

PERTH AND KINROSS LICENSING BOARD

12 April 2023

REVIEW OF LICENSING POLICY STATEMENT 2023

Report by Clerk to the Licensing Board

1. PURPOSE

- 1.1 This report advises of the need to review Perth and Kinross Licensing Board's Licensing Policy Statement and asks the Board to decide the terms of its Draft Licensing Policy Statement to publicly consult on.

2. RECOMMENDATIONS

- 2.1 It is recommended that the Board:
- (i) considers the terms of Appendix 1; and
 - (ii) decide the terms of its Draft Licensing Policy Statement for public consultation.

3. STRUCTURE OF REPORT

- 3.1 This report is structured over the following sections:
- Section 4: Background
 - Section 5: Context
 - Section 6: Conclusion
 - Annex
 - Appendix

4. BACKGROUND

- 4.1 In terms of the Licensing (Scotland) Act 2005, Section 6 a Licensing Board must publish a licensing policy statement in respect of its functions every five years. The licensing policy statement then applies during that period. The next policy statement will apply from 5 November 2023 until 5 November 2028.
- 4.2 In preparing a licensing policy statement a Licensing Board must:-
- (a) ensure that the policy seeks to promote the licensing objectives, and
 - (b) consult the local licensing forum; the relevant health board; and such other persons as a board thinks appropriate.

4.3 The licensing objectives are:

- (a) preventing crime and disorder
- (b) securing public safety
- (c) preventing public nuisance
- (d) protecting and improving public nuisance
- (e) protecting children and young persons from harm.

4.4 In exercising their functions during each licensing policy period, a Licensing Board must have regard to the licensing policy statement, and any supplementary licensing policy statement. Copies of policy statements must be made available free of charge and the fact the statement has been published must be publicised.

4.5 The Licensing Board, in reviewing its policy statement, must have regard to the Scottish Government's Section 142 Guidance for Licensing Boards, January 2023. A link to that guidance is provided in the Background Papers in the Annex below.

5. CONTEXT OF POLICY REVIEW

5.1 The Board's existing policy statement is attached as Appendix 1 to this Report. For the assistance of the Board, possible changes to existing policy using the track and trace facility are shown. Tables have also been inserted into the policy statement setting out an explanation of the various possible changes. The information provided is drawn from various sources but, in particular, the experience of applications before the Board in the last five years.

5.2 The Board are also entitled to take into account their knowledge and experience in licensing matters and their local knowledge when reviewing the licensing policy statement.

5.3 Once the Board has decided on the terms of its Draft Licensing Policy Statement, that will then be issued for public consultation. It is intended to issue the consultation shortly after this meeting to allow for approximately 8-10 weeks consultation. Any responses received will be reported back to the Board in August or September for a final decision to be taken on the content of the next licensing policy statement.

5.4 It should be noted that once public consultation takes place, new or substantially revised policies cannot be put forward as they will not have been consulted upon. Minor revisions may be possible. The Board may also choose not proceed with proposed policies consulted upon when finalising the policy statement.

6. CONCLUSIONS

- 6.1 This report outlines the need for the Board to undertake a review of its Policy Statement and asks the Board to decide the terms of its Draft Licensing Policy Statement for public consultation.

Author(s)

Name	Designation	Contact Details
Colin Elliott	Solicitor and Depute Clerk	Ext. No. 75131 Email: cdelliott@pkc.gov.uk

Approved

Name	Designation	Signature
Sarah Rodger	Legal Manager and Depute Clerk to Perth and Kinross Licensing Board	
Date 31 March 2023		

If you or someone you know would like a copy of this document in another language or format, (on occasion only, a summary of the document will be provided in translation), this can be arranged by contacting Colin Elliott



Council Text Phone Number 01738 442573

ANNEX

1. IMPLICATIONS, ASSESSMENTS, CONSULTATION AND COMMUNICATION

Strategic Implications	Yes / None
Statement of Policy	Yes
Resource Implications	
Financial	No
Workforce	Yes
Assessments	
Equality Impact Assessment	None
Consultation	
Internal	Yes
External	No
Communication	
Communications Plan	Yes

1. Strategic Implications

- 1.1 This Report relates to the review of the Board's Licensing Policy Statement. A new policy statement will affect the Board's decision making in the future and affect premises licence holders, neighbours to those premises, and to the public generally.

2. Resource Implications

2.1 Workforce

Further time and resources will be required to advance the review of the licensing policy statement. Although significant, those time and resources will be absorbed within existing resources.

3. Assessments

- 3.1 The proposals have been considered under the Corporate Equalities Impact Assessment process (EqIA) using the Integrated Appraisal Toolkit and have been assessed as **Yes – completely true** for the purposes of EqIA.

4. Consultation

- 4.1 Internal consideration of this report has taken place within Licensing. In the future, public consultation will take place on the draft licensing policy statement. Consultation will take place direct with those listed as consultees. Public consultation will also be undertaken by placing the Draft Licensing Policy Statement on the Council's website.

5. Communication

- 5.1 A press release will also be prepared to assist in notifying the public of the consultation.

2. BACKGROUND PAPERS

- Licensing (Scotland) Act 2005
- Scottish Government's Section 142 Guidance for Licensing Boards, January 2023:

[Licensing \(Scotland\) Act 2005 Section 142 Guidance for Licensing Boards
\(\[www.gov.scot\]\(https://www.gov.scot\)\)](https://www.gov.scot/publications/licensing-act-2005-section-142-guidance-for-licensing-boards/pages/1-1-introduction.aspx)

3. APPENDIX

- 1 Perth and Kinross Licensing Board Policy Statement 2018-2023 incorporating possible changes and issues for next licensing policy statement



Perth and Kinross Licensing Board

Policy Statement under the Licensing (Scotland) Act 2005

201823 – 202328

~~27 September 2018~~(Date Board finalises Policy Statement after consultation to be inserted)

FOREWORD

Consultation on this document took place between ~~8 June 2018~~ (Date to be inserted) 2023 and ~~17 August 2018~~(Date to be inserted) 2023. The policy will be applied during the period from ~~45~~ November 20182023 to ~~45~~ November 20232028. It will be kept under review and revised, if appropriate, by the issue of supplementary policy statements which will apply to the end of the same period.

Prior to publication of this policy, the Board consulted with:-

- The Local Licensing Forum for the Board area
- Perth and Kinross Council – Planning; Building Standards; Environmental and Regulatory Services (food hygiene and noise team); and Economic Development
- All Community Councils for the Board area
- Police Scotland
- Scottish Fire and Rescue Service
- NHS Tayside
- Alcohol Focus Scotland
- Perth and Kinross Community Safety Partnership
- Community Planning Partnerships
- Perth and Kinross Association of Voluntary Service (PKAVS)
- Elected members (not sitting on the Board) for Perth and Kinross Council
- City Centre Tenants and Residents Association
- The Scottish Licensed Trade Association
- Scottish Beer and Pub Association
- Perth and Kinross Alcohol and Drug Partnership
- Perthshire Chamber of Commerce
- Scottish Grocers Federation
- Licensing Solicitors
- Fife Licensed Trade Association
- and all other persons with an interest in the Licensing Objectives

INDEX

ITEM	PAGE
Foreword	2
Index	3
1. Introduction	4
2. The Licensing Objectives	6
3. Board Business	7
4. Premises Licences	8
5. Management of Premises	10
6. Premises Providing Late Night Entertainment	17
7. Licensed Hours and Extended Hours	18
8. Occasional Licences	22
9. Special Issues – Overprovision & Occupancy Capacity	25
10. Special Issues – Members Clubs	26
11. Special Issues – Excluded Premises - Garages	27
12. Special Issues – Pavement Cafes	28
13. Special Issues – Irresponsible Promotions	28
14. Special Issues – Price Variation of Alcohol	29
15. Personal Licences	29
16. Licensing Standards Officers	29

