcohol.
- 8.2 **Delivery staff must have undertaken the mandatory two hours staff training to the same level as those employed in Licensed Premises and records maintained of that training.**
- 8.3 Orders for delivery of alcohol can only be taken during the off sale core times stipulated in the Premises Licence. Deliveries may take place outwith these times but not between midnight and 6.00am.

9. MEMBERS CLUBS

- 9.1 Members Clubs are required to be licensed in the same way as any other premises selling alcohol, they are however exempt from some provisions of the Act. Appendix 8 refers.
- 9.2 Members Clubs will be expected to abide by the rules governing membership and the introduction of non-members to the premises. They are required to have an appropriate Constitution detailing category of membership and which adequately reflects Members Club status, along with all the requirements contained in Appendix 9. The operating plan for a Members Club should also reflect its status, including sign in provisions and the Board expects Members Clubs to thereafter abide by the terms of such operating plan.

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

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

10. GARAGES

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

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

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

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

11. OUTSIDE DRINKING AREAS

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

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

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

12. OCCASIONAL LICENCES

- 12.1 An Occasional Licence allows for the sale of alcohol on unlicensed premises. There are periods when a large number of occasional licences are in force, particularly

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

- 12.2 The Board will not normally consider an application for occasional licence which relates to any premises in respect of which a Premises Licence is in existence but is currently suspended unless exceptional circumstances can be evidenced.
- 12.3 A Members Club can also apply for an Occasional Licence to authorise the sale of alcohol on their premises for events where access is not restricted to its Club Members and their signed in guests.
- 12.4 An application for an Occasional Licence may be made by any of the following:
- the holder of a Premises Licence (including a Members Club for events to be held on the Club premises);
 - the holder of a Personal Licence; or
 - a representative of any Voluntary Organisation (for events or fundraising events connected to the activities of the organisation).
- 12.5 The holder of a Premises Licence or a Personal Licence may make an unlimited number of applications. However, there are restrictions on the number of applications a Voluntary Organisation and a Members Club can make in any period of 12 months. The Board defines the 12 month period as 1 January to 31 December. Further guidance on this is available from the Licensing Unit contactable as detailed at 1.9 above.
- 12.6 The Board will expect that applicants will be able to evidence that the following factors have been considered when organising their event:
- The design and layout of the premises
 - The location, availability and size of exits including emergency exits
 - The provision of adequate internal and external lighting
 - The nature of the premises or event
 - The nature of the activities being provided
 - The provision or removal of temporary structures such as a stage or furniture
 - The number of staff available to supervise customers both ordinarily and in the event of an emergency
 - The profile of the customers
 - The attendance of customers with disabilities
 - The provision of suitable and sufficient accessible toilet facilities
 - The nature and provision of facilities for ventilation
 - The accessibility of the event premises for emergency services

- 12.7 Applications for Occasional Licence can be made for one-off or longer duration events, but can only last up to a maximum of 14 days.
- 12.8 To allow time for consultation with Police Scotland, the Licensing Standards Enforcement Officer and for objections or representations to be considered, applications should be submitted as far in advance as possible, and not later than 42 days before the event takes place. It is recognised that in some circumstances applications will be submitted at short notice and the Board will endeavour to process these if possible but organisers should be aware that late submission may result in a request for written reasons for late lodgement and a licence not being granted due to lack of time to fully assess the impact on the licensing objectives. Provided there are no adverse reports from Police Scotland, Licensing Standards Enforcement Officers or any objections or representations, the Board must grant the application. Failing this, the Board must hold a hearing to determine the application at which it may grant the licence as applied for, grant the licence with conditions or refuse the licence, all as detailed in Section 59 of the Act. The Conditions attached to all Occasional Licences are attached as Appendix 6 and the Board may impose additional conditions as it determines appropriate to promote the licensing objectives. Some examples of which are attached as Appendix 7.
- 12.9 With regard to the commencement and terminal hours for the sale of alcohol in connection with any Occasional Licence application, refer to 7.2 and 7.3 above.
- 12.10 The provision of live music, discos or karaoke could cause nuisance and are often elements of Occasional Licences. Applicants will therefore be required where they wish to have these activities to give details of how they will take reasonable steps to prevent noise nuisance, to ensure that there will be no noise from amplified and non-amplified music, singing or speech sourced from licensed premises audible in any adjoining or neighbouring property. (This may include installation of a sound limiter, sound proofing, keeping doors and windows closed and asking patrons to leave quickly and quietly at the end of the evening.) If required, advice is available from Scottish Borders Council's Environmental Health section.
- 12.11 The Board expects any licensee or organisation catering for an event to have written policies in place, with an undertaking to abide by them, which show how the licensing objectives will be met. These policies should relate to and be appropriate to the particular event, as follows:
- (a) Adequate and appropriate stewarding to be in place.
 - (b) The use of toughened glass or plastic drinking vessels, where appropriate
 - (c) An age identification/verification scheme should be detailed.
 - (d) An undertaking that there will be full compliance with any guidance or advice from the Licensing Standards Enforcement Officer, Police Scotland, the Fire and Rescue Service and any other appropriate authority.
 - (e) Details of measures put in place or steps taken to lessen the chance of noise nuisance from any entertainment should be detailed.
 - (f) Any further policies relating to the event should be shown under the appropriate licensing objective heading. If children or young persons are to be present in licensed areas then particular attention and detail should be given to showing how they will be protected from harm.
- 12.12 The Board is concerned to ensure that the availability of Occasional Licences as a short term means of licensing premises is not abused. Where repeated occasional licence applications are submitted in respect of premises where it considers that insufficient measures as detailed in 12.10 above can be taken and there are concerns regarding the suitability of the premises having regard to any of the licensing objectives, the Board will refuse these.

