

PERTH AND KINROSS LICENSING BOARD

Council Building
2 High Street
Perth
PH1 5PH

Thursday, 20 September 2018

A Meeting of the **Licensing Board** will be held in **the Council Chamber, 2 High Street, Perth, PH1 5PH** on **Thursday, 27 September 2018 at 10:00.**

LISA SIMPSON
Clerk of the Licensing Board

Those attending the meeting are requested to ensure that all mobile phones and other communication devices are in silent mode.

Members:

Members of Licensing Board
C Elliott
S Douglas

PERTH AND KINROSS LICENSING BOARD

Thursday, 27 September 2018

***MEMBERS ARE REMINDED OF THEIR STATUTORY DUTY TO DECLARE ANY
DIRECT OR INDIRECT FINANCIAL INTEREST THEY MAY HAVE IN ANY ITEM ON
THIS AGENDA***

- 1 WELCOME AND APOLOGIES**
- 2 DECLARATIONS OF INTEREST**
- 3 MINUTES OF 16 AUGUST 2018 FOR APPROVAL AND SIGNATURE 5 - 16**
- 4 2018-09-27 - AGENDA 17 - 20**
- 5 CHIEF CONSTABLES ANNUAL REPORT FOR 1 APRIL 2017 TO 31 MARCH 2018 21 - 32**
- 6 GAMBLING DRAFT STATEMENT OF PRINCIPLES 2019 - 2022 33 - 64**
- 7 PERSONAL LICENCE APPLICATION**
 - 7(1) LAURA HUNTER**
- 8 PREMISES LICENCE APPLICATION**
 - 8(1) DALRANNOCH BREWING CO**
- 9 VARIATION (MAJOR) APPLICATION**
 - 9(1) GRINGOS**
- 10 REPORT ON REVIEW OF LICENSING POLICY STATEMENT 65 - 170**

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PERTH AND KINROSS LICENSING BOARD
Minutes of Statutory Meeting of the Licensing Board
Held on 16 August 2018

Present:-

Councillors Baird; Jarvis; Anderson; James and Wilson.

Councillor Baird presiding.

Also present: Colin Elliott, Depute Clerk to the Licensing Board; Louise Cormack, Licensing Standards Officer; Shona Michie, Licensing Enforcement Officer; and Councillor John Duff.

1. INTRODUCTIONS

The Convenor introduced those present.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. MINUTES

The Minute of the Meeting of 28 June 2018 was submitted and approved as a true record and authorised for signature.

4. ANNUAL FINANCIAL REPORT

The Board noted the terms of the Report on the Annual Financial Statement 2018.

5. **ANNUAL FUNCTIONS REPORT 2018**

The Board approved the terms of the Annual Functions Report 2018.

The Board requested for future Annual Functions Reports that consideration be given to providing information on (i) a breakdown of the type and number of occasional licences applied for with particular reference to commercial applications and applications for village halls; and (ii) an update on the progress made towards occasional licence applicants who submit multiple applications applying for a premises licence instead.

6. **PREMISES LICENCE APPLICATIONS**

Premises	Applicant	Decision
Avant Garde 153 High Street Kinross KY13 8DA	Fiona Cameron-Bowman	Grant subject to mandatory conditions
Comrie Croft Braincroft Comrie PH17 4JZ	Comrie Croft Limited	Downgrade the application to a provisional premises licence Thereafter, grant subject to mandatory conditions
Craft Beer Bottle Shop 9A Murray Street Perth PH1 5PJ	Daniel O'Connor	Grant subject to mandatory conditions, and Local Condition (1) Written policies shall be in place for the premises and immediate external area and shall be implemented by the premises licence holder and all staff involved in the sale and consumption of alcohol, all to the

		continuing satisfaction of the Board, for: (i) dispersal of patrons (ii) not serving under age persons
La Sicilyana Coffee & Wine Bar 20-22 Perth Road Scone PH2 6JJ	Steven Dalton	Downgrade the application to a provisional premises licence Amend the provisional premises licence as follows: <u>Premises Licence</u> Description – Amend by deleting, “with it’s own front patio area to accommodate outside seating” <u>Operating Plan</u> 5(d) Amend Outdoor drinking to NNN Box after 5(e) (i) In the first paragraph delete, “and outdoor drinking”; (ii) Delete the third paragraph. 5(f) Add at the end of paragraph 2, “There shall be no deliveries of alcohol to customers from the premises.” <u>Layout Plan</u> Amend the layout and location plans as sought Thereafter, grant subject to mandatory conditions, and Local Condition (1) Written policies shall be in place for the premises and immediate external area and shall be implemented by the premises licence holder and all staff involved

		<p>in the sale and consumption of alcohol, all to the continuing satisfaction of the Board, for:</p> <ul style="list-style-type: none"> (i) noise mitigation (ii) dispersal of patrons (iii) litter and waste management
<p>The Log Cabin Hotel Glen Derby Kirkmichael PH10 7NA</p>	<p>William Kenneth Kincaid</p>	<p>Grant subject to mandatory conditions, and</p> <p>Local Condition</p> <p>(1) A written policy to protect children from harm in relation to the use of the pool table shall be in place and shall be implemented by the premises licence holder and all staff involved in the sale and consumption of alcohol, all to the continuing satisfaction of the Board.</p>

7. PROVISIONAL PREMISES LICENCE APPLICATIONS

Premises	Applicant	Decision
<p>BP Bullionfield M&S SF Connect A90 Westbound Invergowrie Dundee DD2 5EG</p>	<p>BP Oil UK Limited C/o Harper MacLeod The Ca'd'oro 45 Gordon Street Glasgow G1 3PE</p>	<p>Defer for:</p> <ul style="list-style-type: none"> (i) Further market research based on a 1 mile radius locality; and (ii) Clarification on the accuracy of the existing market research (1.5 mile radius), Map 2 and whether all the green icons are within 1.5 miles of the proposed premises or not. <p>Note: The Board did not decide the locality to be</p>

		considered but wished the further information requested.
BP Perth Services M&S Connect The Triangle Inveralmond Perth PH1 3GA	BP Oil UK Limited C/o Harper MacLeod The Ca'd'oro 45 Gordon Street Glasgow G1 3PE	Defer for: (i) Further market research based on a 1 mile radius locality; and (ii) Clarification on the accuracy of the existing market research (1.5 mile radius), Map 2 and whether all the green icons are within 1.5 miles of the proposed premises or not. Note: The Board did not decide the locality to be considered but wished the further information requested.

8. MAJOR VARIATION APPLICATIONS

Premises	Applicant	Decision
Corriefodly Hotel Bridge of Cally Perthshire PH10 7JG	Wood Leisure Holiday Parks Limited	Grant subject to amending the premises licence as follows: <u>Operating Plan</u> 1(a) Amend to 'NO' 1(c) Amend to 'YES' 3 Add off sales hours, 11am to 10pm, 7 days per week 4 Amend to 'NO' and delete existing narrative 5 Amend as follows: Bar Meals YYN Films YYY

		<p>Box after 5(e) Amend to read: 'Breakfast and coffee can be served from 9am until the terminal hour daily. Indoor/outdoor sports, club or group meetings can take place from 9am until the terminal hour daily. The showing of films, televised sport and recorded music can be played from 9am until the terminal hour daily. No out of core activities will take place after the terminal closing hour.'</p> <p>7 Add 'Off sales – nil' 8 Add DPM details for Sean Hynes.</p>
<p>Food in the Park Museum Car Park Blair Atholl Perthshire PH18 5SP</p>	<p>David McKenzie & Sally Judd t/a Food in the Park</p>	<p>Grant subject to amending the premises licence as follows:</p> <p><u>Premises Licence</u></p> <p>Amend Description of Premises by amending paragraph 1 to read: 'Seasonal (April to October) Fish and chip and pizza restaurant and coffee house with purpose built bars with lockable cellar. Includes marquee (erected 1 April to 31 October) where live music and entertainment is provided. Pizza restaurant and take-away will stay open from November to March. On sales are from the bar and there will also be off sales of Craft beer from the premises.'; Amend the Premises Licence Holders' email address as sought.</p> <p><u>Operating Plan</u></p> <p>3 Amend terminal licensed hour to 10pm, 7 days per week.</p>

		<p>4 Delete existing narrative and insert instead: “The bulk of our services are only open from April to October each year. Exact opening dates and closing dates vary depending on School Holidays. The exception to this is that the Pizza Restaurant and Take away will remain open on reduced opening hours during the time that the rest of the business is closed (November to March).”</p>
<p>Scone Arms 2 Cross Street Scone PH2 6LR</p>	<p>Friel-Myles Holdings Ltd C/o Janet Hood Janet Hood Consulting Kirkton of Balfour Edzell Brechin Angus DD9 7XU</p>	<p>Grant subject to amending the premises licence as follows:</p> <p><u>Premises Licence</u></p> <p>Amend Description of Premises by deleting existing and inserting instead, ‘Restaurant/Hotel with lounge bar and beer garden situated in Scone.’</p> <p><u>Operating Plan</u></p> <p>4 Delete existing and insert instead: ‘The operator will take up all general extended hours proposed by Perth and Kinross Licensing Board, in particular festive social demand hours (premises offering no significant entertainment) as per Board Policy and other general extensions of hours as may be permitted by Perth and Kinross Licensing Board.’</p> <p>5 Amend as follows: Accommodation Y Bar Meals YYY Dance facilities YYN Theatre YYN</p>