1. **INTRODUCTION**

- 1.1 Perth and Kinross Licensing Board has approximately 600 premises licensed to sell alcohol. There are also over ~~1750~~1950 individuals who have a personal licence which allows them to manage licensed premises or run occasional events where alcohol is sold.
- 1.2 For Perth and Kinross, alcohol licensing is the responsibility of Perth and Kinross Licensing Board which is made up of ~~499~~ elected members of Perth and Kinross Council. From their number there is a Convenor and Vice Convenor. The Clerk to the Licensing Board is the Head of Legal & Governance Services for Perth and Kinross Council assisted by Depute Clerks and other staff.
- 1.3 Section 6 of the Licensing (Scotland) Act 2005 requires all licensing boards to publish a statement of licensing policy. That statement applies from 18 months after a council election until 18 months after the next council election. This statement applies from ~~45~~ November ~~2018~~2023 until ~~45~~ November ~~2023~~2028. The Board is required to ensure that its policies promote the licensing objectives. They are set out in Section 4 of the Licensing (Scotland) Act 2005 and 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.

Each objective is equally important.

Comment
The Scottish Government's Section 142 Guidance for Licensing Boards, January 2023 emphasises that the 5 objectives are equally important.

Subject to the promotion of the licensing objectives, the Board recognises and supports the contribution which licensed premises make to the economy of the area, to employment, tourism and the vitality of the area.

- 1.4 In exercising its functions under the Act the Board must have regard to this Licensing Policy Statement and any Supplementary Licensing Policy Statement. The Licensing Board will consider all applications on their merits within the context of the legislative framework, the Licensing Policy Statement and any Supplementary Licensing Policy Statement. In particular, the Board will give due consideration to whether or not an application conforms to this Licensing Policy Statement. Where an application is out with policy, it will be for the Applicant to persuade the Licensing Board why the application should be granted.

- 1.5 When considering an application for a premises licence, a provisional premises licence, or an application for variation of a premises licence, the Licensing Board must consider whether any grounds for refusal of the application exist. In particular it is highlighted that, if the Board considers that it would be inconsistent with one or more of the licensing objectives, it must refuse that application. For a premises licence application or a provisional premises licence application, the Board must also refuse the application if it considers that having regard to the licensing objectives, the applicant is not a fit and proper person to be the holder of a premises licence. For personal licence applicants, in certain circumstances, the Board may also refuse the application on the basis that having regard to the licensing objectives, the applicant is not a fit and proper person to be the holder of a personal licence.

Therefore, the Board will wish to have sufficient information from Applicants to allow it to make a decision.

Applicants will also require to take into account any relevant policy as set out in this Licensing Policy Statement.

- 1.6 The Board acknowledges that its licensing powers are not the main statutory mechanism for dealing with issues such as anti-social behaviour and nuisance and will avoid duplication with any other statutory or other systems of control which can be more appropriately applied to the circumstances.
- 1.7 The Board acknowledges the need to maintain a clear distinction between the licensing and planning processes. The Board will work with Perth and Kinross Council to ensure that duplication and inefficiency are avoided in the planning, building standards, environment services and licensing processes.
- 1.8 The Board will work towards ensuring the integration of its policy statement with other local strategies relevant to the licensing objectives such as the Community Plan, and crime prevention, anti-social behaviour and community safety strategies, ~~and the Alcohol and Drug Partnership Strategy, and the Perth City Plan.~~ The Board will also have regard to national strategies to address the social, health and crime and disorder issues created by alcohol misuse, in particular the ~~"Changing Scotland's Relationship with Alcohol: A Framework for Action 2009" which continues to be relevant~~ Scottish Government's Alcohol Framework 2018. To achieve this it will work with Perth and Kinross Council and other agencies involved in the development of such strategies.
- 1.9 The Board values the diversity that exists within Perth and Kinross and wishes to ensure full participation in the social, cultural and economic life of the area. Scottish public authorities are legally obliged by the Equality Act 2010 to pay due regard to the need to eliminate unlawful discrimination, victimisation and harassment; to advance equality of opportunity and to foster good relations between those people who share a protected characteristic and those who do not. In particular, it is unlawful to discriminate on the basis of age, disability, gender reassignment, marriage and civil partnership; pregnancy and maternity, race, religion or belief, sex or sexual orientation.

Reference is made to the Licensing Board Mainstreaming Report which more fully sets out the Board's position in relation to equality.

Applicants and existing premises licence holders are specifically reminded of their duty to make reasonable adjustments to their premises to allow access for disabled persons.

2. THE LICENSING OBJECTIVES

2.1 In general terms the Board will seek to promote the licensing objectives as follows:

Preventing Crime and Disorder

The Board supports a strategy aimed at making its area a safe place to live in and visit. The Board is committed to improving the quality of life for the people in the area by ensuring that licensed premises are run in such a way as to not contribute to crime and disorder. To enable the Board to make a decision about an application, applicants will be expected to provide information about how they will address the problems of:-

- Underage drinking;
- Drunkenness on or around premises;
- Illegal possession and/or use of drugs;
- Possession of offensive weapons;
- Violent or aggressive behaviour;
- Anti-social behaviour;
- Litter and waste management.

Securing Public Safety

The Board is committed to ensuring that the safety of any person visiting or working on or in the vicinity of licensed premises is not compromised. To enable the Board to make a decision about an application, applicants will be expected to provide information about the control measures they have in place to ensure the safety of those working on, visiting or in the vicinity of their premises.

Preventing Public Nuisance

The Board wishes to protect and maintain the amenity of residents and occupiers of other businesses from any adverse consequences of the operation of licensed premises whilst at the same time recognising the valuable cultural, social and business importance that such premises provide. The Board considers that "public nuisance" should be interpreted in its widest sense and in that respect considers it to include nuisance arising from noise, light, odour, litter and anti-social behaviour. To enable the Board to make a decision about an application, applicants will be expected to provide information about the control measures they have in place to prevent public nuisance by those visiting their premises.

Protecting and Improving Public Health

The Board recognises the link between the consumption of alcohol and public health. The Board wishes to see premises thriving in the area, but this cannot be at the expense of patrons' health and wellbeing. The Board will work with and have regard to the views of the relevant bodies responsible for, and interested in, the protection and improvement of public health in the area, such as NHS Tayside and the Alcohol and Drugs Partnership. It will take advice from those relevant bodies.

To enable the Board to make a decision about an application, applicants will be expected to provide information about the control measures they have in place to protect patrons' health. This may include such measures as making information available through posters and leaflets for staff and patrons (such as information made available by the ADP) with regard to sensible drinking, the effects of excessive alcohol consumption and contact points where assistance can be obtained with problem drinking.

Protecting Children and Young Persons from Harm

The Board wishes to see family friendly-premises thriving in the area. Where applicants wish to operate such premises, the Board expects them to appreciate that this places additional responsibilities upon them at the same time recognising that parents and other adults accompanying children and young persons also have responsibilities.

The Board also takes very seriously the issue of underage drinking and wishes to remind licensees that they and their staff must comply with all other legislation in relation to children and young persons including not selling or allowing the sale of alcohol to children and young persons.