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

13. IRRESPONSIBLE PROMOTIONS

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

14. PERSONAL LICENCES

- 14.1 All premises licences, with the exception of Members Clubs, require a Designated Premises Manager who must be the holder of a Personal Licence. Whilst all alcohol sales require to be authorised by a Personal Licence holder, the Act does not require the Personal Licence holder to be present on the premises when the sale is made
- 14.2 When considering an application for a Personal Licence, the Licensing Board will consult with Police Scotland and the Licensing Standards Enforcement Officer to ascertain whether the applicant is fit and proper to hold a licence. Police Scotland will also provide information of convictions for any relevant offences detailed in SSI 2007 No. 513, which can be accessed on the Office of Public Sector Information website at www.legislation.gov.uk. Where any representation is received from Police Scotland or the Licensing Standards Enforcement Officer the Board will consider whether the application should be granted or refused under the Act. In making a decision, the Board will have regard to the seriousness and age of the conviction together with any other circumstances it considers to be relevant.
- 14.3 The Licensing Board expects all Personal Licence holders to carry out their duties in a manner which is consistent with the promotion of the licensing objectives. Where a review of a Premises Licence has uncovered conduct on the part of the Personal Licence holder which is inconsistent with one or more of the licensing objectives, a Personal Licence hearing may be required. At the conclusion of any such hearing, the Licensing Board may, if satisfied that it is necessary to do so for the purposes of any of the licensing objectives: revoke the Personal Licence; suspend the Personal Licence for an agreed period; or endorse the Personal Licence.

15. DESIGNATED PREMISES MANAGERS

- 15.1 The Board expects that a Designated Premises Manager will take an active role in the day to day management of the premises and in circumstances where this is not

the case or a Designated Premises Manager is absent for long periods of time on a regular basis, the Board expects that the Premises Licence holder will take steps to review the management arrangements of the premises to ensure adequate measures are in place for authorisation of alcohol sales. Where it considers it appropriate for the purposes of any of the licensing objectives, the Board may apply a condition requiring a Personal Licence holder to be present at all times.

16. ANNUAL FEES

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

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

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

17. LICENSING STANDARDS AND ENFORCEMENT OFFICERS

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

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

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

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

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

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

1.

APPENDIX 1

ORGANISATION	CONTACT TELEPHONE AND EMAIL ADDRESS	WEBSITE
SBC Licensing <i>Contact them for advice on licenses and permits</i>	01835 826662 Liquorandlicensing@scotborders.gov.uk	https://www.scotborders.gov.uk/info/20025/licensing
Police Scotland Licensing Officers	lothianscotborderslicensing@scotland.police.uk	http://www.scotland.police.uk/your-community/the-lothians-and-scottish-borders/
SBC Planning	0300 100 1800 prs@scotborders.gov.uk	https://www.scotborders.gov.uk/site_search/results/?q=planning#Information
SBC Building Standards	0300 100 1800 BuildingStandardReg@scotborders.gov.uk	https://www.scotborders.gov.uk/site_search/results/?q=Building+Control#Information
SBC Environmental Health	0300 100 1800 PLACEhealth@scotborders.gov.uk	https://www.scotborders.gov.uk/site_search/results/?q=Environmental+Health#Information
SBC Trading standards	0300 100 1800 PLACEhealth@scotborders.gov.uk	https://www.scotborders.gov.uk/site_search/results/?q=trading+standards