		<p>Films YYY Indoor/outdoor sports YYY Televised Sport YYY</p> <p>Box after 5(e) Delete existing and insert instead: 'All activities in column 4 can commence at 7.30 a.m. to public. Premises are a hotel and residents can access all facilities except sale of alcohol 24/7. Restaurant/bar meals service of food and alcohol, can operate after core hours during restaurant hours. Recorded music can be played until end of restaurant hours. Films/TV sport may be watched by residents 24/7 either in their rooms or in the public part of the premises. No alcohol to be sold to residents after 0300 a.m.'</p> <p>5(f) Delete existing and insert instead: 'Operating hours for restaurant areas to take place after social demand hours. Remainder of premises to remain as at present, Restaurant hours per Board Policy. After social demand hours and during restaurant hours the provision of alcohol is ancillary to a table meal.</p> <ol style="list-style-type: none"> 1. Ancillary take-away food and alcohol, snacks, ice creams, soft drinks etc 2. Breakfasts, teas, coffees, snacks, ice creams, soft drinks 3. Comedian, magician other entertainers as from time to time might be engaged on the premises 4. Dance to be ancillary to social functions 5. Games room pool and darts for young persons and adults only. 6. Karaoke and pub quizzes.
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		<p>7. Alcohol to be able to be purchased by patrons of the salon.'</p> <p>6(b) Delete existing and insert instead:</p> <ol style="list-style-type: none"> 1. Children Birth - 12 Must be accompanied by an adult at all times. 2. Unaccompanied Children 13 - 15 and Young Persons 16 - 17 may access the premises for breakfasts, snacks, non-alcoholic beverages, meals and ice creams from 7.30a.m. - 6 p.m. 3. Children 13 - 15 and Young Persons 16 & 17 must be accompanied by an adult from 6p.m. - 10p.m. or until the end of a meal whichever is the later. 4. Children and Young Persons accompanied by an adult may remain on the premises until the end of private functions. <p>All subject to suitable age verification documents being provided where required and at the discretion of management.'</p> <p>6(d) Delete existing and insert instead:</p> <p>'Hotel residents 24/7 Non-residents - 7.30a.m. - 10p.m. or until the end of meal or private function whichever is the later subject to detail below</p> <ol style="list-style-type: none"> 1. Children Birth - 12 Must be accompanied by an adult at all times 2. Unaccompanied Children 13 - 15 and Young Persons 16 - 17 may access the premises for breakfasts, snacks, non-alcoholic beverages, meals and ice creams from 7.30a.m. - 6 p.m. 3. Children 13 - 15 and Young Persons must be accompanied by an adult from 6p.m. -10p.m.
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		<p>or until the end of a meal whichever is the later.</p> <p>4. Children and Young Persons accompanied by an adult may remain on the premises until the end of private functions.</p> <p>6(e) Delete existing and insert instead: 'All public parts of the premises except games room which shall be off limits for persons aged birth – 15.'</p> <p>7 Delete existing and insert instead: 'BAR AREA (130 Persons) RESTAURANT (70 Persons) SALON (17 Persons) RECEPTION (20 Persons) BEDROOMS (14 Persons) GAMES ROOM (23 Persons) COURTYARD (40 Persons) this is for Good Weather Overspill Only Total Capacity = 274 Persons ex Courtyard Overspill</p> <p>Off-sales capacity nil.'</p> <p>8(d) Amend email address as sought.</p> <p><u>Layout Plan</u></p> <p>Amend layout plan as sought.</p> <p><u>Conditions</u></p> <p>Add local conditions as follows:</p>
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9.

		<p>(1) Written policies shall be in place for the premises and immediate external area and shall be implemented by the premises licence holder and all staff involved in the sale and consumption of alcohol, all to the continuing satisfaction of the Board, for:</p> <ul style="list-style-type: none"> (i) noise mitigation (ii) dispersal of patrons (iii) the taking of orders and subsequent delivery of alcohol out with the premises
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EXTENDED HOURS APPLICATION

Premises	Applicant	Decision
The Dormy Clubhouse The Gleneagles Hotel Gleneagles Auchterarder PH3 1NF	The Gleneagles Hotel Limited	Grant. The Board requested that the premises licence holder report back to the Board on the success of the event.

PERTH AND KINROSS LICENSING BOARD

Meeting 27 September 2018 at 10:00 am in Council Chambers, Ground Floor, 2 High Street, Perth, PH1 5PH

Licensing (Scotland) Act 2005

Personal Licence(s)

Applicant		Date Received	Comments
1	LAURA HUNTER	20 July 2018	Relevant offences confirmed. Recommendation of refusal is made by the Chief Constable. Cited for 10.30am.

PERTH AND KINROSS LICENSING BOARD

Meeting 27 September 2018 at 10:00 am in Council Chambers, Ground Floor, 2 High Street, Perth, PH1 5PH

Licensing (Scotland) Act 2005

New Grant(s)

	Premises	Applicant	Date Received	Comments
2	DALRANNOCH BREWING CO UNIT 16 THE OLD DAIRY MEIKLEOUR PERTHSHRE PH2 6FB	BRETT ANTONIE SNOWDON	21 June 2018	Building Standards Objection Cited for 11.00am

PERTH AND KINROSS LICENSING BOARD**Meeting 27 September 2018 at 10:00 am in Council Chambers, Ground Floor, 2 High Street, Perth, PH1 5PH****Licensing (Scotland) Act 2005**

Variation (Major)(s)				
	Premises	Applicant	Date Received	Comments
3	GRINGOS 76-78 CANAL STREET PERTH PH2 8HX	B M TAVERNS LTD	19 July 2018	Cited for 11.00am.



**POLICE
SCOTLAND**

Keeping people safe

CHIEF CONSTABLE'S REPORT TO THE
PERTH AND KINROSS LICENSING BOARD
FOR THE PERIOD
1ST APRIL 2017 to 31ST MARCH 2018

NOT PROTECTIVELY MARKED**Foreword**

It gives me great pleasure to provide the Annual Licensing Report for 2017/18, in accordance with Section 12(A) Licensing (Scotland) Act 2005.

I would like to acknowledge the contributions made to effective licensing regulation in the past year. Working in partnership is vital to ensure a fair and consistent approach to licensing whilst maintaining a focus on preventing alcohol fuelled violence, disorder and antisocial behaviour. Police Scotland is committed to continuing to work with partners in the 32 Local Authorities across Scotland to achieve positive outcomes.

Over the past year, Police Scotland has continued to achieve success with a focus on prevention, underpinned by early intervention and enforcement. This has only been possible with the support of the many active partnerships that exist in local areas. I will ensure that all officers and staff continue to work with the licensed trade and other key partners, utilising the range of options available to them to achieve improved licensing standards, reducing violence, disorder and antisocial behaviour across Scotland.

On 1st May 2018, Minimum Unit Pricing of Alcohol was introduced in Scotland. We will work through the Evaluation Advisory Group to assess the impact of this legislation. The coming year will present many challenges but I am confident that through collaborative working, we will meet these challenges and continue to improve licensing standards and deliver a service to the communities of Scotland.

Mr Iain Livingstone QPM
Deputy Chief Constable Designate
Police Service of Scotland

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Police Scotland Licensing Overview

The National Licensing Policy Unit (NLPU) sits within the Specialist Crime Division – Safer Communities based at Dalmarnock Police Office, Glasgow.

The NLPU is responsible for the two tier structure for licensing which supports both national and local priorities. They have overall responsibility for determining and delivering national licensing strategy and policy, by providing advice, guidance and support to divisional licensing teams.

Each of the 13 Local Policing divisions have locally based officers dedicated to the day to day management of licensing administration, complying with statutory requirements as well as addressing any issues that may arise within licensed premises in their local area.

Police Scotland Licensing is supported and governed by a National IT solution known as 'Innkeeper'.

The NLPU and Licensing practitioners within Police Scotland develop partnerships and identify best practice which assist in a better understanding of the challenges faced by the Licensed Trade. This approach enables us to continue to work with local communities and key partners to prevent alcohol related crime and offences.

The NLPU seek to ensure that legislation governing the sale and supply of alcohol is applied consistently across the country and all opportunities are taken to stop the illegal or irresponsible sale, supply or consumption of alcohol with the intention of preventing and reducing crime and disorder.

National Perspective

Our Priorities and Policing Plans continue to be shaped by the objectives contained within Scottish Government's Strategic Objectives and National Outcomes and the Strategic Policing Plans that are delivered locally through single outcome agreements.

Consultation and engagement is combined with our own analysis of the issues that impact on the safety of the public to provide a firm evidence base for local policing teams to prevent crime and disorder and Keep People Safe.

Our National Priorities are

- Violence, disorder and antisocial behaviour
- Serious organised crime
- Counter terrorism and domestic extremism
- Protecting people at risk of harm
- Road safety and road crime
- Acquisitive crime

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Licensing Board Area

The Perth and Kinross local authority area is policed by D (Tayside) Division.

Chief Superintendent Paul Anderson is the Local Police Commander who has the responsibility for all day-to-day policing functions.

PERTH AND KINROSS AREA COMMAND

Chief Inspector Ian Scott has responsibility as Area Commander for the Perth and Kinross Local Policing Area. He is based at Perth Police Office.

Local Policing Priorities

Following our public consultation process, the policing objectives for Perth and Kinross Sub Division, as set out in our Local Policing Plan are as follows;

- Putting victims at the heart of what we do
- Protecting vulnerable people
- Tackling crime and anti-social behaviour
- Maintaining public safety

These are underpinned by our values of Integrity, Fairness and Respect.

Senior Officers

The senior officers who hold responsibility for licensing within the area of Perth and Kinross are as follows;

Licensing Department;

Inspector Gordon Fotheringham
Sergeant Gordon Peebles

Head of Department
Licensing Sergeant

Operation of the Licensing (Scotland) Act 2005

Introduction

Legislation in relation to the sale and supply of alcohol continues to evolve through case law and statutory instruments and as a consequence, it is essential that policing tactics continue to evolve to ensure such developments can be effectively tackled.

The misuse of alcohol is regularly cited as a contributory factor in relation to crimes of Violence, Disorder and Antisocial Behaviour.

The Alcohol Licensing Toolkit utilised by Police Scotland provides practical and tactical advice to operational officers, supervisors, commanders and police licensing practitioners on actions they can take individually or collectively that will contribute to the safe and legitimate operation of licensed premises.

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The Divisional Licensing Team provides guidance and support to local Policing in relation to prevention and problem solving at licensed premises and are supported in this regard by the framework set out in the Liquor Licensing National Operating Model which contains a problem solving 'Range of Options'.

All attendance within or crimes or incidents linked to licensed premises should be recorded by officers on the Police 'Innkeeper' system, which thereby allows a means of reviewing such matters, adopting a proactive approach and directing specific tasked activity to resolve matters of concern with a view to supporting the licensed premises concerned.

Partnerships

The locality policing model in operation within Tayside is designed to ensure local police work with local people, communities and other public and third sector services and agencies, to ensure the most vulnerable are protected whilst contributing towards building stronger communities. This includes actively engaging with the licensed trade and those applying to conduct licensable activities, with a view to improving the regulation of license holders and activity in and around licensed premises and events.

In Perth & Kinross we work closely with our partners in the Local Authority, the recently re-established Perth & Kinross Licensing Forum and local Pubwatch schemes with a view to raising standards in the licensed trade, through proportionate and effective enforcement of licensing legislation and working practices.

By listening to the concerns of our communities, we utilise evidence based policing to deploy resources to identified locations to deter and prevent issues surrounding alcohol related violence and disorder.

There are 3 Locality Inspectors responsible for the multi member wards throughout Perth & Kinross. These Inspectors enhance local partnership working whilst developing public engagement ensuring that a problem solving approach is adopted towards local community issues and that local community concerns and priorities are addressed in a co-ordinated manner.

A legislative framework through the Police and Fire Reform Act 2012 and Community Empowerment Act, 2015 place a statutory obligation on the Police and other public sector bodies to work together.

As such we work with partner agencies including Social Work, the Departments of Health and Education, the Drug and Alcohol Team, Tayside Council on Alcohol and Child Protection Committees to raise awareness, seek solutions, ensure continuous improvement and support joint problem solving in relation to alcohol and drug misuse in our communities.

By working closely with our communities and supporting the aims and activities of our partners such as local authority Licensing Standards Officers, Immigration Enforcement, HMRC, Security Industry Authority (SIA) and Trading Standards, we gather intelligence in support of local and national initiatives to disrupt criminal activity and where appropriate, share information to ensure effective early

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intervention and importantly be visible in our communities to reduce threat, risk and harm to individuals and communities.

This collaborative approach improves the performance of those responsible for the operation of liquor licensed premises within the terms of legislation.