To enable the Board to make a decision about an application, applicants will be expected to provide information about the control measures they have in place to protect children and young persons from harm, and in particular the measures they have for preventing the sale and supply of alcohol to those under the age of 18.

3. BOARD BUSINESS

3.1 Openness and accessibility

The Board will deal with all of its business in an open and transparent way. Information and assistance will be made available to those who wish to apply for a licence, to make representations or to object to an application. The Board is also aware of the need to ensure that the licensing process is accessible to all. Assistance will be available on request for those who require assistance to access any part of the process.

The Board has guidance notes which are available to assist the public.

It should be noted that the Board expects applicants/licence holders to attend Board meetings. Where an applicant or licence holder has an agent, the applicant/licence holder is expected to attend as well as their agent. The agent should not attend on their own.

3.2 Decision making

It is the Board's aim to provide an efficient and cost effective service to all those who are involved in the licensing process. Therefore, the Board has adopted a Scheme of Delegation to ensure that decisions can be made in a way which is consistent with this aim. This Scheme, in particular, sets out the decisions which may be made by the Clerk to the Board or staff.

4. PREMISES LICENCES

- 4.1 Premises that wish to sell alcohol for consumption on or off the premises will require to have a premises licence. This will govern, amongst other things, what activities are allowed on the premises and what hours the premises can open for business. Each licence will be tailored to the type of premises in question. There must be a description of the premises, an operating plan and a layout plan of the premises.

Applicants should pay particular attention to the operating plan and the layout plan. If an activity is not mentioned in the operating plan that activity cannot take place on those premises until further authorisation is sought from the Board by way of seeking a variation of the premises licence.

The Board will provide guidance and advice to all applicants in relation to the requirements for operating plans and layout plans.

Applicants for a premises licence or a provisional premises licence must submit a disabled access and facilities statement. That statement must be submitted with the application otherwise it cannot be processed. Applicants for a major variation of a premises licence are also requested to submit a statement.

Applicants for a premises licence or a provisional premises licence are also expected to complete and submit the Board's Supplementary Information document setting out how the business will comply with the licensing objectives. That document should be submitted at the same time as the application is submitted.

4.2 Notification of Applications, Objections and Representations

The Licensing Board must give notice of a premises licence application or a premises licence variation application to:

- (a) each person having a notifiable interest in neighbouring land (as defined by The Licensing (Procedure) (Scotland) Regulations 2007, regulations 3 & 4);
- (b) any community council within whose area the premises are situated;
- (c) Perth and Kinross Council;
- (ca) NHS Tayside;
- (d) Chief Constable of Police Scotland; and
- (e) Scottish Fire and Rescue Service

Any person may submit an objection or representation to the Board. Any objection will likely relate to one of the five licensing objectives and must relate to specific premises.

Any objection to a premises licence application or premises licence variation application on the general basis of opposing the use of alcohol or to opening on a Sunday may be considered to be frivolous by the Licensing Board and may be rejected without being considered in determining the application.

Any person submitting an objection or representation including in support of an application should note that it will be treated as a public document. It will not be treated as confidential. It must be copied to the applicant and may be copied to other parties. It will also be placed before the Board for consideration. Any person submitting an objection or representation will be invited to attend a board meeting to address that objection or representation.

4.3 Consideration of premises licence applications and premises licence variation applications

The Licensing Board will assess each premises licence application on its own merits within the context of the five licensing objectives and this Policy Statement. For the assistance of applicants, 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
- the provision of toilet facilities
- whether children and/or young persons are to have access to the premises or parts of premises and upon what terms
- the need for registered door supervisors
- areas or activities which may have potential for crime and disorder or public nuisance and any measures to mitigate those issues

When considering any application for a premises licence, a premises licence variation application or in any review of an existing licence, the Board will take into account any relevant evidence, especially of the impact on local residents

and businesses and will also look at the measures proposed by the applicant to mitigate any adverse impact.

4.4 Conditions

Mandatory conditions are set out both in the Act and in Regulations. The Board will consider in relation to each application whether it is necessary or expedient to impose additional (local) conditions for the purposes of one or more of the licensing objectives or otherwise to give effect to the provisions of this policy statement or to the provisions of the Act. The decision whether to impose a condition will be made on an objective basis, having regard to the operating plan and any representations made and any other relevant information available to the Board when considering the application. The Board will not impose disproportionate conditions.

4.5 Confirmation of Provisional Premises Licence

Where confirmation of a provisional premises licence is sought to enable alcohol to be sold and consumed on the premises, the Licensing Board may make a variation to the conditions for the purposes of ensuring consistency with any statement of licensing policy issued since the provisional licence was granted.

Comment
The Scottish Government's Section 142 Guidance for Licensing Boards states this note should be put in the Statement of Policy.

Formatted: Font: (Default) Arial, 12 pt

5. MANAGEMENT OF PREMISES

- 5.1 The Board considers that premises licence holders and their staff should operate their business or operation in a manner which is consistent with the five licensing objectives. There are various aspects of running licensed premises which are of particular concern to the Board. The Board has therefore decided to implement policies in these areas. The Board may consider imposing additional local conditions to reflect these concerns. The areas of particular concern are as follows:

5.2 Proof of Age

There must be a written age verification policy in relation to the sale of alcohol on the premises (for both on and off consumption). That policy should include that steps are to be taken to establish the age of a customer attempting to buy alcohol on the premises, 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).

This does not apply to any sale of alcohol treated as taking place on premises by virtue of Section 139 of the Licensing (Scotland) Act 2005 (remote sales of alcohol).

Acceptable forms of identification are: passport; European Union photo driving licence; Ministry of Defence Form 90 (Defence Identity Card); a photographic identity card bearing the national Proof of Age Standards Scheme hologram; a national identity card issued by a member State of the European Union (other than the United Kingdom), Norway, Iceland, Liechtenstein or Switzerland; and a Biometric Immigration Document.

5.3 Purchase of alcohol for a child or young person

The Licensing Board expects premises licence holders and their staff to be aware of adults attempting to purchase alcohol for children and young persons. Premises licence holders for premises with the facility for on and/or off sales are expected to have policies and procedures in place to prevent such sales. Training should be given to staff to monitor for and prevent such sales and premises licence holders should monitor the effectiveness of their training.

5.4 Training

Applicants should note that the premises manager named in the premises licence application must hold a personal licence. To apply for a personal licence, a person must have an accredited qualification. Once a person holds a personal licence they must undergo refresher training at the appropriate point.

In addition, Regulations require that a personal licence holder or other person with an accredited qualification must provide training for all staff working in licensed premises who are involved in the sale of alcohol. This training must cover the matters set out in the Regulations. Records must be kept in set form of the training provided to staff.

The Board expects all premises licence holders to ensure that all new members of staff are given induction training in addition to being trained in accordance with the Regulations.

5.5 Management and supervision of premises and staff

The Board expects all premises licence holders, including qualifying (members) clubs, to supervise staff as well as providing training. Regular supervision and monitoring of staff should take place. Regular staff meetings may assist in this regard. Policies and procedures should be available and premises licence holders are expected to make sure that all staff involved in the sale and consumption of alcohol are properly trained generally and are fully aware of all relevant policies and procedures. Premises licence holders should supervise staff to ensure the policies and procedures are implemented.