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Scottish Fire and Rescue Service 143 Croft Street Galashiels TD1 3BS	01896 758326	www.firescotland.gov.uk
Security Industry Authority (SIA) PO Box 49768 London WC1V 6WY		www.services.sia.homeoffice.gov.uk
Gambling Commission		www.gamblingcommission.gov.uk/home.aspx

APPENDIX 2

PROCEDURE TO BE FOLLOWED AT HEARINGS

REPRESENTATION AT THE HEARING

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

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

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

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

PROCEDURE AT HEARING

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

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

OPTIONS, CONDITIONS FOR LICENCES GRANTED AND APPEALS

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

APPENDIX 3

SCOTTISH BORDERS LICENSING BOARD LICENSING (SCOTLAND) ACT 2005

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

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

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

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

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

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

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

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

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

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

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

- 2.2 Any application for variation to substitute a new Premises Manager – where the applicant has not been convicted of any relevant or foreign offence (Sections 31 and 54).
- 2.3 Any application to transfer a Premises Licence – where the transferee has not been convicted of any relevant or foreign offence (Sections 33 to 35).
- 2.4 Any application for confirmation of a provisional Premises Licence – where no variation (other than a minor variation) has been made to the operating plan or layout plan for the premises to which the licence relates since the provisional licence was issued or since a variation of the provisional Premises Licence was granted (Section 46).
- 2.5 Any application for an occasional licence – where no objections or representations have been received, nor a notice recommending refusal from the Chief Constable or any report from the Licensing Standards Officer recommending refusal (Sections 56 to 61).
- 2.6 Any application for extended hours – where no objections or representations have been received, nor a notice recommending refusal from the Chief Constable or any report from the Licensing Standards Officer recommending refusal (Sections 68 to 70).
- 2.7 The determination in terms of Section 70(2) of the 2005 Act as to whether or not the Licensing Board will hold a hearing to determine an application for extended hours where an objection, representation or a notice recommending refusal from the Chief Constable or a report from the Licensing Standards Officer recommending refusal has been received.
- 2.8 Where a decision has been taken not to hold a hearing in terms of Section 70(2) of the Act, the determination of the application.
- 2.9 Any application for a Personal Licence or renewal of a Personal Licence where the applicant has not been convicted of a relevant or foreign offence (Section 74).
- 2.10 Although an application or decision may fall within the above categories, the Clerk of the Board or any member of staff appointed by the Clerk, may decline to exercise their delegated power in which case the matter will be referred to the Board.

APPENDIX 4

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

Mandatory Conditions

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

Compliance with the operating plan

- 2 (1) Alcohol is to be sold on the premises only in accordance with the operating plan contained in the licence.

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

The premises manager

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

Authorisation of sales of alcohol

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

Training of staff

- 6 (1) No person (other than a person who holds a personal licence) is to work in the premises in the capacity mentioned in sub-paragraph (2) unless that person has

complied with such requirements as to the training of staff as may be prescribed for the purposes of this paragraph.

- (2) That is a capacity (whether paid or unpaid) which involves the person:
- (a) making sales of alcohol; or
 - (b) where alcohol is sold on the premises for consumption on the premises, serving such alcohol to any person.
- (2A) At any time when a person (other than a person who holds a personal licence) is working in the premises in a capacity mentioned in sub-paragraph (2), there must be kept on the premises a training record which relates to that person and is in the form set out in the Schedule to the Licensing (Mandatory Conditions No. 2) (Scotland) Regulations 2007.
- (2B) A record kept on the premises under sub-paragraph (2A) must be produced to a Licensing Standards Officer on request.
- (3) Regulations under sub-paragraph (1) prescribing training requirements may, in particular:
- (a) provide for the accreditation by the Scottish Ministers of:
 - (i) courses of training; and
 - (ii) persons providing such coursesfor the purposes of the regulations
 - (b) prescribe different training requirements in relation to different descriptions of persons.
 - (c) require that any person providing training or any particular description of training in accordance with the regulations hold a personal licence or such other qualification as may be prescribed in the regulations; and
 - (d) require training to be undergone again at such intervals as may be prescribed in the regulations.

