

# Public Document Pack

## SCOTTISH BORDERS COUNCIL LOCAL LICENSING FORUM

MINUTE of Meeting of the LOCAL  
LICENSING FORUM held in the Council  
Chamber, Council Headquarters. on  
Tuesday, 22 March, 2016 at 4.00 pm

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Present:- I. Tunnah (Convener), N.W. Gillies, M. W. Hay (para 3), R. Mackay, A.  
Maybury, J. Taylor, G. Todd, S. Walker  
Apologies:- S. Bell, Police Scotland.

In Attendance:- F. Walling (Democratic Services Officer).

### 1. **ORDER OF BUSINESS.**

The Chairman varied the order of business as shown on the agenda and the Minute reflects the order in which the items were considered at the meeting.

### 2. **PUB IS THE HUB.**

With reference to paragraph 7 of the Minute of 26 January 2016, Mr Hugh Williams, Principal Officer (Rural Development), was in attendance to give an overview of the 'Pub is the Hub' PiTH initiative. Mr Williams handed out PiTH Newsletters to accompany his update. He explained that the organisation had worked with over 500 pubs since 2001 with a strong presence in England and Wales, particularly in rural areas such as Norfolk and Cornwall. The organisation, which was run through voluntary advisers with sectoral knowledge and experience stated 'We encourage good licensees, communities, pub owners, breweries, local authorities and the private sector to work together to match community needs with additional services which can be provided by the local pub and a good licensee'. Mr Williams explained that the Scottish Borders was the pilot scheme for PiTH in Scotland, the scheme having been launched at Carfraemill in January. The Scottish Government Rural Communities Team had agreed £30k investment in the pilot, to spend on projects in the Scottish Borders through the Community Services Fund. The PiTH adviser in Scotland was currently working with a number of licensees on an individual basis as a follow-up to interest generated at the launch. Mr Williams had passed on the offer of the Licensing Standards Officer to work with project licensees at an early stage. He gave examples of projects currently the focus of discussions with PiTH. He stressed that the aim of the funding was to develop business opportunities with the involvement of the local community, not to prop up failing businesses, nor to duplicate or compete with existing services. There was a link to LEADER funding with a sub-set of the LEADER Local Action Group advising on PiTH applications. Members of the Forum asked questions about the range of activities eligible for consideration under the scheme and the identification and measurement of outcomes. Mr Williams explained that there was an expectation that the scheme would support employment and that any increased turnover would be measured. Hopefully, subsequent to the pilot, the scheme would be rolled out across Scotland. In further discussion the Convener stressed that, in the expectation that PiTH projects would require a change in operating plan at the licensed premises, licensees should seek advice and apply for the necessary change at an early stage. It was agreed that the Forum should request regular updates on progress of the PiTH pilot scheme in the Scottish Borders. The Convener thanked Mr Williams for his attendance.

### **DECISION**

- (a) **NOTED the update.**
- (b) **AGREED to receive future updates on progress of the Pub is the Hub initiative in the Scottish Borders.**

3. **MINUTE.**

There had been circulated copies of the Minute of the meeting held on 26 January 2016.

**DECISION**

**APPROVED the Minute for signature by the Convener.**

3.1 **MATTERS ARISING FROM THE MINUTE**

With reference to paragraph 3.3 (b) of the Minute, Ms Walker had ascertained that, due to changes resulting from the Air Weapons Act, Licensing Board Policy Statements would be reviewed every 5 years and that the next Licensing Board Policy Statement would be due in November 2018 rather than November 2017 as had been expected. However an interim policy statement could be produced if the Licensing Board so wished. Members of the Forum noted that there were changes in the Alcohol Profile which could be reflected in a Supplementary Policy Statement if this was considered the best way forward. It was agreed that the Licensing Board be asked to consider whether it wished to review the whole Policy prior to the election in May 2017 or whether a Supplementary Statement should be produced. In the meantime it was agreed that the Forum's short-life working group set up to review the Policy Statement, of N. Gillies, M. Hay, I. Tunnah, S. Walker, M. Wynne should meet to identify the areas of change evidenced by the Alcohol Profile so that the Board could be alerted to these. It was agreed that the first meeting would be held on Monday 25 April 2016 at 1.30pm at the Queen's Head, Kelso.

**DECISION**

**AGREED that:-**

- (a) **the Convener would ask the Scottish Borders Licensing Board to consider whether it wished to review the Policy prior to May 2017 or whether it wished to produce a Supplementary Policy Statement in the meantime to reflect the changes in the Alcohol Profile; and**
- (b) **the short-life working group meet to identify the areas of change evidenced by the Alcohol Profile in order to bring these to the attention of the Licensing Board and to bring back a paper to the Forum.**

- 3.2 With reference to paragraph 3.6 of the Minute there was a discussion about the need to raise public awareness of what the 'Best Bar None' plaque stood for. Some Members of the Forum also felt that the Licensing Board did not give this Trade Award sufficient recognition when considering license applications. It was agreed that the Convener should speak to PC Nick Walker with a view to taking a presentation to the Licensing Board in order to update the Board on the Best Bar None launch.

**DECISION**

**AGREED that the Convener would liaise with PC Nick Walker with a view to updating the Licensing Board on the launch of Best Bar None.**

- 3.3 With reference to paragraph 4 of the Minute, Ms Walker advised that she would follow up with PC Robertson the request for circulation of the Chief Constable's Annual Report.

**DECISION**

**NOTED**

- 3.4 With regard to paragraph 5 of the Minute, the Democratic Services Officer advised that, as confirmed with the Convener, a presentation on licensing issues would be added to the agenda for all the Area Forum meetings during the August/September cycle of meetings. It was agreed that the dates of the meetings at which the presentation would be given would be circulated to Community Councils.