Premises licence holders who have leased out their premises to be operated by a tenant should be aware that, as the premises licence holder, they continue to be responsible for the premise and should continue to exercise that responsibility in a manner consistent with the five licensing objectives. Before leasing the premises, a premises licence holder should undertake due diligence on the prospective tenants. This can include, but is not restricted to, bank references, other references, speaking to other members of the licensing trade, and conducting internet and social media searches. Where the prospective tenant is a company or partnership the directors, partners, and other persons involved in the running of the prospective tenants should also be subject to due diligence. Once a premise has been let, the premises licence holder continues to be responsible for the premises and is expected to have policies and procedures in place to ensure continuing supervision of the tenants and the premises. In the event of any issues arising and a premises licence review taking place, the premises licence holder will be cited to attend the hearing. The tenant may also be requested to attend.

5.6 Incident Book

The Board expects premises licence holders and their staff to operate an incident book on the premises, which should be used to record instances of refusal to sell alcohol on account of age or drunkenness, refusal to allow or permit entry to the premises, requests to leave the premises, violent or antisocial incidents, and other matters as appropriate.

Entries in the incident book should be made as soon as possible and should be sufficiently detailed so as to describe the incident and identify the persons involved. Members of staff present should be recorded. Premises licence holders and staff are expected to make the incident book available to the Police or Licensing Standards Officer on request. Other staff should be made aware of entries made. The use of an incident book and the events recorded can also form part of the regular training of staff.

5.7 Misuse of Drugs

Premises licence holders for premises with the facility for on consumption are expected to have policies and procedures in place to prevent the misuse of drugs on and in the immediate vicinity of the premises.

5.8 Offensive Weapons

Premises licence holders for premises with the facility for on consumption are expected to have policies and procedures in place to prevent the possession and use of offensive weapons, particularly knives, on and in the immediate vicinity of the premises. Premises licence holders may wish to consider the use of metal detection wands.

5.9 Police – contacting and cooperation with

Premises licence holders and their staff are expected to contact and co-operate with the police when appropriate, particularly when incidents of a violent or antisocial nature occur and when there is a breach of the Licensing (Scotland) Act 2005. The Board views contacting the police as a positive step for premises licence holders which is to be encouraged.

5.10 Children and Young Persons on Licensed Premises

The Board has a long standing interest in encouraging family-friendly premises within Perth and Kinross and wishes to continue to ensure that premises which seek to accommodate children and young persons are run in such a way that they are suitable for them.

In determining any application where the operating plan indicates that children and young persons are to be allowed on the premises, the Board will consider the need to protect children and young persons from harm as paramount.

Premises licence holders are expected to have carried out their own risk assessment regarding children and young persons having access to the premises and have policies in place which reflect the additional responsibilities placed on them when children and young persons are on the premises. Specifically, applicants will be expected to provide information about the measures they have in place to protect children and young persons from harm.

Premises licence holders and occasional licence holders are expected to have policies and procedures in place to protect children from harm when dart boards, pool tables and other games that maybe a safety risk to children are in use.

Glass doors are also of concern to the Licensing Board. Parts of premises to which children and young persons are to be allowed entry will require to have a suitable character and atmosphere. Premises or parts of premises which are very small and enclosed are unlikely to be able to provide the appropriate environment. Also premises which have very few facilities are unlikely to comply with the Board's requirements. Toilets should be of a reasonable standard and reasonably accessible to the area to which children and young persons are allowed entry.

The Licensing Board expects premises with the facility for on consumption which permit entry to children aged 5 or under to have the following:-

- (i) provision of a safe high chair facility
- (ii) provision for heating customer supplied children's food at no extra cost
- (iii) all heating sources adequately protected

~~all electrical sockets covered~~

- (iv) safety film placed on glass doors or BS standard safety glass

Comment
<p>Requirement (iv) is a common requirement for Licensing Boards.</p> <p>It is recommended that this requirement now be deleted. A check of Care Inspectorate Guidance revealed an Electrical Socket Alert issued in 2016 by the (England and Wales) Department of Health and NHS Scotland. It recommended electrical socket inserts should not be used in health or social care premises, nor supplied for use in a home or residence. Electrical socket inserts are not subject to any British Standard. The top electrical socket outlet can be damaged or the insert can break off, leaving the two bottom socket outlets live. This alert was only valid until June 2022, however, it is assumed the technical safety issue remains.</p>

The Licensing Board may impose conditions on a premises licence or an occasional licence where children are to be allowed entry including conditions to secure the above provisions.

Premises licence holders are also obliged to display a notice reasonably visible to customers entering the premises of at least A4 size which (a) states persons under 18 are not permitted on the premises; or (b) states such persons are permitted and to where on the premises. The Licensing Board also expects the times when children and young persons are permitted entry to be displayed.

Premises licence holders are reminded that they and their staff must comply with all other legislation in relation to children and young persons including not selling or allowing the sale of alcohol to children and young persons; not delivering alcohol to a child or young person; the employment of children and young persons; providing safe and clean nappy-changing facilities; and not preventing or stopping a child from being breast fed in terms of the Breastfeeding etc. (Scotland) Act 2005.

5.11 Noise

Between the hours of 11pm and 7am, no noise by way of music whether amplified or not or singing and speech emanating from licensed premises shall (i) exceed 31dB or 10dB above the underlying level, or (ii) for low frequency, exceed 47dB in 63Hz band and/or 41dB in 125Hz octave bands in any neighbouring property.

Between the hours of 7am to 11pm, premises licence holders are expected to take reasonable steps to prevent noise nuisance.

Noise from licensed premises is one of the main causes of complaint. Steps should be taken to avoid noise while disposing of glass bottles, and to limit any noise caused by patrons smoking outside premises and patrons leaving

licensed premises. Consideration should be given to the use of door stewards to monitor and control such noise and keeping doors and windows closed, installing soundproofing and using sound tests and sound limiters. Premises licence holders may wish to seek further guidance from Environmental Health, Perth and Kinross Council.

Where significant noise issues do arise, the Licensing Board may require the premises licence holder, at their own cost, to obtain a noise impact assessment from a suitably qualified acoustic engineer and to liaise with Environmental Health, Perth and Kinross Council on that assessment.

5.12 Dispersal of Patrons

Many occurrences of crime, disorder and public nuisance occur at or immediately after the terminal hour for the supply of alcohol. Premises licence holders should ensure that they and their staff have sufficient measures in place to ensure patrons leave the premises as quickly as possible, in good order and as quietly as possible. Measures may include limiting the amount of alcohol sold just before the terminal hour, such as, for example, only permitting a group to purchase one round as opposed to two, making sure all patrons are aware well in advance that the last time for purchasing alcohol is approaching, covering bar taps once the terminal hour has passed~~ed~~, raising the lighting level and inspecting all parts of the premises for patrons.

5.13 Smoking

Premises licence holders should ensure patrons and staff do not smoke within their premises. Other issues can arise in the area around the premises such as the blocking of entrances, blocking pavements or footways, noise nuisance, litter and disorder. Premises licence holders and their staff are expected to have sufficient measures in place to mitigate such problems.

5.14 Litter and Waste Management

Premises licence holders are expected to have a suitable litter and waste management programme in place to ensure that the area outside the premises are kept free of litter at all times including cigarette butts and waste including human waste.

Premises licence holders are expected to recycle/dispose of all waste, including glassware at times and in such a manner as to avoid disturbance to the neighbouring community.

5.15 CCTV

The use of CCTV on premises can be an important measure in complying with the licensing objectives, particularly in preventing crime and disorder and preventing public nuisance. Digital CCTV systems which include both internal and external camera coverage of the premises are readily available. The Board

supports the use of such systems and would encourage licensees to make use of them. Where used, such systems must be kept in proper working order at all times, all premises licence holders and staff must be able to operate the system, and images should be kept for at least one month and made available to Police Scotland on request.