Problem solving

As an organisation we have a number of analytical tools and products at our disposal such as Beat Tracker, Ward Tracker, the Licensing Administration Tool and UNIFI crime recording system, which are used to identify hotspot areas, repeat callers, trends in relation to crime, violence, anti-social behaviour which can be linked to the locations of licensed on and off sales premises.

We also exercise a 'Range of Options' to assist our problem solving approach when considering issues identified at licensed premises. These options form a staged but flexible response to identified issues, from simply engaging with and advising the staff at licensed premises at the lower end of the scale, to grading premises as being 'Problematic' and requesting a review of a premise licence by the Licensing Board in relation to the more serious matters. Any recommendations made may influence the decision making process of the board and or any conditions they may impose on licence holders.

The intervening options involve increased interaction with licenced premises, managers and staff, grading premises as 'Monitored' which necessitates a regime of tasked inspections and increased scrutiny for an identified period of time, to 'Intervention' which requires formal dialogue to occur and 'Licensing Intervention Plans' to be agreed and utilised whilst gaining the support of the licenced premise staff and management in question.

The action taken at all stages is documented on our national 'Innkeeper' system.

It is clear from the data collated from our aforementioned systems that excessive alcohol consumption is an aggravating factor in the majority of incidents of assault and serious assault linked to licensed premises.

Summary

Over the last year the unlicensed sale/supply of alcohol has again not featured as an issue within Tayside Division.

There have been no applications submitted requesting the review of any premise licences in Perth & Kinross in the last year and a single application requesting the review of a Personal Licence in relation to conduct inconsistent with the licensing objectives of Preventing Crime and Disorder and Securing Public Safety.

Recommendation was made by Police Scotland that the personal licence be revoked but the licence holder concerned surrendered the licence prior to the matter being presented to the Licensing Board.

All liquor licence applications are given thorough consideration, giving due regard to all available information and in relation to personal applications, the date and nature of all relevant previous convictions along with any available intelligence.

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All offences committed or alleged to have been committed by holders of personal licences issued within Tayside are automatically flagged for the attention of the Divisional Licensing Team. Giving due regard to the alleged conduct of the licence holder, only the most significant, serious and relevant matters are brought to the attention of the licensing board prior to conviction. Each case is monitored until either not proven or conviction is achieved and the relevant disclosure/representation is then made to the licensing board.

Each instance of violence that occurs within or is linked to licensed premises which results in a report being submitted to the procurator fiscal is reviewed by the Divisional Licensing Team. Officers are encouraged to seek appropriate bail conditions in relation to the offender along with a request for an Exclusion Order (post conviction) to be added when the report is submitted.

These measures are routinely requested by the local policing teams however, the national 'Innkeeper' system allows for individual officers to be tasked by the Divisional Licensing Team, to consider and apply such measures.

There have been no Closure Orders in regard to licensed premises within Tayside Division in the last year.

Alcohol related violence and disorder incidents are dealt with robustly by officers at the time of attendance and early intervention by licensed premise staff is always advocated. This message is reinforced by the Divisional Licensing Team when interacting with licensed premise staff regarding such matters.

Weekend policing plans are produced each week and resources deployed accordingly as a preventative measure to locations, premises and events where disorder is a likely outcome due to increased footfall of patrons combined with the consumption of alcohol. Positive engagement is encouraged with all staff employed in the running of licensed premises at all times with the risks and consequences of excessive alcohol consumption by individuals continually being highlighted to mitigate any risks to drunk persons after they leave establishments.

The Divisional Licensing Team has also developed its proactive approach towards the regulation of and operation of licensed premises across Tayside whereby officers are now routinely deployed throughout the year, out with normal office hours to tackle emerging issues and establish a regime of regular inspections. This is often done in conjunction with partner agencies from the local authority, Immigration Enforcement and HMRC whose added presence has been noted as having a positive effect with regards individual compliance with and enforcement of the licensing objectives.

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Preventing the Sale or Supply of Alcohol to Children or Young People

Introduction

The sale or supply of alcohol to children and young persons is both serious and irresponsible and should never be underestimated.

The physical, mental and moral development of children and young persons can be significantly compromised as a result of the misuse of alcohol. Behavioural changes can occur during those early years and can be accompanied by involvement in criminality and violent and antisocial behaviour, leaving children and young persons vulnerable and susceptible to exploitation.

The drinking habits and trends of children and young persons are continually changing. In some areas, the consumption of alcohol has moved behind closed doors thus making it increasingly problematic to address from a policing perspective but in some areas alcohol consumption in either remote or secluded locations remains apparent. The significant risks associated with the misuse of alcohol by children and young persons remain challenging, irregardless of location.

It is also apparent that venues that host events and functions catering for the 18 year old and younger age group, where the sale of alcohol is permitted, will always attract underage individuals who have consumed alcohol prior to attending and who are inclined to bring their own alcohol with them for consumption on or off the premises.

Tayside Division has seen an increase in allegations and recorded instances of proxy sales over the last year and officers within Perth & Kinross have been particularly proactive in their approach to address this issue.

Activity

Keeping children safe is a high priority for Police Scotland and we remain committed to focusing on engagement with children and young persons and preventing them from harm through initiatives including 'Choices For Life' and working with schools and developing outcome based solutions, including the development of our Police Scotland Youth Volunteers programme.

The identification of children and young persons who misuse alcohol and those on the periphery of offending as a result of such activity is therefore a priority. This allows for effective early intervention and for diversionary activities to be identified and applied. Research suggests that the earlier interventions are delivered to young people who offend at the lowest level, the likelihood is that the intervention will be effective, the individual will engage and will not re-offend.

Police Scotland operates the Whole System Approach for addressing the needs of young people involved in offending and this is underpinned by the 'Getting It Right for Every Child' framework that ensures that anyone providing support, puts the child or young person and their family at the centre of the process.

Over the last year there have only been 10 recorded crimes within Tayside relating to Liquor Licensing offences involving children and young persons with 9 of those relating to the Perth & Kinross area.

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Over the last year there have been 24 'Innkeeper' incident reports received across Tayside in relation to liquor licensing concerns and incidents involving children and young persons with 3 of those relating to the Perth & Kinross area.

The Divisional Licensing Team scrutinise all allegations of suspected underage activity in relation to licensed premises and routinely task officers via the 'Innkeeper' system to ensure that full enquiries are made and appropriate action is taken if necessary in respect of both the young persons involved and the licensed premises.

The age verification 'Challenge 25' scheme is actively encouraged in all licensed premises (both on and off sales) and is an effective tool to prevent the sale of alcohol to children or young persons.

However there now appears to be an emerging trend of 'proxy sales' of alcohol, particularly in relation to off-sales type licensed premises with Perth City and immediate surrounding areas in particular being affected. The Community Policing Teams have however developed an intelligence picture and targeted those suspected of regularly facilitating such behaviour. They have also proactively engaged with management at off sales premises as a preventative measure with a view to improving knowledge and awareness of licensing responsibilities by staff and highlighting the wider picture and implications of underage drinking in the locality.

Although there is provision for Test Purchasing in terms of Section 105 of the Licensing (Scotland) Act, 2005, this is not a tactic that has been utilised in Tayside Division in the last year and is only used where there is evidence to support the requirement for a test. Unfortunately the time constraints and strict guidelines required for test purchase operations, often outweigh the feasibility and suitability for such operations to be undertaken within the short timescales that are desired.

Warning letters can also be sent to the licence holder and or management of premises highlighting to them the extent of any alleged underage problems, whilst making it clear that unless the situation improves, further formal action is a likely consideration with matters being reported to the Licensing Board. This provides for remedial action to be taken and improvements to be made by staff to address the problem. This tactic has been utilised once in Perth in the last year and is always followed up by a regime of tasked inspections to ensure compliance with licence conditions and support of the Licensing Objectives

Over the last year, the Divisional Licensing Team has also carried out joint operations with Immigration Enforcement/HMRC and Licensing Standards Officers, whereby off-sales premises have been visited with a view to ensuring standards are being adhered to and that staff are fully aware of their training and responsibilities in relation to the sale of alcohol to suspected underage persons or their agents. This joint approach often identifies other non-licensing related issues which can have a significant impact on the running of a business and as such it is noted that improvements and compliance in respect of liquor licensing legislation are achieved at the same time.

Our local Community Policing Teams exploit every opportunity to obtain information and intelligence from any source including children and young persons themselves in

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respect of drinking habits, trends, the places of purchase and misuse of alcohol which allows for effective deployment of resources to tackle the situation.

Proposed activity

Over the forthcoming year Police Scotland will continue to take robust and positive action in relation to any information received which indicates the sale or supply of alcohol to children, young persons or their agents by any licensed premises. Where the evidence supports, all such offences will be reported to the Procurator Fiscal with any breaches of the Licensing Objectives reported to the Licensing Board for consideration of a review of either personal or premise licences.

Realising that child protection is a complex area of policing requiring a sensitive and dedicated approach, we will continue to work closely with key partners to focus on protecting children from harm and reducing the availability of alcohol to children and young persons.

Consideration will also be given utilising test purchase tactics if the circumstances are appropriate and also the creation or adoption of media campaigns to target the issue of 'proxy sales' involving children and young persons.

Tackling Serious and Organised Crime

Introduction

Police Scotland works closely with our partners to prevent harm caused to individuals, communities and businesses by Serious Organised Crime (SOC) and enhance our understanding and response to emerging cyber threats and internet enabled crime used by Serious Organised Crime gangs who will continually attempt to launder their illegally obtained funds through apparently legitimate businesses.

The Divisional Licensing Team also works closely with the Divisional Interventions Team and the Local Authority to closely scrutinize all licensing applications to prevent SOCGs from establishing a foothold in related businesses in the area.

SOCG's operating in board area

At present there are no Serious and Organised Crime Groups marked as operating within Tayside Division. It should be noted that SOCGs do not restrict themselves to geographical boundaries such as those surrounding local authority areas.

Activity

In the last year Police Scotland has continued to take preventative measures to cut off the markets for Serious and Organised Crime products such as drugs and counterfeit goods. We have also worked with schools, prisons, communities and third sector organisations on diversionary activities in an attempt to prevent or reduce recruitment to Serious and Organised Crime Groups.

We have continued to focus on our four objectives to,

NOT PROTECTIVELY MARKED

- **DIVERT** - Divert people from becoming involved in serious organised crime and using its products.
- **DETER** - Deter Serious Organised Crime Groups by supporting private, public and third sector organisations to protect themselves and each other.
- **DETECT** - Identify, detect and prosecute those involved in serious organised crime.
- **DISRUPT** - Disrupt Serious Organised Crime Groups.

Tayside Division continues to carry out intervention techniques to prevent SOCGs operating without being challenged and will continually seek opportunities to identify SOCG activity through intelligence gathering and conducting days of action along with partner agencies, focussing on illegal activities that may involve liquor licensed premises, late hours catering establishments, car wash premises and nail bars etc.