Minimum price of alcohol

- 6A (1) Alcohol must not be sold on the premises at a price below its minimum price.
- (2) Where alcohol is supplied together with other products or services for a single price, sub-paragraph (1) applies as if the alcohol were supplied on its own for that price.
- (3) The minimum price of alcohol is to be calculated according to the following formula:
$$\text{MPU} \times \text{S} \times \text{V} \times 100$$
where:
 - MPU is the minimum price per unit
 - S is the strength of the alcohol; and
 - V is the volume of the alcohol in litres
- (4) The Scottish Ministers have specified by order that the minimum price per unit is 50 pence.
- (5) For the purposes of sub-paragraph (3), where:

- (a) the alcohol is contained in a bottle or other container; and
- (b) the bottle or other container is marked or labelled in accordance with the Food Information (Scotland) Regulations 2014(a)

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

Minimum price of packages containing more than one alcoholic product

- 6B
- (1) A package containing two or more alcoholic products (whether of the same or different kinds) may only be sold on the premises at a price equal to or greater than the sum of the prices at which each alcoholic product is for sale on the premises.
 - (2) Sub-paragraph (1) applies:
 - (a) only where each of the alcoholic products is for sale on the premises separately, and
 - (b) regardless of whether or not the package also contains any item which is not an alcoholic product.
 - (3) In this paragraph, "alcoholic product" means a product containing alcohol and includes the container in which alcohol is for sale.

Pricing of alcohol

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

Off-sales: variation of pricing of alcoholic drinks

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

Irresponsible drinks promotions

- 8
- (1) An irresponsible drinks promotion must not be carried on in or in connection with the premises.
 - (2) Subject to sub-paragraph (3), a drinks promotion is irresponsible if it:

- (a) relates specifically to an alcoholic drink likely to appeal largely to persons under the age of 18,
 - (b) involves the supply of an alcoholic drink free of charge or at a reduced price on the purchase of one or more drinks (whether or not alcoholic drinks),
 - (c) involves the supply free of charge or at a reduced price of one or more extra measures of an alcoholic drink on the purchase of one or more measures of the drink,
 - (d) involves the supply of unlimited amounts of alcohol for a fixed charge (including any charge for entry to the premises),
 - (e) encourages, or seeks to encourage, a person to buy or consume a larger measure of alcohol than the person had otherwise intended to buy or consume,
 - (f) is based on the strength of any alcohol,
 - (g) rewards or encourages, or seeks to reward or encourage, drinking alcohol quickly, or
 - (h) offers alcohol as a reward or prize, unless the alcohol is in a sealed container and consumed off the premises.
- (3) Paragraphs (c) to (e) of sub-paragraph (2) apply only to a drinks promotion carried on in relation to alcohol sold for consumption on the premises.
- (4) The Scottish Ministers may by regulations modify sub-paragraph (2) or (3) so as to:
- (a) add further descriptions of drinks promotions
 - (b) modify any of the descriptions of drinks promotions for the time being listed in it; or
 - (c) extend or restrict the application of any of those descriptions of drinks promotions.
- (5) In this paragraph, "drinks promotion" means, in relation to any premises, any activity which promotes, or seeks to promote, the buying or consumption of any alcohol on the premises.

Provision of non-alcoholic drinks

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

Age verification policy

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

Payment of annual or recurring fees

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

Notices – admission of persons under 18

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

Baby changing facilities

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

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

- 13 (1) Subject to sub-paragraph (3), alcohol which is for sale only for consumption off the premises may be displayed only in one or both of the following:
- (a) a single area of the premises agreed between the Licensing Board and the holder of the licence; or
 - (b) a single area of the premises which is inaccessible to the public.
- (1A) Sub-paragraphs (1B) to (1D) apply where the premises, in so far as they are used for the sale of alcohol, are so used only or primarily for the sale of alcohol for consumption off the premises.
- (1B) Any drinks promotion on the premises may take place only in any one or more of the following:
- (a) an area referred to in sub-paragraph (1)(a) and (b),

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

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

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

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

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

APPENDIX 5

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

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

APPENDIX 6

SCOTTISH BORDERS LICENSING BOARD

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

Interpretation

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

Compliance with Licence

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

Authorisation of Sales of Alcohol

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

Voluntary Organisations

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

Minimum price of packages containing more than one alcoholic product

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

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

where:

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

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

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

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

Pricing of Alcohol

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

Irresponsible Drinks Promotions

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

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

Provision of Non-Alcoholic Drinks

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

Age verification policy

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

Additional Conditions:

APPENDIX 7

EXAMPLE ADDITIONAL CONDITIONS

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

APPENDIX 8

WHAT IS A CLUB

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

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

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

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

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

WHAT ARE THE EXEMPTIONS FOR CLUBS UNDER THE 2005 ACT

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

Clubs are exempted from:

The assessments of overprovision (Section 7);

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

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

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

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

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

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

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

WHAT ARE THE TRAINING REQUIREMENTS

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

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

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

APPENDIX 9

FIRE SAFETY INFORMATION FOR LICENCE APPLICANTS

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

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

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

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

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

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

Phone: 01896 758326

Email: enquiries@firescotland.gov.uk

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

Website: www.firescotland.gov.uk

BENCHMARK FIRE SAFETY STANDARDS FOR OFF/ON SALES

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

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

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

Draft Response to Licensing Board Policy Statement Consultation

The Local Licensing Forum welcomes the opportunity to comment on the Licensing Board Policy Statement Consultation. Forum members met on the 15th August and 22nd August to discuss and propose the following:

- It would be helpful for future reviews/consultations that the Board highlight areas that have been updated within the new Policy Statement.
- **Section 1.6 Number of licensed premises.** Suggest using full year data e.g. 456 in 2021-22 compared with 454 in 2017/18. [Scottish Liquor Licensing Statistics - gov.scot \(www.gov.scot\)](http://www.gov.scot).
- **Section 2: Licensing Objectives.** The Policy Statement doesn't say HOW the Board will promote the licensing objectives and instead only suggests examples of what should be considered by licensees. By including how the Board will promote the Licensing Objective makes it clear how they also are carrying out their role and allows measures for the Board to report on within their Annual Functions Report. A suggested format for this could be:

Licensing Objective	Licensing Board	Licensee
Preventing Crime and Disorder	<ul style="list-style-type: none"> • Applying appropriate conditions to licences to mitigate the risk of potential crime or disorder. • Endorsing initiatives designed to prevent crime and disorder. • Conducting reviews where licensees fail to implement control measures on the basis that they are not fit and proper persons to operate licensed premises. 	<ul style="list-style-type: none"> • Effective and responsible management of premises including written procedures for managing incidents. • Training and supervision of staff on relevant issues, policies and procedures including conflict management training. • Displaying local transport information to facilitate safe journeys

There are a range of additional measures to promote the objectives suggested [here](#) for both the Licensing Board and Licensees and would suggest that this list is reviewed to ensure all relevant items covered

In addition, the forum recommends amending this section to strengthen expectations around measures for underage drinking, drunkenness on premises, training and supervision for staff. At present the current Licensing Policy provides examples of what 'should be considered' rather than stating what is expected. This could be separated into essential and desirable. These areas were also identified by the community when responding to the Community Insights Into Alcohol Impact and Licensing in Scottish Borders Survey: July 23 (referred to as Community Survey onwards) as an area to improve.

- **Section 3 Board Business:** 3.1 states the Board Meetings will be held in Scottish Borders Council HQ. It would be helpful to amend this to note the opportunity for people to attend on MS Teams and a direct link to the webpage for meetings rather than SBC homepage.

- **Section 4 Overprovision:**
 - 4.4 The Policy states 'The Scottish Borders Licensing Board will consider overprovision when relevant applications come before it' – it may be helpful to further explain that this is only applies to future premises licences. It is not possible under current legislation to retrospectively revoke premises licences that have been granted on the grounds of overprovision. However, the law enables licensing boards to prevent further expansion in the supply of alcohol in areas that are considered well-provided for and at risk of becoming overprovided. This means the Licensing Board may refuse applications for new premises licences or extensions in capacity in areas where it judges that the granting of an additional licence or extended capacity could result in overprovision of licensed premises.

 - **4.4 The Board will also take into account the overall availability in the Borders.** The Forum welcomes this statement to consider the total impact of multiple alcohol outlets on a community. Albeit occasional licenses do not feature as part of the Overprovision Assessment this has impact on increased availability of alcohol particularly around summer festivals.

Decisions should not be made based on precedence or economic benefit alone.

The updated Licensing Board guidance provides clarity around approaches to overprovision assessments and interpreting the causal link. Finding the exact threshold between provision and overprovision cannot be achieved through a straightforward numerical formula. Instead, it requires the exercise of reason and judgment, keeping the community's best interests in mind.