5.16 Condition of Premises

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

5.17 Team Colours

The wearing and display of team colours, particularly football colours, by premises licence holders, staff and patrons can be a factor leading to crime and disorder or public nuisance. Premises licence holders are expected to provide information about how they will deal with such issues.

5.18 Radiolink & Pubwatch

In those areas where it is available, Radiolink and Pubwatch can be of assistance to premises licence holders and their staff in preventing crime and disorder and preventing public nuisance. The Board strongly supports the use of such schemes and would encourage premises licence holders to join these in areas where this is available.

Comment
Not currently operating. It is a matter for the Board whether to remove this policy or retain, should a replacement system come in place

5.19 Best Bar None Award Scheme

In those areas where it is available, applying for an award under the Best Bar None Scheme can be beneficial to premises licence holders. The areas covered by the criteria of the Award Scheme are linked to the objectives of the Board. The Board supports this Scheme and would encourage involvement in it.

Comment
Not currently operating. It is a matter for the Board whether to remove this policy or retain, should a replacement scheme come in place

5.20 Door Supervision

The Licensing Board, taking into account the licensing objectives of preventing crime and disorder, securing public safety, and preventing public nuisance may consider door supervision appropriate. Whether or not door supervisors are to be required and, if so, the number of door supervisors, the occasions they must be present, the hours they must be present, and possible specification of particular duties and functions will be assessed according to the merits of each individual application.

Applicants are reminded that all door supervisors must be registered with the Security Industry Authority under the Private Security Act 2001. To employ a door supervisor who is not registered is a criminal offence. Premises licence holders involved in what is termed manned guarding activities, whether or not door supervisors are used, may also have to be registered. Applicants should contact the Security Industry Authority for more information.

5.21 18th birthday parties

18th birthday parties, parties for other similar age groups and other events of a similar nature should be closely managed by premises licence holders and staff. A licence holder may be faced with a variety of issues including a sudden influx of persons wishing to attend the event beyond expected numbers due to the use of social media.

Should premises licence holders choose to run such an event, the Licensing Board expects there to be policies and procedures in place for the management of such events. Those policies and procedures should be implemented by the premises licence holders and all staff involved in the sale and consumption of alcohol. Such events should be pre-booked by a nominated person over the age of 18 such as a parent; guest lists should be obtained in advance; numbers controlled in advance and on the day of the event and sufficient numbers of staff should be on duty including door supervisors where appropriate. Measures should be taken to prevent children and young persons purchasing or consuming alcohol, to prevent sale to and consumption by drunk persons and to ensure the safe dispersal of those attending the event. It is important the Challenge 25 age verification policy is implemented by all staff throughout the whole event. Specific measures to verify ages should be in place such as tamper proof wrist bands.

5.22 Delivery of alcohol ~~to and consumption by persons under 18 or drunk persons~~

Premises licence holders or applicants who are seeking to operate an off sales delivery service should include this as another activity in their Operating Plan

~~Where premises licence holders with an off sales facility operate a delivery service, p~~ Policies and procedures should be in place and implemented by staff including in relation to the process of taking and recording of orders, training for delivery drivers, recording of items despatched, age verification policy, hours of

delivery, not leaving deliveries of alcohol in nominated places or on doorsteps, and recording deliveries made, and keeping a refusals register. Those policies and procedures should be aimed at preventing alcohol being delivered to and consumed by persons under 18 or drunk persons.

Applicants seeking the addition of a delivery service should expect the requirement for policies and procedures to be in place to be imposed as a local condition on the premises licence.

Premises licence holders are reminded that if they use a courier or the sale and delivery are carried out through a third party organisation, it is the responsibility of the premises licence holder to make sure the courier/third party has appropriate policies and procedures in place.

Comment
There is an increasing trend towards more off sales and towards deliveries of alcohol. This policy could be amended for clarity and greater emphasis.

5.23 Collection of alcohol

Premises licence holders or applicants who are seeking to operate an off sales collection service should include this as another activity in their Operating Plan.

Premises licence holders operating a Click and Collect service (remote sale whether via the internet, telephone or other means, and collect at the premises) should have policies and procedures in place and implemented by staff for checking the order made; hours of collection; age verification policy; ensuring collections are handed over, training of staff, recording collections made, and keeping a refusals register. Those policies and procedures should be aimed at preventing alcohol being collected by and consumed by persons under 18 or drunk persons.

Applicants seeking the addition of a collection service should expect the requirement for policies and procedures to be in place to be imposed as a local condition on the premises licence.

Comment
The Board can consider whether to put in place a new policy for the collection of alcohol. Although less prevalent than deliveries of alcohol, the facility to order in advance and collect alcohol from a premises has been increasing.

Formatted: Justified, Indent: Left: 0.5"

5.234 Control of Functions

Functions taking place on premises generally involve a substantial increase in numbers of persons on the premises. Premises licence holders should have a heightened awareness of any issues that may arise and should have appropriate policies and procedures in place. Special consideration should be given to staffing levels and the use of door supervisors.

6. **PREMISES PROVIDING LATE NIGHT ENTERTAINMENT**

- 6.1 Premises which provide late night entertainment, such as night clubs, are an important contributor to the night time economy and involve a substantial investment in the facilities and entertainment provided on the premises. Those premises tend to be places where patrons arrive from other licensed premises and stay until the terminal hour. The predominant activity on the premises or areas of premises providing late night entertainment should be DJ led music. Entertainment does not include karaoke; race nights; pool, darts or dominos competitions; background music; dinner-dances and weddings.

In light of this and the five licensing objectives, the Board will impose conditions on the licence of premises which in its view provide significant entertainment as follows:

- The provision of alcohol is for consumption on the premises only.
- The provision of alcohol is ancillary to the entertainment provided.
- The entertainment provided must be on a continuous basis with breaks of not more than 15 minutes in any one hour.
- There shall be a minimum entry charge which shall be fixed by the Licensing Board each year for the year beginning 1st July and ending 30th June. For the purposes of fixing the minimum entry charge the Board shall take into account any representations from the licensees of such premises.

The Licensing Board may also impose conditions in relation to the use of CCTV and door supervision at such premises as more fully detailed under Section 5.

The Licensing Board does not consider that children and young persons should be permitted entry when entertainment takes place except as a performer.

The conditions mentioned or referred to in this Section will be imposed on a premises licence for such a premise unless the circumstances of a particular application indicate otherwise and/or an applicant is able to demonstrate to the Board that a condition is not appropriate in the circumstances.

6.2 Adult Entertainment

Premises offering adult entertainment will be treated on a case by case basis.

The Board will expect applicants to give particular consideration to the promotion of the licensing objectives in relation to the protection of children and young persons from harm and the prevention of crime and disorder.

~~The licensing of sexual entertainment venues is due to come in to effect under the Civic Government (Scotland) Act 1982 in the future. That may result in adult entertainment being removed from premises licenses and thus from the remit of the Licensing Board. However, the Board's policy set out above remains in place until such time as a new policy is formulated.~~

Comment
Sexual entertainment venues are separately licensed under the Civic Government (Scotland) Act 1982, however, it remains a requirement in an Operating Plan to state whether adult entertainment takes place.

7. LICENSED HOURS AND EXTENDED HOURS

- 7.1 Whilst each application is assessed on its own merits, the following sets out the Licensing Board's policy on licensing hours. For applications seeking hours outwith the Board's policy, the practical onus is on the applicant to persuade the Board to grant the application. Applicants should provide information to enable the Board to make a decision about whether the additional requested hours are appropriate in the circumstances, and are consistent with the licensing objectives. Applications seeking hours outwith policy may be dealt with by the Board at a Board meeting rather than under delegated powers by officers.