Proposed Activity for the Year Ahead

Proposed activity

Police Scotland remains committed to maintaining a prevention, partnership and intelligence led approach to tackling violent crime, disorder and anti-social behaviour which can all be fuelled by excessive and uncontrolled alcohol misuse. We note that the impact of such has consequences that extend beyond victims, affecting families, communities and society as a whole.

We will ensure our people have the skills and knowledge to enable them to target and reduce violent crime, disorder and anti-social behaviour and will work with our partners to develop and deliver a collaborative approach to prevent these issues.

We will work in partnership to reduce and prevent harm from violence within private space and the link with alcohol use.

The role of our National Safer Communities Task Force and Violence Reduction Unit will be enhanced to ensure resources are deployed effectively and efficiently in a collaborative and planned manner whilst our local Community Policing Teams will continue to develop strong relationships with our communities to prevent anti-social behaviour.

The Divisional Licensing Team will continue to work closely with our National Licensing Policy Unit to ensure the local delivery of policing services by ensuring a consistent approach is taken in tackling alcohol related violence, disorder and anti-social behaviour linked to licensed premises.

We will be actively involved in the evaluation of minimum unit pricing of alcohol and we will ensure that our people are kept fully informed regarding any changes to licensing legislation and the tactical options available to them by way of a refreshed 'Alcohol Toolkit'.

By working closely with the licensed trade, we seek to improve licensing standards in premises by continuing the proactive approach adopted by the Divisional Licensing

NOT PROTECTIVELY MARKED

Team and maintaining a robust inspection policy throughout the Division to identify any potential shortcomings with appropriate reporting to the Licensing Board as required.

To conclude we would like to thank you for your continued support and stress the importance of this collaborative, problem solving approach which ensures that police, licence holders and licensed premises staff have a better understanding of their responsibilities to strengthen locally-led alcohol licensing in order to preserve order and promote safety and public health.

PERTH AND KINROSS LICENSING BOARD

Board Meeting: 27 September 2018

DRAFT STATEMENT OF PRINCIPLES – GAMBLING ACT 2005

Report by Clerk to the Licensing Board

PURPOSE OF REPORT

To present the draft Statement of Principles 2019-2022 to the Licensing Board and to seek the Board's agreement to proceed to consultation.

1. BACKGROUND / MAIN ISSUES

- 1.1 Section 349 of the Gambling Act 2005 requires all Licensing Boards to prepare and publish a statement of the principles that it proposes to apply in exercising its functions under the Act during the three year period to which the policy applies. The content of the Statement of Principles is largely dictated by the legal framework, therefore there is limited scope for the Licensing Board to deviate from this.
- 1.2 The Board's Statement of Principles lasts for a maximum of three years, but can be reviewed and revised by the Board at any time. A draft Statement of Principles for 2019-2022 has been prepared and is attached as an appendix to this report.
- 1.3 It should be noted that when the Licensing Board considered its Licensing Policy Statement for alcohol, it indicated it wished to explore the possibility of limiting the number of gaming machines permitted on alcohol licensed premises. For members clubs, a Club Gaming Permit or a Club Gaming Machine Permit allows for a maximum of 3 B, C or D machines. No increase on 3 machines is possible. For (other) alcohol licensed premises that are for on sales and contain a bar at which alcohol is served (where alcohol is not served only with food, i.e. a restaurant), there is an automatic entitlement on providing notification to 2 category C and/or D machines. However, a premises licence holder can apply for any number of category C or D machines under an alcohol licensed premises gaming machine permit. No specific legal test is given for determining such an application; however, the Board has the power to limit the number and types of machines. If a limit of, say, 4 is put into policy then it will be for an applicant seeking more than 4 to explain and persuade the Board why that application should be granted. An example policy is set out in the Draft Statement of Principles at Section 24 and specifically 24.4. It is stressed the limit of 4 is an example. It is for the Board to decide whether to have such a policy and what the number should be

It has been ascertained that the only alcohol licensed premises with more than 2 gaming machines are:

- Sandeman – 6

- Foundry – 4
- Twa Tams – 3

Should such a policy be brought in, these permits will remain in place; however, the policy will apply to any request to change the permits at these premises.

Gambling Commission Guidance states that gambling must remain ancillary to the main purpose of the premises. The purpose of such a policy would be to ensure gambling remains ancillary and to ensure such gaming machines can be supervised by staff or by other means.

- 1.4 In accordance with Section 349 (3) of the Act, the final Statement of Principles must be produced following consultation with:
 - The Chief Constable of Police Scotland
 - One or more persons who appear to the Board to represent the interests of persons carrying on gambling business in the Board's area
 - One or more persons who appear to the Board to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act.
- 1.5 The list of persons to be consulted is deliberately wide and this will enable the Board to undertake a comprehensive consultation exercise with anyone who may be affected or otherwise have an interest.
- 1.6 The Guidance issued by the Gambling Commission in September 2015 advises that consultation should follow best practice as set out by the Department for Business, Innovation and Skills including allowing 12 weeks for responses to the consultation.

2. PROPOSALS

- 2.1 The Board is invited to approve the issue of the proposed Consultation Draft Statement of Principles 2019-2022 set out in the Appendix as a formal Consultation Draft and to invite statutory consultees to submit consultation responses by XXX.

3. CONCLUSION AND RECOMMENDATIONS

The Board is invited to approve the publication and issue of the proposed Consultation Draft Policy Statement set out in the Appendix as a formal Consultation Draft and to invite consultation responses by XXX.

Author(s)

Name	Designation	Contact Details
Debra Merchant	Licensing Manager	Ext. No. 75159 Email: dmerchant@pkc.gov.uk

Approved

Name	Designation	Signature
Lisa Simpson	Clerk to Perth and Kinross Licensing Board	
Date 12 September 2018		

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 D. Merchant



Council Text Phone Number 01738 442573

ANNEX

1. IMPLICATIONS, ASSESSMENTS, CONSULTATION AND COMMUNICATION

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

2. Consultation

- 2.1 Internal consideration and external consideration will take place on the draft Statement of Principles as set out in the report. The consultation on the draft Statement of Principles will be advertised within the local press.

3. APPENDIX

1. Perth and Kinross Licensing Board draft Statement of Principles 2019-2022

**PERTH AND KINROSS
LICENSING BOARD**

**STATEMENT
OF
PRINCIPLES**

GAMBLING ACT 2005, Section 349

DRAFT 2019-2022

FOREWORD

Consultation on this document will take place between XXX and XXX . A copy of the responses received and consideration given to those comments will be available on request to the Clerk to Perth and Kinross Licensing Board, Council Building, 2 High Street, Perth, PH1 5PH.

This Statement of Principles will be published on the Licensing Board's web-site at www.pkc.gov.uk by selecting from the 'Browse' section Law and licensing/ Licences, permits and permissions/ Licences – gambling and is available for inspection at the Licensing Section, Perth and Kinross Council, 2 High Street, Perth, PH1 5PH between 9 a.m. and 5 p.m. Mondays to Fridays.

GAMBLING ACT 2005

STATEMENT OF PRINCIPLES

INDEX

ITEM	PAGE
Foreword	2
Index	3
 PART A GENERAL PRINCIPLES	
1. Introduction	4
2. The Licensing Objectives	5
3. Content of Statement	5
4. Geographical Application of Statement	6
5. Consultation Process	7
6. Declaration	8
7. Responsible Authorities	8
8. Interested Parties	9
9. Responsible Authorities and Interested Parties - Representations	10
10. Disclosure/Exchange of Information	10
11. Enforcement	10
12. Licensing Authority Functions	11
 PART B PREMISES LICENCES	
13. Premises Licences	13
Conditions	16
Door Supervisors	17
14. Adult Gaming Centres	17
15. Licensed Family Entertainment Centres	18
16. Casinos	18
17. Bingo	18
18. Betting Premises	19
19. Tracks	20
20. Travelling Fairs	21
21. Provisional Statements	22
22. Reviews	22
 PART C PERMITS/TEMPORARY AND OCCASIONAL USE NOTICES AND OTHER ACTIVITIES	
23. Unlicensed Family Entertainment Centre Gaming Machine Permits	24
24. Alcohol Licensed Premises Gaming Machine Permits	25
25. Prize Gaming Permits	26
26. Club Gaming and Club Machines Permits	26
27. Temporary Use Notices	27
28. Occasional Use Notices	28
29. Small Society Lotteries	28

PART A – GENERAL PRINCIPLES

1 Introduction

- 1.1 Section 349 of the Gambling Act 2005 (the Act) requires licensing authorities to prepare and publish a statement of principles which will be applied in exercising their functions under the Act. This Statement of Principles fulfils that statutory requirement for Perth and Kinross Licensing Board.
- 1.2 The Statement of Principles was adopted by Perth and Kinross Licensing Board (the licensing authority) on 27 March 2007. This Statement of Principles will have effect from 31 January 2019 until 30 January 2022. During that period it will be subject to review and revisal, as appropriate. It will be available on line at www.pkc.gov.uk
- 1.3 This statement has been developed taking into account the statutory guidance from the Gambling Commission and giving appropriate weight to the views of persons and organisations consulted. All references to the Gambling Commission's Guidance for Local Authorities refer to the Guidance published in September 2015 with updates in September 2016 and is available on www.gamblingcommission.gov.uk.
- 1.4 We will carry out our role under the Act in a transparent manner and in the public interest.
- 1.5 We are committed to avoid duplication with other legislation and regulatory regimes as far as possible. Legal requirements under other legislation such as health and safety and fire precautions are not replicated in this statement.
- 1.6 This document should be read in conjunction with the Act, regulations made under the Act and guidance issued by the Gambling Commission. This is designed to be a strategic gambling statement, not an operational guide. The contents are not a full or authoritative statement of the law and do not constitute professional or legal advice.

2 Licensing Objectives

2.1 In exercising its functions under the Gambling Act 2005, Perth and Kinross Licensing Board, as a licensing authority, will have regard to the statutory licensing objectives, which are set out in Section 1 of the Act: -

- **preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;**
- **ensuring that gambling is conducted in a fair and open way; and**
- **protecting children and other vulnerable persons from being harmed or exploited by gambling.**

2.2 Section 153 of the Act requires us, in exercising our functions in relation to premises licences and temporary use notices, to aim to permit the use of premises for gambling in so far as we think it is: -

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with this Statement of Principles.

2.3 Nothing in this statement shall override the right of any person to make an application, make representations on an application, or apply for a review of a licence. Each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

3 Content of Statement

3.1 A summary of matters dealt with in this statement is shown as an Index on page 3 of this document.

3.2 The licensable activities covered by this statement are: -

Premises Licences

- Adult gaming centres
- Betting premises
- Bingo
- Casinos
- Licensed family entertainment centres
- Provisional statements
- Tracks
- Travelling fairs

Permits, Temporary and Occasional Use Notices and other activities

- Club gaming and club machine permits
- Gaming machines on alcohol licensed premises
- Occasional use notices
- Prize gaming
- Temporary use notices
- Unlicensed family entertainment centres
- Registration of small society lotteries

- 3.3 A scheme of delegation has been prepared in accordance with the Act and Gambling Commission Guidance to ensure the effective management of the Board's functions under the Act.