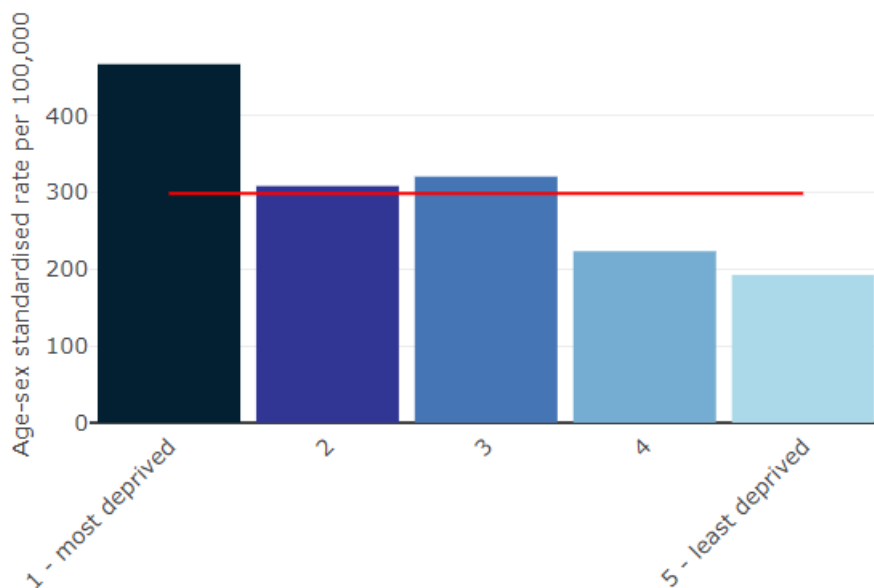
Health inequalities is an important consideration in relation to over provision.

The impact of alcohol harm is disproportionately higher among those facing the greatest deprivation. In Scottish Borders the most deprived areas have 52% more hospital admissions that the overall average.

Alcohol related hospital admissions would be 36% lower if the levels of the least deprived area were experienced across the whole population.

Scottish Borders:

Differences in alcohol-related hospital admissions between deprivation groups for 2021/22



Further data within the Alcohol Profile 2022-23 for Scottish Borders should help inform local decision making and policy. The Protecting and improving public health licensing objective encourages licensing boards to consider the cumulative effect of licensed premises on alcohol-related harm within their area, rather than the actions of any individual premises.

- **Section 6: Notification of Premises Licence Application** – Where it includes the Council website Link it would be useful to have the direct link to the page that applications of Premises Licences are advertised rather than public having to navigate through the Council website from home page to find applications.
- **Section 6.4 Premises – Information relating to Children & Young People**
There are further measures that licensees (and Licensing Board) and suggest [here](#).
- **6.1.4 Conditions** Further examples of additional conditions are [here](#) for the Board to review and consider to add to the Licensing Policy Statement.
- **6.3 Adult Entertainment** Suggest the wording of this is made clearer to reflect that whilst current licensed premises who are offering adult entertainment is reduced to 3 such events, the Full Council agreed that there would be nil Sexual Entertainment Venues in Scottish Borders.
- **Section 7.3 Licensed Hours and Extended Hours** As far as on sale hours are concerned, the Board will not normally grant applications for more than 14 hours in any 24 hour period.

Responses from the recent Community Survey highlighted the negative impact of local town summer festivals on the community through alcohol. The Policy states that ‘the Board does not consider that all events connected with historic common ridings and summer festivals should automatically be seen as justification for an occasional licence or to extend licensed hours. Applicants will require to specify how their application is connected to the local common riding or festival event and the Board will consider each on its individual merits in relation to the licensing objectives’.

The policy would benefit detailing the additional measures in the Licensing Policy Statement open to the Licensing Board to support this statement.

- **Section 8: Home Deliveries/Remote Sales.** Following the increased trend of online alcohol shopping it is recommended that the Licensing Board enhance the policy around home deliveries/remote sales to minimise harm to children and young people including:

- make clear that delivery staff must be trained to the same level as those on licensed premises.
- that challenge 25 checks must be completed.
- that licensees using courier services must ensure they are compliant with the Licensing Board requirements.

This is an area that has also been identified as a concern by the Community Survey in July 23.

- **Section 12 Occasional Licenses:** the Board may require to see written policies evidencing the measures in place to meet the Protecting Children and Young Persons from Harm objective. The Forum would suggest this is strengthened to 'will require' to see written policies and again suggest reviewing the measures [here](#) to offer examples for applicants.