For the avoidance of doubt, reference to times which occur shortly after midnight refer to the following day e.g. reference in the tables to Monday 1am means into early Tuesday morning.

7.2 Off-Sales

For applications relating to premises licences and to occasional licences, the licensed hours for the sale of alcohol for consumption off the premises (off-sales hours) are 10 am to 10 pm, each day. The Licensing Board has no discretion to permit licensed hours outwith these times. In determining applications and licensed hours within these times, the Board will, in considering the merits, have particular regard to the effect (if any) which the

proposed off-sales hours would have on the occurrence of anti-social behaviour.

7.3 On-Sales

For applications relating to premises licences including extended hours, the licensed hours for the sale of alcohol for consumption on the premises (on-sales hours), the Licensing Board considers the commencement of the sale of alcohol should be no earlier than 11 am.

Licensed hours for on-sales premises, in particular, can have an impact not only within the individual premises but also within the locality in which the premises are situated. Taking into account the five licensing objectives, the presumption against 24 hour drinking and the [Guidance for Licensing Boards and Local Authorities issued by the Scottish Executive](#) [Scottish Government's Section 142 Guidance for Licensing Boards](#) and that mandatory conditions specified by Regulation apply to those premises opening after 1am, the Licensing Board considers appropriate hours during which alcohol may be sold on the premises or parts of premises to be as set out below.

For premises licence, provisional premises licence and variation applications, social demand hours should be entered in Section 2 of the Operating Plan. Any later on-sales hours sought should be entered into Section 5(f) of the Operating Plan.

7.4 Social Demand hours (premises offering no significant entertainment facilities)

Those premises or parts of premises where the provision of alcohol is the principal activity and significant entertainment facilities are not provided. This includes public houses and members clubs.

Period	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Annually except festive period	12am	12am	12am	12.30am	12.30am	12.30am	12am
Festive period	1am	1am	1am	1am	1am	1am	1am

7.5 Restaurants

Those premises or parts of premises where the supply of alcohol for consumption is ancillary to a table meal taken by persons within the premises.

It can be entered in the Operating Plan or the Board will impose a condition on the premises licence that the provision of alcohol after social demand hours and during restaurant hours is ancillary to a table meal taken on the premises.

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
1am	1am	1am	1am	1am	1am	1am

7.6 Function hours (premises offering significant entertainment in function rooms or subject to close down)

Premises or parts of premises which ordinarily fall under paragraph 7.4 but which

- have a separate function room and/or
- the bar shall be closed such that no alcohol is sold for 30 minutes prior to the commencement of the function
- where the provision of alcohol is ancillary to the function.
- No general public entry is permissible and entry should be limited and controlled

Functions considered acceptable for this purpose include dances, discos, dinner-dances, wedding receptions and parties where a disco or band is provided. Functions generally not considered acceptable for this purpose include darts, dominos or pool competitions, karaoke evenings, race nights, or private parties where there is no significant entertainment as these events can take place during the hours set out in Section 7.4. Where live entertainment is not an integral part of the function then this would also not be acceptable eg background music. The functions must not be for general public entry and entry should be limited and controlled e.g. by payment or ticket.

Period	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Annually except festive period	1am	1am	1am	1.30am	1.30am	1.30am	1am
Festive period	1.30am	1.30am	1.30am	1.30am	1.30am	1.30am	1.30am

7.7 Entertainment/nightclub hours (premises offering significant entertainment facilities and subject to conditions the Board may impose)

Premises or parts of premises where the provision of alcohol to persons frequenting the premises for consumption on the premises is ancillary to the significant entertainment provided and subject to conditions the Licensing Board may impose in relation to such premises. These include premises referred to in paragraph 6.1 above, such as nightclubs.

Period	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Annually except festive period	2am	2am	2am	3am	3am	3am	2am
Festive period	2.30am	2.30am	2.30am	3am	3am	3am	2.30am

Where Christmas Eve and Hogmanay do not fall on a Friday or Saturday night the terminal licensed hour for those nights will be the same as for the Friday and Saturday festive period terminal licensed hour as set out in the table above.

7.8 Festive Trading

The Board permits longer licensed hours over the festive period for festive social demand hours; festive function hours; and festive entertainment hours. The period for longer hours is 8 December to 2 January. In addition, for festive function hours, individual pre-booked Christmas parties may take place from 1 December to 2 January.

Festive hours are as shown in paragraphs 7.4, 7.6, and 7.7 above.

7.9 Additional Considerations

Premises operating as hotels should note that if they wish to serve alcohol to residents beyond the ordinary licensed hours, they can specify the hours during which they wish to do so in their operating plan. Premises licence holders should note that the Act creates a presumption against 24 hours drinking.

In determining applications where more than one activity takes place in the premises or where parts of premises fall under different licensed hours categories as specified above, the Licensing Board will have regard to when the activities take place and the principal activity taking place. The Board may impose further conditions to ensure other activities do not take place or remain ancillary to the principal activity for those licensed hours.

Premises where more than one of the categories of licensed hours applies in different parts of the same premises will be given careful consideration. The Licensing Board may impose conditions and/or different licensed hours to those parts of premises to ensure the activities remain separate.

7.10 Extended Hours Applications

The Licensing Board may extend the licensed hours in respect of premises by such period as the Board considers appropriate. The Board will normally only do so in connection with (i) a special event or occasion to be catered for on the premises, or (ii) a special event of local or national significance. The grant of an extension of licensed hours can only last for one month.

Where the hours sought fall outwith the on-sales hours specified in this statement, the practical onus is on the applicant to provide information to enable the Board to make a decision about the application. Applications seeking hours outwith policy may be dealt with by the Board at a Board meeting rather than under delegated powers by officers. Information to be provided includes:-

- the hours sought
- the description of the special event or occasion
- what activities are proposed to take place during those hours
- when each activity will take place
- why the event or occasion is considered to be special, and
- why the event or occasion cannot take place within the on-sales hours specified above.

Applications submitted less than 7 weeks prior to the date sought may not be capable of being processed in time for that date.

The Licensing Board, on granting extended hours, may vary the conditions of the premises licence as it considers necessary or expedient for the purposes of any of the licensing objectives. The decision whether to vary conditions will be made on an objective basis taking account of any representations made and any other relevant information available to the Board. The Board will not impose disproportionate conditions.

8. OCCASIONAL LICENCES

8.1 It is possible to make an application for an occasional licence authorising the sale of alcohol on premises which are not licensed premises. This may be made by:-

- the holder of a premises licence,
- the holder of a personal licence,
- or a representative of any voluntary organisation.

An occasional licence can only last up to a maximum of 14 days.

There are restrictions on the number of applications a voluntary organisation can make, in any period of 12 months. Guidance is available in relation to this.

Members clubs with a premises licence may also have to apply for an occasional licence to allow for general public entry. Restrictions apply on the number of occasional s that can be sought in any period of 12 months.

To allow time to consult the Police and the Licensing Standards Officer, and for objections to be made, applications should be submitted as far in advance of the event as possible. Applications submitted less than 7 weeks prior to the date sought may not be capable of being processed in time for that date.

Applicants should also be aware that they may also require a public entertainment licence, market operator licence, street trader licence, late night catering licence and/or permission for a raised structure (including a platform, stand or stage) issued by Perth and Kinross Council under the Civic Government (Scotland) Act 1982.