4 **Geographical Application of Statement**

- 4.1 Perth and Kinross Licensing Board's geographical remit extends to the same area covered by Perth and Kinross Council. Perth and Kinross is located at the heart of Scotland and covers 5286 square kilometres. It is characterised by a diverse mix of rural and urban communities, from the main population centre of Perth and towns such as Auchterarder, Blairgowrie, Crieff, Kinross and Pitlochry, to remote communities such as Kinloch Rannoch. According to the 2011 census Perth and Kinross had a population of 146,652.

- 4.2 A map indicating the extent of Perth and Kinross is shown below.



5 **Consultation Process**

5.1 Perth and Kinross Licensing Board is required by the Gambling Act 2005 to publish a statement of the principles which it proposes to apply when exercising its functions. This statement must be prepared and published at least every three years. It may also be reviewed from time to time and in the light of any such review, it may be revised. Any such revision will be subject to consultation and publication before it takes effect.

5.2 The Act requires that the following parties are consulted by each licensing authority: -

- the Chief Constable for the licensing authority's area;
- one or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area; and
- one or more persons who appear to us to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act.

5.3 We will consult widely on this Statement of Principles before finalising and publishing it. A list of the persons we will send this document to is set out below: -

1. The Gambling Commission, Victoria Square House, Victoria Square, Birmingham B2 4BP.
2. The Chief Constable, Police Scotland, Divisional Headquarters, Barrack Street, Perth PH1 5SF.
3. The Chief Fire Officer, Scottish Fire and Rescue Service, 401 High Street, Perth, PH1 1PL.
4. Executive Director, (Housing & Environment), Perth and Kinross Council, Pullar House, 35 Kinnoull Street, Perth, PH1 5GD – Planning and Development.
5. Executive Director, (Housing & Environment), Perth and Kinross Council, Pullar House, 35 Kinnoull Street, Perth, PH1 5GD – Environmental Health.
6. Executive Director, (Education and Children's Services), Perth and Kinross Council, Pullar House, 35 Kinnoull Street, Perth, PH1 5GD.
7. HM Revenue & Customs, National Registration Unit, Portcullis House, 21 India Street, Glasgow G2 4PZ.
8. Dr Drew Walker, Directorate of Public Health, NHS Tayside, Kings Cross, Clepington Road, Dundee, DD3 8EA.
9. The Chairman, British Casino Association, 38 Grosvenor Gardens, London, SW1W 0EB.
10. Association of British Bookmakers Limited, Regency House, 1-4 Warwick Street, London, W1B 5LT (as represented by Mr Roderick MacKenzie, Harper MacLeod LLP, Solicitors, The Ca'd'oro, 45 Gordon Street, Glasgow, G1 3PE.
11. Chief Executive, Premier Bingo Club, Per KE Entertainments Ltd, 39 Rosslyn Street, Kirkcaldy, KY1 3HS.

12. Chief Executive, Fair City Amusements Ltd, 4A Jeanfield Road, Perth, PH1 1PH.
13. The Racecourse Association Ltd, Winkfield Road, Ascot, Berkshire, SL5 7HX.
14. Chief Executive, Perth and Kinross Association of Voluntary Services, The Gateway, North Methven Street, Perth, PH1 5PP.
15. GamCare, 2nd Floor, 7-11 St John's Hill, London, SW11 1TR.

6 Declaration

- 6.1 In producing this statement, Perth and Kinross Licensing Board declares that it had regard to the licensing objectives of the Gambling Act 2005 and the guidance issued by the Gambling Commission.

7 Responsible Authorities

- 7.1 A responsible authority under the Act must be notified of applications in relation to premises licences and is entitled to make representations in relation to them.
- 7.2 We are required under section 157(h) of the Act to designate, in writing, a body competent to advise the licensing authority about the protection of children from harm. In such designation, the following principles are applied:-
 - the need for the body to be responsible for an area covering the whole of the licensing authority's area;
 - the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group; and
 - whether the body has experience in relation to protection of children issues.
- 7.3 We designate Education and Children's Services, Perth and Kinross Council for the purpose of providing advice about protection of children from harm.
- 7.4 The list of responsible authorities in respect of Perth and Kinross Licensing Board is:
 1. The Gambling Commission, Victoria Square House, Victoria Square, Birmingham, B2 4SP.
 2. The Chief Constable, Police Scotland, Western Division, Divisional Headquarters, Barrack Street, Perth, PH1 5SF.
 3. The Chief Fire Officer, Scottish Fire and Rescue Service, 401 High Street, Perth, PH1 1PL.
 4. Executive Director, (Housing & Environment), Perth and Kinross Council, Pullar House, 35 Kinnoull Street, Perth, PH1 5GD – Planning and Development.
 5. Executive Director, (Housing & Environment), Perth and Kinross Council, Pullar House, 35 Kinnoull Street, Perth, PH1 5GD – Environmental Health

6. The Executive Director, (Education and Children's Services), Perth and Kinross Council, Pullar House, 35 Kinnoull Street, Perth, PH1 5GD.
7. HM Revenue & Customs, National Registration Unit, Portcullis House, 21 India Street, Glasgow, G2 4PZ.

8 Interested Parties

- 8.1 The Act identifies interested parties in relation to an application for or in respect of a premises licence and who can make representations in writing about that application or apply for a review of an existing licence, namely a person who in the opinion of the licensing authority: -
 - lives sufficiently close to the premises to be likely to be affected by the authorised activities;
 - has business interests that might be affected by the authorised activities; or
 - represents persons who satisfy either of the two sub-paragraphs above.
- 8.2 Perth and Kinross Licensing Board will consider whether a person is an interested party on a case by case basis judging each possible interested party on their own merits.
- 8.3 In determining whether a person "lives sufficiently close to the premises to be likely affected" or "has business interests that might be affected" by the authorised activities, the licensing authority may have regard to such factors as it considers appropriate to the circumstances including: -
 - the size of the premises;
 - the nature of the activities taking place on the premises;
 - the distance of the premises from the location of the person making the representation or from the business interests;
 - in respect of a person, the circumstances of the complainer. This does not cover the personal characteristics of the complainer, but the nature of the interest of the complainer. For example, the licensing authority may apply a different interpretation for a private resident, a residential school for children with truanting problems or a residential hostel for vulnerable adults;
 - what might, in the opinion of the licensing authority, be reasonably regarded as a likely or potential impact of the particular premises upon the person or business interests; and
 - such other factors as it considers are relevant.
- 8.4 In determining whether a person is regarded as representing persons in either of the two other categories above, the licensing authority may request that that person demonstrates in writing:-

- that they have specifically been requested to represent that person(s) and/or business interests in relation to the submission of the representation; and/or
- that, in the case of a body, it represents a significant number of persons falling under either of the two categories above.

9 Responsible Authorities and Interested Parties - Representations

- 9.1 Representation made by a responsible authority or interested party which is not withdrawn will normally result in a hearing taking place unless the applicant and/or interested party consent to the application being determined without a hearing.
- 9.2 In certain circumstances, however, a hearing need not take place. For example, where the licensing authority considers that the representation: -
- is vexatious;
 - is frivolous; or
 - will certainly not influence the authority's determination of the application.

10 Disclosure / Exchange of Information

- 10.1 In fulfilling its functions and obligations under the Act, the licensing authority will exchange relevant information with other regulatory bodies and will establish protocols as necessary. In exchanging such information, the licensing authority will conform with the requirements of the Act, data protection and freedom of information legislation as well as the Gambling Commission's Guidance to Licensing Authorities.
- 10.2 Contact details of those persons making representations and details of their representations will be made available to applicants for a licence. Should a hearing take place, they will form part of a public document. Any party who lodges representations or applies for a review of a premises licence will be informed that these details will be disclosed.

11 Enforcement

- 11.1 The Act provides various bodies including the licensing authority with power to authorise persons to undertake inspections for a variety of purposes. Furthermore, the licensing authority has the capacity to report various offences that are specified within the Act for prosecution. Any proposal to undertake an inspection or initiate criminal proceedings will be considered on its own merits.
- 11.2 In exercising our functions under the Act with regard to the inspection of premises we will be guided by the Gambling Commission's Guidance and our approach will be: -
- proportionate;

- accountable;
 - consistent;
 - transparent; and
 - targeted.
- 11.3 In carrying out our enforcement responsibilities, we will normally adopt a risk based approach. Premises will be subject to a scheme of routine inspection, the frequency of which will be determined by the risks posed; those premises considered to pose the greatest risk will be subject to more frequent inspections than those presenting a lower risk.
- 11.4 Criteria which may normally contribute to an assessment to determine the level of risk that applies to premises may include: -
- the size of the premises;
 - the proximity of the premises to identified vulnerable persons;
 - whether any complaints are received in relation to the premises and, if so, the nature and number of complaints that are considered relevant;
 - information submitted from relevant persons or bodies; and
 - such other factors as the particular circumstances of the individual situation warrant.
- 11.5 The main enforcement and compliance role for this authority under the Act will be to ensure compliance with premises licences and other permissions which it authorises. According to the principle of transparency, this authority shall make available upon request copies of any enforcement and compliance protocols which it may adopt.
- 11.6 It is recognised that premises licensees may have a number of premises including in this Authority's area and may not personally be present on the premises. In order to ensure that any compliance issues are recognised and resolved at an early stage, operators are requested to provide this Authority with a named point of contact and contact details, who should be a senior individual responsible for the particular premises, and whom the Authority may contact, in addition to the premises licensee, should any compliance queries or issues arise.

12 Licensing Authority Functions

- 12.1 This authority will make decisions upon applications or notifications made for:-
- premises licences
 - provisional statements
 - temporary use notices
 - occasional use notices
 - permits required under the Act
 - registrations required under the Act

12.2 This statement of principles relates to all those licensable premises, notices, permits and registrations identified as falling within the provisions of the Act, namely: -

- adult gaming centres
- betting premises
- bingo
- casinos
- club gaming and club machine permits
- licensed family entertainment centres
- unlicensed family entertainment centres
- permits for gaming machines on alcohol licensed premises
- prize gaming and prize gaming permits
- registration of small society lotteries
- tracks
- temporary and occasional use notices
- travelling fairs

12.3 We will provide information to the Gambling Commission regarding details of licences issued and will maintain registers of the permits and licences that are issued under these functions.

PART B – PREMISES LICENCES

13 Premises Licences

- 13.1 Premises licences will be subject to the requirements set out in the Gambling Act 2005 and regulations, including specific mandatory and default conditions. We may also exclude default conditions and attach other conditions where that is considered appropriate.
- 13.2 In considering an application for a premises licence no regard will be had to the expected demand for the facilities proposed to be provided in the premises for which a premises licence is sought or moral objections to gambling in general. Expected demand or moral objections to gambling are not criteria which we can consider under the Act or under the terms of the Gambling Commission's Guidance for Licensing Authorities. These matters do not relate to the licensing objectives.
- 13.3 In exercising our functions in relation to premises licences, we shall aim to permit the use of premises for gambling in so far as we think it is: -
- in accordance with any relevant Code of Practice issued by the Gambling Commission;
 - in accordance with any relevant guidance issued by the Gambling Commission;
 - reasonably consistent with the licensing objectives; and
 - in accordance with this Statement of Principles.
- 13.4 Premises are defined in the Act as “any place”, including vessels and vehicles and must be premises which are ready to be used i.e. not under construction. More than one premises licence cannot apply in respect of a single premise at the same time unless the premises can be configured acceptably so as to constitute different premises. Artificial or temporary separations are not acceptable. We will assess each case on its individual merits to decide as a matter of fact whether different parts of a building can properly be regarded as being separate premises.
- 13.5 In accordance with the Gambling Commission's Guidance to Local Authorities 5th edition, we will pay particular attention to:-
- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to, or closely observe gambling where they are prohibited from participating.
 - Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not 'drift' into a gambling area. In this context it should normally be possible

to access the premises without going through another licensed premises or premises with a permit.