Finally the Community Survey previously circulated to the Licensing Board also provided commentary around perceived need for increased enforcement through regular visits to licensed premises to monitor compliance with Licensing Legislation by Licensing Standards Officers.

Whilst the survey mentioned the perceived need for regular enforcement the Forum is fully aware of the positive work that Licensing Standards Officers and Police Scotland undertakes and accepts that inspection of training records and new initiatives or training is promoted when available.

Borders Alcohol & Drugs Partnership (ADP)

Response to Licensing Board Policy Statement Consultation: August 23

Please find below the response from the ADP to the above consultation.

Question 1:

Do you think the suggested control measures are sufficient? No

The Policy Statement doesn't say *how* the Licensing Board will promote the licensing objectives and instead only suggests examples of control measures for licensees.

Including how the Licensing Board will promote the Licensing Objective would allow transparency and accountability to the local community and key stakeholders. This could also be reported on within the Licensing Board Annual Function Report. A suggested format for this could be:

Licensing Objective	Licensing Board Actions	Licensee Actions
Preventing Crime and Disorder	<ul style="list-style-type: none"> • Applying appropriate conditions to licences to mitigate the risk of potential crime or disorder. • Endorsing initiatives designed to prevent crime and disorder. • Conducting reviews where licensees fail to implement control measures on the basis that they are not fit and proper persons to operate licensed premises. 	<ul style="list-style-type: none"> • Effective and responsible management of premises including written procedures for managing incidents. • Training and supervision of staff on relevant issues, policies and procedures including conflict management training.

There are a range of suggested measures to support Licensing Boards promote the objectives suggested [here](#) for both the Licensing Board and Licensees and would suggest that this list is reviewed to ensure all relevant items included.

The current Policy states that with regards to Occasional Licenses the Board may require to see written policies evidencing the measures in place to meet the Protecting Children and Young Persons from Harm objective. The ADP is aware of the positive work and scrutiny that Police Scotland and Licensing Standards Officers undertake on behalf of the

Licensing Board with regard to Occasional Licenses, however, would suggest the wording in the policy is strengthened to *will require* to see written policies. The use of the measures as described above and available [here](#) will be helpful for applicants. In particular:

- Ensuring there are clear reasons for children and young people to be present in licensed premises.
- Ensuring facilities are appropriate to the areas of the premises to which children and young persons are to be afforded access.
- Ensuring that staff are fully aware of any restrictions to children and young persons' access and supervision requirements.
- Restricting access for children and young persons to appropriate hours and parts of the premises.
- Ensuring vigilance against underage drinking and proxy purchasing.
- Strictly enforcing Challenge 25, and requiring accredited proof of age cards with photographs, or passports.
- Using till prompts so that all till users are prompted to ask for ID when an age restricted product is scanned.
- Training staff to recognise fake ID.
- Conducting regular in-house test purchasing exercises and developing a staff policy of steps to be taken in the event of underage patrons or adults attempting to purchase alcohol on their behalf.
- Requiring children to be accompanied by an adult.
- Ensuring no person under the age of 18 is permitted to attend an event involving adult entertainment.
- Taking extra measures to secure the safety of children such as Disclosure Certificates for staff working within the premises or employed as stewards.
- Not displaying alcohol alongside confectionery or other goods likely to be of interest to children.

In addition, the ADP would recommend strengthening the wording from where the current Licensing Policy provides examples of what 'should be considered' to explicitly state what is expected. Measures could also be separated into essential and desirable.

Further guidance and good practice from other areas in relation to the promotion of Licensing Objectives are included within the recently updated [Licensing \(Scotland\) Act 2005 guidance](#).

Question 2 - Period of Licensed Hours

The current Policy states that the Board will not normally grant applications for more than 14 hours in any 24 hour period where alcohol consumption is the principal activity.

This means that unless there is significant entertainment included, on sale hours should not extend beyond midnight Sunday to Wednesday and 1.00am Thursday to Saturday and not start earlier than 11.00am each day.

Off sale hours are not affected because the legislation does not permit sales before 10.00am or after 10.00pm.

Do you feel this should continue in the new Policy?

During summer festivals and common riding events, there is a significant increase in the availability of alcohol with licenses allowing the sale of alcohol from 6am on a Thursday morning and 9am on a Friday through to 1am. This increases availability from 14 hours to approximately 19 hours.