8.2 Particular issues with occasional licenses include:

- The Board considers it reasonable for occasional licences covering up to 30 days (including into the following mornings) ~~to be granted~~ in any one calendar year to be granted for a single premise. Where more than 30 days are sought, the Board expects a premises licence application to be submitted. Failure to do so may result in all further occasional licence applications being submitted to the Board for consideration rather than being dealt with under delegated powers. This does not apply to places such as village halls where different organisations use the same premise.

Comment	
The number of occasionals per year have been:	
2014	894
2015	854
2016	949
2017	1006
2018	1175
2019	1161
2020	661
2021	930
2022	1116
Premises who have previously applied for and been granted premises licenses are estimated to have reduced the number of occasional licenses by around 250 per year.	
A court case from 2021 arose when a Licensing Board refused continuous occasionals on grounds inconsistent with the licensing objectives, that they were not for occasional use, and concerns over the nature, size and scale. That Board lost the appeal partly due to continuous occasionals being permissible, and due to imposing requirements on an occasional licence that are not permissible. However, since that case, the Scottish Government have issued their (revised) Section 142 Guidance for Licensing Boards in January 2023. That expressly refers to, 'Occasional licences are not intended as a substitute for premises licences' and that the above Perth and Kinross Licensing Board policy may be considered.	
The above policy can continue, if the Board decides to do so. The policy does not impose additional requirements on occasional licenses. Instead, it indicates delegated powers may not be exercised and applications may be referred to the Board for a decision. The policy does not impose requirements on the determination of an occasional licence application.	

The change suggested is to make it clear it is 30 days in any calendar year, not that applications have been granted in a calendar year irrespective of which year the event takes place in.

- Where the capacity of the alcohol licensed area is for 500 persons or more, an alcohol management plan (AMP) and layout plan should be submitted along with the occasional licence application. Guidance is available on what the Board expects to be in the AMP and layout plan.
- Where the licensed area sought is an outdoor area and is within an alcohol byelaw area, the licensed area should be physically enclosed by use of, for example, fencing or ropes and entry/exit should be controlled.

Comment
A small change for clarity purposes is suggested

- For some occasional licence applications such as for outdoor areas, a layout plan showing the proposed licensed area may be requested.
- Tasters for off sales are only permitted in the immediate vicinity of the licensed area, such as a stall.
- ~~Where a premises licence or a provisional premises licence application is applied for, occasional licences shall generally not be granted unless all Section 50 certificates for Planning, Building Standards and Food Hygiene are in place.~~

Comment
<p>This policy was originally put in place to prevent a provisional premises licence holder running on occasionals without seeking confirmation of the licence whilst, perhaps, not having building standards clearance in place. It was relaxed during the pandemic to allow for flexibility.</p> <p>The court case referred to above indicates that the requirement for Section 50 certificates should not be linked to occasional licenses. This policy can therefore be removed.</p> <p>Where a provisional premises licence holder continuously applies for occasional licenses, it will still be possible for officers to decline to exercise delegated powers and remit the occasional licence applications to the Board to consider the particular circumstances.</p>

- 8.3 The Licensing Board considers the commencement of the sale of alcohol for on consumption should be no earlier than 11am. For the terminal hour beyond which alcohol must not be sold on the premises, the Licensing Board considers the following to be appropriate:-

Social demand hours (where there is no specific entertainment)

Period	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Annually except festive period	12am	12am	12am	12.30am	12.30am	12.30am	12am
Festive period	1am	1am	1am	1am	1am	1am	1am

Functions (where there is specific entertainment)

Period	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Annually except festive period	1am	1am	1am	1.30am	1.30am	1.30am	1am
Festive period	1.30am	1.30am	1.30am	1.30am	1.30am	1.30am	1.30am

The Board considers that activities such as dances, discos and dinner-dances, wedding receptions and parties where a disco or band is provided are generally acceptable for granting an occasional licence beyond those hours set out above for where there is no specific entertainment. Darts, dominos or pool competitions, karaoke evenings, race nights or private parties where there is no significant entertainment are not generally considered acceptable activities for an occasional licence beyond those hours set out above for where there is no specific entertainment. Where live entertainment is not an integral part of the function then this would also not be acceptable eg background music. The function must not be for general public entry and entry should be limited and controlled eg by payment or ticket.

The Board will pay particular attention to occasional licence applications for events primarily aimed at children and young persons and whether the provision of alcohol would be appropriate for that event.

8.4 The Board permits longer occasional licensed hours over the festive period for festive social demand hours and festive function hours. The period for longer hours is 8 December to 2 January. In addition, for festive function hours, individual pre-booked Christmas parties may take place from 1 December to 2 January.

Occasional festive hours are as shown in paragraph 8.3 above.

Comment
This seeks to add clarity by matching what is set out in paragraph 7.8 above for premises licences.

8.45 For applications for licensed hours at times outwith the Board's policy, the practical onus is on the applicant to provide information to enable the Board to make a decision about whether the additional hours are appropriate in the circumstances, and are consistent with the licensing objectives. Applications seeking hours outwith policy may be dealt with by the Board at a Board meeting rather than under delegated powers by officers.

8.56 Conditions

The Board is aware of the mandatory conditions for occasional licences which are set out both in the Act and in Regulations. The Board will also consider in relation to each application whether it is necessary or expedient to impose additional conditions, to promote one or more of the licensing objectives or otherwise to give effect to the provisions of this policy statement, any supplementary licensing policy statement or to the provisions of the Act. The decision whether to impose a condition will be made on an objective basis taking account of any representations made and any other relevant information available to the Board. The Board will not impose disproportionate conditions. Detailed consideration on whether to impose local conditions will be given by the Board particularly for high risk events such as where large numbers of persons will be in attendance. The training and supervision of persons involved in the sale of alcohol may also be considered as a local condition.

9 **SPECIAL ISSUES - OVERPROVISION AND OCCUPANCY CAPACITY**

9.1 Overprovision

The Licensing Board must include a statement as to the extent to which it considers there to be overprovision of licensed premises or licensed premises of a particular description, in any locality within the Board's area.

At present, the Licensing Board has not reached any conclusion that there is overprovision of licensed premises of any description within its area.

~~The Licensing Board is discussing the question of overprovision with Perth and Kinross Alcohol and Drugs Partnership. The Board will consult upon a supplementary policy statement in respect of overprovision in the future. Meantime, the Board will continue to consider premises licence and premises licence variation applications against the grounds of refusal, including on the basis of overprovision.~~

Comment
Deletion of the paragraph is suggested to achieve greater simplicity.

The issue of overprovision is a complex area. Previously, the ADP looked into the question of overprovision. No conclusion or recommendation was received. For this review, NHS Tayside have been approached. Should detailed information be forthcoming, a supplementary licensing policy statement can be considered.

9.2 Occupancy Capacity

The occupancy capacity of premises is one factor in the assessment of overprovision for the purpose of this policy statement, is a factor in the ground of refusal of a premises licence on the basis of overprovision, and may be a factor for consideration in an Occasional Licence application.

The Board may consider setting maximum occupancy limits to ensure the safety of persons in the premises and safe escape in the case of an emergency. If there are additional concerns about crime and disorder or public nuisance, the Licensing Board may consider setting a lower maximum occupancy limit than that recommended by Building Standards.