- Customers should be able to participate in the activity named on the premises.

13.6 In determining whether two or more proposed premises are truly separate, factors which could assist in making a decision include:-

- Is a separate registration for business rates in place for the premises?
- Is the premises' neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from any other gambling premises?

13.7 This authority has not adopted any specific policy in relation to areas where gambling premises should not be located although it will pay particular regard to the proximity of gambling premises to properties and places regularly frequented by children and other vulnerable persons. Should any such policy be adopted, this statement will be updated and the policy will be publicly available.

13.8 Any future policy will not preclude an application for a premises licence being made. The practical onus will be on the applicant to show how any potential concerns could be overcome.

13.9 In making a determination in respect of a premises licence, we shall not consider whether or not an application is likely to be awarded planning permission or building approval. We will consider carefully any concerns about conditions which cannot be met by licensees due to planning restrictions, should such a situation arise.

Objective 1: Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime

13.10 The Gambling Commission will be taking a leading role in preventing gambling from being a source of crime. Its Guidance envisages that attention is paid to the proposed location of gambling premises in terms of this licensing objective. We recognise the Commission's distinction between disorder and nuisance. Disorder means an activity that is more serious and disruptive than mere nuisance, which is not a Gambling Act objective. We will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, to assess a disturbance.

Objective 2: Ensuring that gambling is conducted in a fair and open way

13.11 The Gambling Commission has stated that it would generally not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will relate either to the management of the business and therefore subject to an operating licence, or to an individual and therefore subject to a personal licence. Both of these are the responsibility of the Gambling Commission.

13.12 However, in relation to the licensing of tracks the premises licence may need to contain conditions to ensure that the environment in which betting takes place is suitable.

Objective 3: Protecting children and other vulnerable persons from being harmed or exploited by gambling

13.13 The Gambling Commission Guidance for Local Authorities states that “harmed or exploited by gambling” means preventing children and vulnerable people from taking part in or being in close proximity to gambling and controlling advertising so that gambling products are not aimed at vulnerable people or advertised in such a way that makes them particularly attractive to such people.

13.14 We will consider whether specific measures are required at individual premises to promote this licensing objective. Appropriate measures may include supervision of access points or machines or segregation of areas. We will consult with Education and Children’s Services, Perth and Kinross Council on any application that indicates there may be concerns over access for children or vulnerable persons.

13.15 The term “vulnerable persons” is not defined but the Gambling Commission states that it will, for regulatory reasons, assume that this group includes people who gamble more than they want to, people who gamble beyond their means and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.

Applications

13.16 In light of the three licensing objectives, in considering licence applications, we will have regard to the following: -

- the design and layout of the premises;
- the training given to staff in crime prevention measures appropriate to those premises;
- physical security features installed in the premises, which may include matters such as the position of cash registers or the standard of CCTV that is installed;
- where premises are subject to age-restrictions, the procedures in place to conduct age verification checks; and

- the likelihood of any violence, public order or policing problem if the licence is granted.

13.17 Whilst each application will be considered on its own merits, factors to which the licensing authority may in particular have regard to when determining an application include:-

- proximity of gambling premises to properties regularly frequented by children and other vulnerable persons;
- the suitability of the premises for gambling in the context of the licensing objectives;
- the type of gambling that is proposed at the premises;
- any information provided by the applicant showing how it is proposed to overcome any licensing objective concerns; and
- whether any relevant objections to an application could be addressed by the use of one or more conditions.

Conditions

13.18 Any conditions we attach to licences will be proportionate and will be: -

- relevant to the need to make the premises suitable as a gambling facility;
- directly related to the premises and the type of licence applied for;
- fairly and consistently related to the scale and type of premises; and
- reasonable in all other respects.

Decisions on individual conditions will be made on a case by case basis. The control measures which we may consider using include door supervisors, supervision of adult gaming machines and appropriate signage for adult only areas.

13.19 We may consider specific measures for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances, segregation of gambling and non-gambling areas frequented by children, the supervision of gaming machines in non-adult gambling specific premises and the display of notices regarding age restrictions.

13.20 It is noted that there are conditions the licensing authority cannot attach to premises licences which are:

- any condition on the premises licence which make it impossible to comply with an operating licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required. The Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs; and
- conditions in relation to stakes, fees, winning or prizes.

- 13.21 In circumstances where the licensing authority proposes to attach or reject conditions as part of a decision it will give reasons as required by the Act. Reasons will also be given if the licensing authority determines to reject an application.

Door Supervisors

- 13.22 In accordance with the Gambling Commission's Guidance, Perth and Kinross Licensing Board may consider whether there is a need for door supervisors in terms of the licensing objectives relating to children and vulnerable persons and the prevention of crime.
- 13.23 A condition for door supervision may be attached to a premises licence requiring that one or more persons be responsible for guarding the premises against unauthorised access or occupation, outbreaks of disorder or against damage.
- 13.24 The Gambling Act 2005 has amended the Security Industry Act 2001, so that door supervisors at casinos or bingo premises are not also licensed by the Security Industry Authority. However, door supervisors at other premises may require to be licensed by the Security Industry Authority.
- 13.25 The Board may formulate a policy relating to registration with the licensing authority of all door supervisors working at casinos or bingo premises. This would be in recognition of the nature of the work which might include searching individuals, dealing with potentially aggressive and young and vulnerable persons. If so, the policy will be made available publicly.

14 Adult Gaming Centres

- 14.1 An adult gaming centre consists of premises for which a premises licence is granted to make certain prescribed gaming machines available only to persons aged eighteen years and over. The following machines can be provided: -

- up to four category B3 or B4 gaming machines;
- any number of category C gaming machines; and
- any number of category D gaming machines.

- 14.2 This licensing authority will have particular regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that persons under 18 years of age do not have access to the premises. Appropriate licence conditions may cover but are not limited to issues such as: -

proof of age schemes, CCTV, door supervisors, supervision of entrances/gaming machine areas, physical separation of areas, location of entry, location of adult gaming machines, notices/signage, specific opening

hours, self barring schemes, provision of information leaflets/help line numbers for organisations such as GamCare.

- 14.3 We will normally expect the applicant to identify the type of gaming machine which will be placed on the premises and their location.

15 Licensed Family Entertainment Centres

- 15.1 A licensed family entertainment centre consists of premises for which a premises licence is granted to provide, subject to certain restrictions, gaming machines. Persons under 18 years old will not be permitted to use certain gaming machine categories that the premises licence might authorise. There may be need for segregation between the different gaming machine types.

- 15.2 This licensing authority will particularly have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that persons under 18 years of age do not have access to adult only gaming machine areas. Appropriate licence conditions may cover but are not limited to issues such as: -

proof of age schemes, CCTV, door supervisors, supervision of entrances/ gaming machine areas, physical separation of areas, location of entry, location of adult gaming machines, notices/signage, specific opening hours, self barring schemes, provision of information leaflets/help line numbers for organisations such as GamCare.

- 15.3 We will normally expect the applicant to identify the types of gaming machine which will be placed on the premises and their location.

16 Casinos

- 16.1 Perth and Kinross Licensing Board has not passed a “no casino” resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should the Board decide in the future to pass such a resolution, this statement will be updated with details of that resolution.

- 16.2 Perth and Kinross is not presently listed as an area for a Regional, Large or Small Casino.

17 Bingo Premises

- 17.1 Bingo does not have a statutory definition.

- 17.2 The holder of a bingo premises licence will be able to offer any type of bingo game, whether cash or prize. Furthermore, the holder of the licence may make available for use: -

- up to four category B gaming machines (B3 or B4);
- any number of category C machines; and

- any number of category D machines.
- 17.3 Perth and Kinross Licensing Board notes Gambling Commission Guidance, which states that it is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted, Perth and Kinross Licensing Board shall seek that:-
- all such machines are located in an area of the premises separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
 - only adults are admitted to the area where these machines are located;
 - access to the area where the machines are located is supervised;
 - the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and
 - at the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.
- 17.4 This licensing authority will have particular regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that persons under 18 years of age do not have access to adult only gaming machines. Appropriate licence conditions may cover but are not limited to issues such as: -
- proof of age schemes, CCTV, door supervisors, supervision of entrances/gaming machine areas, physical separation of areas, location of entry, location of adult gaming machines, notices/signage, specific opening hours, self barring schemes, provision of information leaflets/help line numbers for organisations such as GamCare.
- 17.5 We will normally expect the applicant to identify the types of gaming machine which will be placed on the premises and their location.
- 17.6 Whilst each application will be considered on its merits, factors to which we may in particular have regard when determining an application of this nature include the suitability and layout of bingo premises.

18 Betting Premises

- 18.1 The Act contains a single class of licence for betting premises. There will be different types of premises which require a license, including betting offices on tracks that have a separate premises licence from the track licence. The regional, large and small categories of new casinos permitted under the Act will be entitled to provide facilities for betting without a separate betting premises licence. Licenceholders may, subject to certain restrictions, make available for use up to 4 gaming machines. Other than in the case of tracks,

for which special rules apply, children and young persons will not be able to enter licensed betting premises.

- 18.2 We note the Gambling Commission's Guidance for Local Authorities which states that "Section 181 [of the Act] contains an express power for licensing authorities to restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence or to a casino premises licence (where betting is permitted in the casino)". When considering whether to impose a condition to restrict the number of betting machines in particular premises, we will take into account the size of the premises, the number of counter positions available for person-to-person transactions and the ability of staff to monitor the use of such machines by children and young people or by vulnerable persons.

19 Tracks

- 19.1 Tracks are sites (including horse racecourses and dog tracks) where races or other sporting events take place.
- 19.2 The Act contains rules which apply to applicants for a premises licence in relation to a track. The applicant need not hold an operating licence because the betting that is provided upon the track will be provided by other operators, who come on-course. Since those people will require the necessary operating licence, the Act allows the track operator to obtain a premises licence without also having to hold an operating licence. This track premises licence then authorises anyone upon the premises with an operating licence to offer betting facilities.
- 19.3 For betting to take place on a track a betting premises licence will be required unless an occasional use notice or temporary use notice is in place.
- 19.4 Tracks are different from other premises in that there may be more than one premises licence in effect, each covering a specified area of the track.
- 19.5 There may be some specific considerations with regard to the protection of children and vulnerable persons from being harmed or exploited by gambling, the need to ensure entrances to each type of premises are distinct and that children are excluded from gambling or betting areas where they are not permitted to enter.
- 19.6 Children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, although they are still prevented from entering areas where gaming machines (other than category D machines) are provided.
- 19.7 Premises licence applicants will have to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities.

