

SCOTTISH BORDERS COUNCIL LICENSING BOARD

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

Present:- Councillors J. Greenwell (Convener), J. Brown, D. Paterson, N. Richards, S. R. Tatler, G. Turnbull, E. Thornton-Nicol.

Apologies:- Councillors T. Weatherston, S. Scott.

In Attendance:- Managing Solicitor (Property and Licensing), Licensing Standards and Enforcement Officers (M. Wynne and J. Scott), Inspector J. McGuigan, PC S. Lackenby, Democratic Services Officers (W. Mohieddeen and F. Henderson).

CONVENER

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

1. MINUTE

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

DECISION

APPROVED the minute for signature by the Convener.

2. LICENSES DEALT WITH UNDER DELEGATED POWERS

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

DECISION

NOTED

3. CHIEF CONSTABLE'S ANNUAL REPORT

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

priorities, description of Board area and information on the operation of the Licensing (Scotland) Act 2005. In the Scottish Borders, there were 200 recorded incidents in licensed premises between 1 April 2020 and 31 March 2021, showing a major decrease from 341 recorded incidents in the previous period equating to a reduction of 41%. There continued to be a notable trend in thefts of alcohol from 'off sales' premises over the reporting year, which may be due to the impact that Covid-19 has had on society. Police Scotland carried out 696 recorded inspections of licensed premises in the Borders during the reporting year. On Friday and Saturday evenings police officers are deployed on foot where other incidents permit, to aid with dispersal of licensed premises and reduce antisocial behaviour and violence related incidents between the hours of 2200-0400. The proactive use of exclusion orders and antisocial behaviour legislation continued to contribute to reducing repeat offending in licensed premises. Police Scotland set up 'Operation Talla' in response to the Covid-19 pandemic, to ensure a consistent and measured approach being taken to implement restrictions throughout the country. Lothian & Scottish Borders Licensing Department worked closely with Operation Talla, as well as Liquor & Civic Licensing Policy Unit to provide clear and consistent advice to operational officers, to enable them to support premises as they introduced special measures in their premises in response to restrictions. The report also summarised the proposed activity for the year ahead which included the licensing officer to continue to work alongside partner agencies and LSO's to provide pertinent advice and support to licence holders and their staff, Local Community Police Officers to undertake a dedicated night-time economy policing plan focussing on alcohol-related incidents, anti-social behaviour, violence, disorder and drugs misuse, and to engage with licensees to deliver any national campaigns including providing 'bystander' training to licence premise staff with a view to education to protect vulnerable persons within licensed premises and help tackle sexual violence connected to alcohol consumption.

DECISION

NOTED the report.

4. ALCOHOL PROFILE PRESENTATION

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

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

DECISION

NOTED the presentation.

5.0 LICENSING (SCOTLAND) ACT 2005:

Section 29: Application for Variation of Premises Licence.

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

(i) Co-operative Group Food Limited

Co-op
Station Yard
Newtown St Boswells
TD6 0PP

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

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

Representations received:

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

(ii) Co-operative Group Food Limited

Co-op
High Street
Melrose
TD6 9RU

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

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

Representations received:

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

(iii) Co-operative Group Food Limited

Co-op
Melrose Road
Earlston
TD4 6DL

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

Representations received:

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

(iv) Co-operative Group Food Limited

Co-op
Peebles Road
Innerleithen
EH44 6QZ

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

Representations received:

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

(v) Co-operative Group Food Limited

Co-op
34 High Street
Coldstream
TD12 4AS

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

Representations received:

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

(vi) Co-operative Group Food Limited

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

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

Representations received:

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

(vii) Co-operative Group Food Limited

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

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

Representations received:

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

(viii) Co-operative Group Food Limited

Co-op
1 Edinburgh Road
Lauder
TD2 6TW

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

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

provisions of the Licensing (Scotland) Act 2005'.

Representations received:

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

(ix) Co-operative Group Food Limited

Co-op
70 High Street
Selkirk
TD7 4DD

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

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

Representations received:

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

(x) Co-operative Group Food Limited

Co-op
Main Street
Chirnside
TD11 3XR

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

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

Representations received:

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

Other – none

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

DECISION GRANTED.

6. FESTIVE SEASON EXTENDED HOURS POLICY

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

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

DECISION

AGREED that:-

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

7.0 **PRIVATE BUSINESS
DECISION**

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

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

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

9.0 **MINUTE**

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

The meeting concluded at 10.50am.