The Licensing Board will expect applicants to consider various factors when assessing the appropriate capacity for premises or events. These include:-

- The design and layout of the premises
- The location, availability and size of exits including emergency exits
- 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 age of the customers
- The attendance by customers with disabilities
- The availability of suitable and sufficient sanitary accommodation
- The nature and provision of facilities for ventilation

Licence holders will be expected to have arrangements in place to monitor the number of persons present at any point to ensure that the occupancy capacity is not exceeded.

10. **SPECIAL ISSUES - MEMBERS CLUBS**

- 10.1 All clubs require to have a premises licence in the same way as other premises selling alcohol. However, most members clubs will be exempt from some

provisions of the Act. Those clubs which are exempt are defined in Regulations. The Board will follow these when deciding which clubs are exempt. Those which are not exempt will have to comply with the full requirements of the Act.

- 10.2 The Board considers in relation to members clubs that (1) the licence holder shall continue to meet the requirements of a club of such description as may be prescribed under the Licensing (Scotland) Act 2005 (to be a qualifying club) and shall abide by its written constitution and rules, and (2) no alcohol shall be sold or supplied for consumption off the premises except to a member of the club in person.
- 10.3 The considerations referred to in Section 10.2 above will be imposed as local conditions on a premises licence for a qualifying club unless the circumstances of a particular application indicate otherwise and/or an applicant is able to demonstrate to the Board that the condition is not appropriate in the circumstances.
- 10.4 The Board considers that to be supplied alcohol, no more than 10 non-members can accompany each member of the club unless an occasional licence is in place or those persons are members of another qualifying club.
- 10.5 Members clubs should also be aware that they are expected to operate in a manner consistent with the five licensing objectives. The various aspects of concern set out in Section 5 of this Policy Statement should be referred to. It is important that an appropriate degree of management and supervision is exercised over the premises and all persons involved in the sale and consumption of alcohol as set out in Section 5.5.

11 SPECIAL ISSUES - EXCLUDED PREMISES - GARAGES

- 11.1 Some premises are excluded 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 (a) sale by retail of petrol or derv (diesel), (b) the sale of motor vehicles, or (c) the maintenance of motor vehicles.
- 11.2 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 Licensing 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.
- 11.3 In determining an application for such a premises, the Licensing Board expects the applicant to provide sufficient information to enable the Board to consider:
 - (i) the locality in which the premises are situated,

- (ii) what other sources of (a) petrol or derv and/or (b) groceries are in that locality, and
- (iii) the extent to which persons resident in that locality are, or are likely to become, reliant on the premises as the principal source of (a) petrol or derv, or (b) groceries.

11.4 Factors the Licensing Board may consider include:-

- the number of premises selling petrol or derv or groceries in the locality;
- the distance to the nearest other premises selling petrol or derv or groceries;
- the opening hours of other premises selling petrol or derv or groceries in the locality;
- the number and/or percentage of persons resident in the locality who are, or are likely to become, reliant on the premises and,
- to what extent, the premises are the principal source of (a) petrol or derv, or (b) groceries, with particular reference to weekly groceries rather than convenience goods.

12. **SPECIAL ISSUES – PAVEMENT CAFES**

- 12.1 Pavement cafes are part of the adopted roadway. Beer gardens are not pavement cafes as they are on private ground and not part of the adopted roadway.
- 12.2 To operate a pavement café, ~~planning consent and r~~Roads' consent is required. The Board expects ~~those Roads'~~ consents to be in place before an application to include that pavement cafe in a premises licence is submitted.

Comment
From 31 March 2023, a change of use of part of a public road adjacent to relevant premises for the purposes of selling or serving food or drink can be permitted development, not requiring planning permission. Roads' consent will still be required.

- 12.3 During the hours of 11 am to 10pm, seven days per week alcohol may be sold and consumed on its own in the outside seating area of those premises incorporating pavement cafes provided substantial food is also available to patrons for consumption, including within the outdoor seating area, during those hours. Outwith those hours, the provision of alcohol shall be ancillary to the provision of food in the outside seating area. The Board considers that food provided should be substantial (for example this would not include crisps or nuts on their own).

During all hours of operation of pavement cafes:

- (i) music shall not be played in or into the pavement café area

- (ii) television or similar shall not be operated in or into the pavement café area
- (iii) table service shall operate.

Applicants should provide information about what range of food they will be providing in the outside area to enable the Board to fully consider their application.

- 12.4 The Board expects that premises licence holders will not only comply with any conditions relevant to the pavement café area of their premises, but will also put in place effective management controls, supervision and other measures to ensure that the use of such areas by patrons or by any other persons does not have a negative impact in the vicinity. The Board will take a robust approach with any premises licence holder in breach of a relevant condition or who does not have effective management controls in place.

13 SPECIAL ISSUES – IRRESPONSIBLE PROMOTIONS

- 13.1 It is important for premises licence holders and their staff to understand that some promotions may be irresponsible and therefore a breach of mandatory conditions in terms of the Licensing (Scotland) Act 2005, Schedule 3 (premises licences) or Schedule 4 (occasional licences). Premises licence holders and staff should be aware of these conditions and should not carry out irresponsible promotions.
- 13.2 Any interested party should contact the Board for advice, where necessary. For the avoidance of doubt, the Board does not consider that there must be linear pricing of alcohol according to the size of measure.

14 SPECIAL ISSUES – PRICE VARIATION OF ALCOHOL

- 14.1 Premises licence holders and staff should be aware in relation to both premises licences and occasional licences that a variation of price may be brought into effect only at the beginning of a period of licensed hours and no further variation of price of alcohol may be brought into effect for 72 hours. For the avoidance of doubt, the Board does not consider the use of discount cards, in general, to be a price variation although the precise terms of the use of the discount card must be considered.

15 PERSONAL LICENCES

- 15.1 The Board will consider applications for personal licences from individuals living in the area of Perth and Kinross. Those living in another area should apply to

the Licensing Board for that area. When considering an application for a personal licence, the Board will work with the police to establish whether the applicant has been convicted of any relevant offence (as set out in Regulations).

Where the police have advised that the applicant has an unspent conviction for a relevant offence, the Board will consider whether the application should be refused under the Act. In making a decision the Board will have regard to the seriousness and age of the conviction along with any other circumstances it considers to be relevant.

The Police or the Licensing Standards Officer may also bring relevant information to the attention of the Board not related to a conviction for a relevant offence.

The Board may refuse an application on the basis that having regard to the licensing objectives, the applicant is not a fit and proper person to be the holder of a personal licence or on the basis that it is otherwise necessary to refuse the application for the purposes of any of the licensing objectives.

Similar considerations apply for an existing personal licence holder convicted of a relevant offence or where relevant information is brought to the attention of the Board by the Police or the Licensing Standards Officer.

16 LICENSING STANDARDS OFFICERS

- 16.1 A Licensing Standards Officer is employed by Perth and Kinross Council and has the functions set out in the Act. The role is threefold - guidance, mediation and compliance. The Licensing Standards Officer is also a member of the Licensing Forum for the Perth and Kinross area.

The Licensing Standards Officer works with the public, the Council's partners, particularly the police, and the business community, and other Council officers in seeking to promote the licensing objectives and ensuring compliance with the law.

Any decision whether or not to seek compliance with the licensing legislation is at the discretion of the Licensing Standards officer, acting reasonably.

- 16.2 The Council delivers enforcement activities across a range of Services and is committed to ensuring that all enforcement is carried out in an efficient and effective manner.

16.3 The Licensing Standards Officer can be contacted by email: liquourlicensing@pkc.gov.uk, or by telephone: 01738 475180.

Comment

The Scottish Government's Section 142 Guidance for Licensing Boards states contact details for the LSO should be put in the Statement of Policy.