Appropriate licence conditions may cover but are not limited to issues such as:

proof of age schemes, CCTV, door supervisors, supervision of entrances/gaming machine areas, physical separation of areas, location of entry, location of adult gaming machines, notices/signage, specific opening hours, self barring schemes, provision of information leaflets/help line numbers for organisations such as GamCare.

- 19.8 We will follow guidance issued by the Gambling Commission addressing where gaming machines may be located on tracks and any special considerations that should apply to promote the licensing objectives and in particular the third objective.
- 19.9 The Act enables us to restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence. In accordance with the Gambling Commission's Guidance in relation to betting premises away from tracks, we will take into account the size of the premises and the ability of staff to monitor the use of such machines by vulnerable people when determining the number and nature of machines permitted.
- 19.10 We note the Gambling Commission's Guidance that it would be preferable, though not mandatory, for all self-contained premises operated by off-course betting operators on track to be the subject of separate premises licences. This would ensure a clear division of responsibilities.
- 19.11 Applications should include detailed plans for the racetrack itself and the area that will be used for temporary "on-course" betting facilities (also known as the "betting ring") and in the case of dog tracks and horse racecourses fixed and mobile pool betting facilities operated by the Tote or track operator, as well as any other proposed gambling facilities.

Plans should make clear what is being sought for authorisation under the track betting premises licence and what other areas are to be subject to a separate application for a different type of premises licence.

20 Travelling Fairs

- 20.1 We will consider whether the applicant falls within the statutory definition of a travelling fair i.e. a travelling fair which "wholly or principally" provides amusements.
- 20.2 A travelling fair must take place on a site that has been used for fairs for no more than 27 days per calendar year.
- 20.3 Travelling fairs do not require a permit or licence to provide category D gaming machines or equal chance prize gaming. It will fall to this authority to decide whether the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

21 Provisional Statements

- 21.1 A provisional statement may be applied for where we deem that premises have not been completed to our satisfaction.
- 21.2 It is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence and that requiring the building to be complete ensures that this authority could, if necessary, inspect it fully.
- 21.3 In terms of representations about premises licence applications following the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account by this authority unless they concern matters which could not have been addressed at the provisional statement stage, or, in our opinion, they reflect a change in the applicant's circumstances.

Further, we may refuse the premises licence or grant it on terms different to those attached to the provisional statement only by reference to matters: -

- which could not have been raised by objectors at the provisional statement stage; or
- which in our opinion reflect a change in the operator's circumstances.

22 Reviews

- 22.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities. However, it is for the licensing authority to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below, as well as consideration as to whether the request is frivolous, vexatious, will certainly not cause the authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review: -
- in accordance with any relevant code of practice issued by the Gambling Commission;
 - in accordance with any relevant guidance issued by the Gambling Commission;
 - reasonably consistent with the licensing objectives; and
 - in accordance with the authority's statement of licensing policy.
- 22.2 We may also initiate a review of a licence on the basis of any reason which we think is appropriate.

- 22.3 Whilst we recognise the importance of the right of responsible authorities and interested parties to request reviews of premises licences, we would expect a reasonable interval between hearings for the same premises, and unless exceptional and compelling circumstances existed, would not hold a repeat hearing in respect of the same grounds within 12 months.

PART C – PERMITS/TEMPORARY AND OCCASIONAL USE NOTICES AND OTHER ACTIVITIES

23 Unlicensed Family Entertainment Centre Gaming Machine Permits

- 23.1 Where premises are not the subject of a premises licence but they wish to provide gaming machines, the applicant may apply to the licensing authority for this permit. This permit authorises the provision of category D gaming machines only. The applicant must show that the premises will be wholly or mainly used for making gaming machines available for use. Permits cannot be issued in respect of vessels or vehicles.
- 23.2 In addition to the statutory requirements, as part of any application for an Unlicensed FEC gaming machine permit, the licensing authority will require the following in order to ensure that adequate information is provided to enable a proper assessment to be made: -
- details of any permit granted to the applicant that has previously been refused, lapsed, surrendered or forfeited;
 - details of any other permit held by the applicant in respect of other premises;
 - the nature of the prizes;
 - the proposed frequency of prize gaming at the premises;
 - details of any training and training programme on the limits of stakes, prizes and permissible gambling relating to such permits; and
 - details of any proposed precautions, including policies and procedures and, where appropriate, staff having undergone valid and up to date Disclosure Scotland checks, to secure the prevention of harm to persons under the age of eighteen and measures for implementing the same.
- 23.3 In considering any application the licensing authority will normally have regard to the following: -
- each case will be considered on its merits;
 - any information received as part of the application process;
 - the licensing objectives, any guidance and this statement, and will give particular weight to the protection of children and young persons; and
 - such other factors as the licensing authority considers relevant.
- 23.4 We note that the Act imposes mandatory conditions on Unlicensed FEC gaming machine permits. We cannot impose any other conditions.

24 Alcohol Licensed Premises - Automatic Entitlement and Gaming Machine Permits

- 24.1 On notifying the licensing authority, premises licensed to sell alcohol for consumption on the premises *and contain a bar at which alcohol is served (where alcohol is not served only with food)* can, subject to certain restrictions, have *an automatic entitlement to 2 gaming machines* of categories C and/or D.
- 24.2 We have the power to remove this automatic authorisation if: -
- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
 - gaming has taken place on the premises in breach of section 282 of the Act;
 - the premises are mainly used for gaming; or
 - an offence under the Act has been committed on the premises.
- 24.3 An alcohol licensed premises gaming machine permit is required if more than 2 gaming machines are sought. The issue of such a permit replaces the automatic entitlement identified above.
- 24.4 *It is the policy of Perth and Kinross Licensing Board to permit up to 4 gaming machines of categories C and/or D under an alcohol licensed premises gaming machine permit. Where the application is for more than 4 gaming machines, the practical onus is on the applicant to explain why the permit should be granted.*
- 24.5 In addition to the statutory requirements, as part of any application for a permit, we will require the following in order to ensure that adequate information is provided to enable a proper assessment to be made: -
- a plan showing the location and category of gaming machine being sought; and
 - details of any proposed precaution for preventing persons under eighteen from using any category C gaming machine being sought and how it would be implemented.
 - *where more than 4 gaming machines are sought, an explanation as to why the permit should be granted.*
- 24.6 We may decide to grant an application with a smaller number of machines and/or a different category of machine but note that we cannot attach any other conditions.

25 Prize Gaming Permits

- 25.1 A prize gaming permit is a permit issued by the licensing authority to authorise the provision of facilities for gaming with prizes on specified premises.
- 25.2 In addition to the statutory requirements, as part of any application for a permit, we will require the following in writing in order to ensure that adequate information is provided to enable a proper assessment to be made: -
- details of any permit granted to the applicant that has previously been refused, lapsed, surrendered or forfeited;
 - details of any other permit held by the applicant in respect of other premises;
 - the nature of the prizes;
 - the proposed frequency of prize gaming at the premises;
 - details of any training and/or training programme on the limits of stakes, prizes and permissible gambling relating to such permits; and
 - details of any proposed precaution to secure the prevention of harm to persons under the age of eighteen and measures for implementing the same.
- 25.3 In considering any application we will normally have regard to the following: -
- each case will be considered on its merits;
 - any information received as part of the application process;
 - the licensing objectives, any guidance and this statement, and will give particular weight to the protection of children and young persons; and
 - such other factors as we consider relevant.
- 25.4 We note that the Act imposes mandatory conditions on prize gaming permits. We cannot impose any other conditions.

26 Club Gaming and Club Machines Permits

- 26.1 A club gaming permit authorises establishments to provide, subject to certain restrictions, no more than 3 gaming machines in total of categories B, C or D, equal chance gaming and other games of chance as prescribed in regulations.
- 26.2 Before granting the permit, we must be satisfied that the premises meet the requirements of a members club and that the majority of members are over 18.
- 26.3 A 48-hour period of membership rule applies in respect of all 3 types of gaming.
- 26.4 In circumstances where a club is only able or interested in the provision of gaming machines (as opposed to other forms of gaming), a club gaming

machine permit authorises establishments to provide gaming machines where the establishment is a members club as referred to above.

26.5 We note that we cannot attach conditions to either of these permits.

26.6 We note that we may only refuse an application on the grounds that: -

- the applicant does not fulfil the requirements of a member's or commercial club;
- the applicant's premises are used wholly or mainly by persons under the age of 18;
- an offence under the Act, or a breach of permit has been committed by the applicant while providing gaming facilities;
- a permit held by the applicant has been cancelled in the previous 10 years; or
- an objection to the application has been made by the Gambling Commission or the Police.

26.7 We note that in the case of a club registered under the Licensing (Scotland) Act 2005 we may only refuse an application on the grounds that: -

- the club is established primarily for gaming, other than gaming prescribed under schedule 12;
- that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- that a club gaming permit or club machine permit issued to the applicant in the last 10 years has been cancelled.

There is no right of objection by the Gambling Commission or the Police to such applications.

27 Temporary Use Notices

27.1 Temporary use notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. They may only be granted where a relevant operating licence has been granted.

27.2 The same premises may not be the subject of a temporary use notice for more than 21 days in any 12 month period, but may be the subject of several notices provided the total does not exceed 21 days.

27.3 It is for us to determine in each case what constitutes premises. We may consider ownership, occupation and control of the premises.

27.4 Where an objection has been received in relation to a temporary use notice, if we consider that it should not have effect or should have effect only with modification we may give a counter-notice.

- 27.5 A counter notice providing that a temporary use notice will not take effect will be given where the notice would contravene the maximum number of days available for premises.
- 27.6 The counter-notice can prevent the temporary use notice from having effect or may limit the temporary use notice in other various prescribed ways.
- 27.7 The principles that we will apply in deciding whether to issue a counter-notice will be the same as those in determining premises licence applications.

28 Occasional Use Notices

- 28.1 Where there is betting on a track on 8 days or less in a calendar year, betting may be permitted by an occasional use notice without the need for a premises licence.
- 28.2 The Act prescribes the requirements and process for using such notices, which includes giving notice to the licensing authority and copying it to prescribed parties.

29 Small Society Lotteries

- 29.1 A lottery is unlawful unless run in accordance with an operating licence issued by the Gambling Commission or it is an exempt lottery including non-commercial lotteries, private lotteries, customer lotteries and small society lotteries.
- 29.2 Perth and Kinross Licensing Board is responsible for the registration of small society lotteries in its area. These are non-commercial societies established and conducted:
- for charitable purposes;
 - for enabling participation in, or of supporting sport, athletics or a cultural activity; or
 - for any other non-commercial purpose other than private gain

PERTH AND KINROSS LICENSING BOARD

Board Meeting: 27 September 2018

REVIEW OF LICENSING POLICY STATEMENT 2018

Report by Clerk to the Licensing Board

PURPOSE OF REPORT

This report advises of the consultation responses received on the Draft Licensing Policy Statement and asks the Board to finalise its Policy Statement to have effect from 4 November 2018 until 4 November 2023.