**DECISION**

**AGREED that the Democratic Services team circulate to Community Councils the dates of the Area Fora meetings at which the presentation on Licensing issues would be given.**

- 3.5 With reference to paragraph 12 of the Minute regarding Bar Code training the Convener read out an email received from Stephanie Bell, in her absence. Ms Bell had ascertained that the National Licensed Trade Association was in the process of looking at offering a training provision in Scotland that was similar to the training offered in England and Wales and which would comply with Scottish legislation. Currently the organisation was working with programme designers and had not been able to give a definite timescale. Ms Bell had asked to be kept informed of developments and would update the Forum when information had been received.

**DECISION  
NOTED**

4. **ALCOHOL FOCUS SCOTLAND COMMUNITY TOOLKIT.**  
There had been circulated copies of the Alcohol Focus Scotland Toolkit Resource 'Alcohol licensing in your community – how you can get involved'. Members agreed that this was a useful resource. It was suggested that this be circulated to Community Councils and be the focus of the presentations to the Area Fora. The aim was to increase community awareness of Licensing Board policy and how appropriate representations on applications could be submitted.

**DECISION**

- (a) **NOTED the availability of the Alcohol Focus Scotland toolkit as a community resource.**
- (b) **AGREED to circulate copies of the toolkit to Community Councils.**

5. **ACTION PLAN.**

With reference to the updated Local Licensing Forum action plan, which had been circulated with the Minute of the last meeting, each of the outstanding items were addressed and advice given as to the current position. With regard to the objective to gain a better understanding of decisions made by the Licensing Board, Ms Walker explained that she and the Convener had met with PC Lackenby and discussed the development by Police Scotland of a database which would be able to give information on outcomes of Licensing Board decisions where police objections had been raised. PC Lackenby had advised that the database, known as Innkeeper, would record all license applications, whether or not there had been an objection raised and the outcome of the consideration. All licensed premises would be included. The process of pulling off data could be tested and brought to the next meeting of the Forum. With reference to paragraph 10 of the Minute of 6 October 2015 PC Lackenby was asked to look at the recording process around occurrences of 'Incident on Licensed Premises' (ILP) in respect of the negative perception of this which could arise in respect of the licensed premises involved. PC Lackenby was asked to look into whether information on ILPs could be extracted so that the issue could be discussed at a future meeting. It was confirmed that a report from Police Licensing should be a standing item on the Local Licensing Forum agenda.

**DECISION  
NOTED**

- (a) the updates to the action plan; and
- (b) that a report from Police Licensing be a standing item on the Local Licensing Forum agenda.

6. **EVALUATION OF LICENSING SCOTLAND ACT MARCH 2016 (MESAS).**

There had been circulated copies of a paper which summarised the report originally published as part of the 'Monitoring and Evaluating Scotland's Alcohol Strategy programme: Fifth Annual Report, March 2016'. Under key findings 'Impact of the Act on licensing practice' the original evaluation identified positive developments such as the positive role of Licensing Standards Officers. Also identified were areas of the Act that continued to be less well implemented, including Public Health provisions; transparency and accountability; public access; and the effectiveness of Local Licensing Forums. The paper contained a link to the full report. Ms Walker summarised the current position in the Scottish Borders in relation to the key findings. She also updated members of the Forum on the current position in relation to the Minimum Unit Pricing (MUP) court process and advised that the update, reflected in a flowchart, would be circulated with the Minute for information.

**DECISION**

- (a) **NOTED the updates.**
  - (b) **AGREED that the MUP process update be circulated with the Minute of the meeting.**
7. **SCOTTISH BORDERS LICENSING BOARD MINUTE.**  
There had been circulated, for information, copies of the Scottish Borders Licensing Board Minute of 19 February 2016.

**DECISION  
NOTED the Minute.**

8. **LICENSING BOARD LATE NIGHT PREMISES VISITS.**

The Convener passed on an invitation to join Members of the Licensing Board on night economy visits, accompanied by Police officers, which would take place on 2 April 2016. The aim was to give Members an oversight of what was happening in these areas. Mr Gillies and Mr Taylor indicated their wish to take part in the visit.

**DECISION  
NOTED.**

*The meeting concluded at 5.50 pm*

## Outline of MUP court process, as of March 2016

The Alcohol (Minimum) Pricing (Scotland) Act was passed by the Scottish Parliament in May 2012. The Scotch Whisky Association and several other European spirits and wine organisations have made a legal challenge to the Act, claiming that it is unlawful.

### Outer House, Court of Session

Jan 2013: Hearing of SWA application for judicial review of Alcohol (Minimum Pricing) (Scotland) Act 2012.

May 2013: Judgement delivered. MUP found lawful.  
*Court rules there is objective justification supporting the proportionality of the Act and the proposed minimum price.*

### Inner House, Court of Session

Feb 2014: Hearing of SWA appeal against outer house ruling. Challenge that MUP breaches EU treaty rules.

April 2014: Inner House makes reference to ECJ for guidance on interpretation of EU law.

Jan 2016: Date set for final hearing. Judges order that any new material, not previously heard, can be submitted by either party prior to the final hearing.

June 2016: 6/7 June set for final hearing in case.

### European Court of Justice, Luxembourg

May 2015: Hearing in ECJ.

Sept 2015: Advocate General delivers opinion.

*AG states that MUP can be lawful under EU law, but only if proportionality is demonstrated and less-trade restrictive measure (such as tax) cannot achieve the same objective. It is up to the national court to determine whether MUP satisfies proportionality test based on the evidence.*

Dec 2015: ECJ confirms AG opinion.

### ? UK Supreme Court

? Appeal to SC. This is not automatic. It depends on there being grounds for appeal and whether either party seeks to appeal.

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