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

It is not clear that the Licensing Board can demonstrate what additional measures have been put in place to support this statement and reduce impact on the community. The Policy would benefit from this being included.

The recent Community Insights into Alcohol and Licensing Survey carried out by the Local Licensing Forum identified concerns from the local community in relation to such events which should be focused on celebrating the historic events and not alcohol consumption.

Question 3 Final thoughts:

Overprovision and Health Inequalities:

The [updated Licensing Board guidance](#) provides clarity around approaches to overprovision assessments and interpreting the causal link. Finding the exact threshold between provision and overprovision cannot be achieved through a straightforward numerical formula. Instead, it requires the exercise of reason and judgment, keeping the community's best interests in mind.

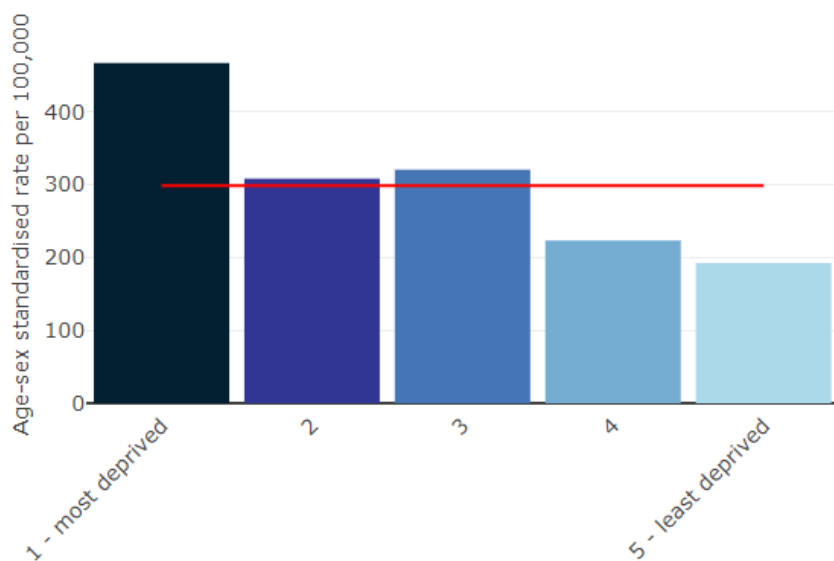
Health inequalities is an important consideration in relation to overprovision.

The impact of alcohol harm is disproportionately higher among those facing the greatest deprivation. In the Scottish Borders the most deprived areas have 52% more alcohol related hospital admissions than the overall Borders average.

Alcohol related hospital admissions would be 36% lower if the levels of the least deprived area were experienced across the whole population¹.

Scottish Borders:

Differences in alcohol-related hospital admissions between deprivation groups for 2021/22



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licensed premises on alcohol-related harm within their area, rather than the actions of any individual premises.

It should be noted that data in relation to the number, type and capacity of premises is not available locally to the ADP and therefore is difficult to make assessment on overprovision.

Home Deliveries/Remote Sales. Following the increasing trend of online alcohol shopping it is recommended that the Licensing Board enhance the policy around home deliveries/remote sales to minimise harm to children and young people including:

- Make clear that delivery staff must be trained to the same level as those working in licensed premises.
- Challenge 25 checks must be completed.
- Licensees using courier services must ensure they are compliant with the Licensing Board requirements.

This is an area that has also been identified as a concern by the Community Insights into Alcohol and Licensing Survey in July 23.

¹ [ScotPHO profiles \(shinyapps.io\)](https://shinyapps.io/ScotPHO/)

Format for future consultation: It would be helpful to see the changes highlighted from previous Policy Statement in proposed new Statement.

Appendix 4

Response ID ANON-HRYT-4RDH-S

Submitted to SBC Licensing Policy Statement 2023-2028
Submitted on 2023-08-13 11:21:16

Introduction

How are you responding to the SBC Licensing Policy Statement 2023-28 consultation?

Organisation

If Trade or Organisation, please detail.:

Jethart Callant's Festival

Licensing Objectives

Do you think the suggested control measures are sufficient?

Yes

Please explain your response.:

Covers all bases

Period of Licensed Hours

Do you feel this should continue in the new Policy?

No

Please explain your response.:

Flexibility required

Final Thoughts

Have you any other comments or suggestions regarding matters which you feel should or should not be included in the Board's new Statement of Licensing Policy?

final comments:

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