1. BACKGROUND / MAIN ISSUES

- 1.1 In terms of the Licensing (Scotland) Act 2005, Section 6 a Licensing Board must publish a licensing policy statement in respect of its functions before the beginning of each licensing policy period. The licensing policy statement then applies during that period. A licensing policy period occurs 18 months after an ordinary council election. The next policy statement will apply from 4 November 2018 until 4 November 2023, a period of 5 years. A Board can bring in a policy statement earlier if it decides to do so.
- 1.2 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.
- 1.3 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.
- 1.4 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.
- 1.5 On 14 December 2017, the Board considered what further information it wished to enable it to decide the terms of a Draft Licensing Policy Statement for public consultation. The Convenor, Vice Convenor and Depute Clerk to the Board met Perth and Kinross Licensing Forum on 26 April 2018. The Forum

recommended changes to policy. The Board decided on the terms of its Draft Licensing Policy Statement on 31 May 2018. Public consultation then took place between 8 June 2018 and 17 August 2018.

- 1.6 The Draft Licensing Policy Statement showing existing policy and possible changes to policy is set out in Appendix 1 to this Report. Appendix 2 is Environmental Health's Review of the Board's Noise Policy. That is provided to assist the Board in determining a new noise policy (see Policy 5.11 of Appendix 1). A representative of Environmental Health is to be present to discuss the available options.
- 1.7 The Licensing Board, in reviewing its policy statement, must have regard to the Scottish Executive's Guidance for Licensing Boards and Local Authorities, April 2007. Section 2 on Statements of Licensing Policy is attached for information as Appendix 3 to this Report. It should be noted that the Guidance is, in part, out of date. Reference is made to the policy statement being for every three years. That period has now changed as set out in paragraph 1.1, above. The Guidance is to be updated by the Scottish Government. They have revised Section 2 but that has not been made public and has not been through the necessary parliamentary approval process. Appendix 3 therefore remains relevant.
- 1.8 Seven consultation responses have been received. The responses are from:
 - Building Standards, Perth and Kinross Council
 - Police Scotland
 - Councillor Alasdair Bailey
 - Scottish Grocers' Federation
 - Moness Group Ltd
 - Stephen Kelly-Barton, Inchtute Hotel
 - Alcohol Focus Scotland

Those responses together with comments on those responses are attached as Appendices 4 to 10 of this Report.

- 1.9 It should be noted that once public consultation takes place, new or substantially revised policies not already in the Draft Licensing Policy Statement cannot be included in the finalised Licensing Policy Statement as they have not already been publically consulted upon. Minor revisals, clarification, and correction of spelling mistakes or grammar may, however, be possible. In the event that the Board, at this stage, wishes to consider new or substantially revised policies, changes would have to be considered, the revised terms of a Draft Licensing Policy Statement agreed upon, and another public consultation would have to be undertaken. Given the timescales, that would mean having to operate for a significant period of time from 4 November 2018 without having any Licensing Policy Statement in place.
- 1.10 In its Draft Licensing Policy Statement, the Board set out numerous potential changes to policy. In general, the decision of the Board on those possible changes is whether to adopt the change or continue with existing policy (as

the new policy). However, there are two other areas of policy where more than one option was put forward. In those areas, the decision of the Board is which option to adopt or whether to continue with existing policy. Those two areas are contained in the Draft Policy Statement at Section 7.6 for the closedown operating for Function Hours and Section 5.11 on Noise.

- 1.11 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.
- 1.12 Once the Board has decided on the terms of its new Licensing Policy Statement, a press statement will be prepared and the finalised Statement will be placed on the Board's web pages. It will also be made available on request.
- 1.13 Whilst discussions have taken place with NHS Tayside through the Perth and Kinross Alcohol and Drugs Partnership, it has not been possible to carry out an overprovision assessment as part of this Licensing Policy Statement Review. Discussions are continuing and a future assessment of overprovision will be carried out as a supplementary policy statement.

2. PROPOSALS

- 2.1 The purpose of this report is to update the Board on the consultation responses received on the Draft Licensing Policy Statement in order that the Board finalises the terms of its Licensing Policy Statement to have effect from 4 November 2018 until 4 November 2023. In the event that the Board wishes to consider new or substantially revised policies, a revised Draft Licensing Policy Statement would have to be formulated and a further public consultation for a minimum of 6 weeks would have to be undertaken with a consequent delay in adopting a new Licensing Policy Statement.

3. CONCLUSION AND RECOMMENDATIONS

- 3.1 The Board is requested to:
 - (i) Consider the terms of this Report and Appendices 1 to 10; and
 - (ii) Decide the terms of its Licensing Policy Statement.

Author(s)

Name	Designation	Contact Details
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Approved

Name	Designation	Signature
Lisa Simpson	Clerk to Perth and Kinross Licensing Board	
Date 18 September 2018		

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	Yes
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 the public generally.

2. Resource Implications

2.1 Workforce

Further time and resources will be required towards publicising the finalised Licensing Policy Statement or devising and consulting on a revised Draft 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. External consideration of the Draft Licensing Policy Statement has also taken place in line with the public consultation carried out.

5. Communication

- 5.1 Where the Board finalises its Policy Statement, a press statement will be prepared and the finalised Statement will be placed on the Board's web pages. It will also be made available on request. In the event that further public consultation is to take place, the consultation will be issued direct to consultees as well as public consultation taking place through placing the revised Draft Licensing Policy Statement on the Board's webpages and issuing a press release.

2. **BACKGROUND PAPERS**

- Licensing (Scotland) Act 2005
- Scottish Government Guidance for Licensing Boards and Local Authorities, April 2007

3. **APPENDICES**

- 1 Draft Perth and Kinross Licensing Board Policy Statement 2018-2023.
- 2 Environmental Health Review of Noise Policy.
- 3 Scottish Executive Guidance for Licensing Boards and Local Authorities, April 2007, Section 2.
- 4 Building Standards, Perth and Kinross Council consultation response together with comment on.
- 5 Police Scotland consultation response together with comment on.
- 6 Councillor Alasdair Bailey consultation response together with comment on.
- 7 Scottish Grocers' Federation consultation response together with comment on.
- 8 Moness Group Ltd consultation response together with comment on.
- 9 Stephen Kelly-Barton, Inchtute Hotel consultation response together with comment on.
- 10 Alcohol Focus Scotland consultation response together with comment on.



**[Draft Licensing Policy Statement for
consultation]**

Perth and Kinross Licensing Board

**Policy Statement under the
Licensing (Scotland) Act 2005**

201318 – 201823

**~~[Please note that the period of effect of this
Policy Statement has been extended to 3~~**

**~~November 2018 – Licensing Board decision on
22 April 2016]~~**

~~30 May 2014~~(Date Board finalises Policy Statement after consultation to be inserted)

FOREWORD

Consultation on this document took place between ~~20 December 2013~~ 8 June 2018 and ~~14 February 2014~~ 17 August 2018. The policy will be applied during the ~~three year~~ period from 4 November 2018 to ~~4 November 2023~~ 4 November 2024. 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 ~~three year~~ 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	24
10. Special Issues – Members Clubs	25
11. Special Issues – Excluded Premises - Garages	25
12. Special Issues – Pavement Cafes	26
13. Special Issues – Irresponsible Promotions	27
14. Special Issues – Price Variation of Alcohol	27
15. Special Issues – Operation of Restaurants/Cafes	27
16. Personal Licences	28
17. Licensing Standards Officers	28

Comment
The numbering of the Index will be updated once the new policy statement is finalised.

1. INTRODUCTION

- 1.1 Perth and Kinross Licensing Board has ~~over~~[approximately](#) 600 premises licensed to sell alcohol. There are also over ~~1750800~~ 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 10 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 every three years. This statement applies from 4 November 2018 until 4 November 2023. This statement fulfils the statutory requirement for Perth and Kinross Licensing Board.~~ 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.

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. 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.

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 [his](#) 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 a [n-particular](#) 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.

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](#)).

~~The Board considers a~~Acceptable forms of identification ~~are to be~~ passport; European Union photo driving licence; Ministry of Defence Form 90 (Defence Identity Card); ~~and~~ 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. ~~All personal licence holders~~[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 ~~S~~supervision of premises and staff

The Board expects all premises licence holders, [including qualifying \(members\) clubs,](#) to ~~continually~~ 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.

Comment
Policy 5.24 on the Management and Supervision of Premises has been amalgamated into Policy 5.5.

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 [children](#) ~~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.

~~The Licensing Board will not normally grant a premises licence or occasional licence where children would have direct access to dart boards. Pool tables should be carefully sited, taking into account the possible presence of children. 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
- (iv) all electrical sockets covered
- (v) safety film placed on glass doors or BS standard safety glass

~~(vi) ————— the times at which children will be permitted to be on the premises or any part thereof appropriately displayed.~~

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 be audible in any neighbouringadjoining property. ~~between 11pm and 7am.~~

Or

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 exceed 30-35dBAbe audible in any neighbouringadjoining property ~~between 11pm and 7am.~~

Or

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 exceed 5dB over background levelsbe audible in any neighbouringadjoining property ~~between 11pm and 7am.~~

Or

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 be audible in any neighbouringadjoining property between 11pm and 7am.~~

Or

~~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 be a statutory nuisance under the Environmental Protection Act 1990audible in any neighbouringadjoining property between 11pm and 7am.~~

And

~~In addition, the Agent for Change Principle is adopted for music venues. For the carrying out of any new development or operations on or after 4 November 2018, the responsibility for mitigating any adverse effects from a licensed music venue is with the person making the change. This is for noise from music only.~~

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

~~Premises licence holders are expected to be aware of the impact on neighbours of noise from their premises or due to the activities taking place in and around the premises. Premises licence holders are expected to take all reasonable steps to prevent noise nuisance, particularly between 11pm and 7am.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 ~~The~~ Environmental ~~Health~~Service, 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 ~~The~~ Environmental ~~Health~~Service, Perth and Kinross Council on that assessment.

Comment
<p>The above options for noise are being consulted upon. No preference for any option has been stated by the Licensing Board.</p> <p>Environmental Health, Perth and Kinross Council have prepared a review on noise with regard to the Licensing Board's noise policy. That review is available for consideration along with this Draft Licensing Policy Statement.</p>

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 past, raising the lighting level and inspecting all parts of the premises for patrons.

5.13 Smoking

The Board welcomes the legislation prohibiting smoking in enclosed public places. Premises licence holders have been effective in ensuring patrons do not smoke within their premises. However, 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 Recycling/disposal of 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.~~

Comment
Policies 5.14 and 5.15 have been amalgamated into one policy heading.

5.156 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.

5.167 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 and tidy condition at all times.

5.18 Seating Provision

~~The Licensing Board expects all applicants to designate 25% of their floor space within the premises for seating where there is consumption of alcohol on the premises.~~

5.179 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. [1820](#) 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.

5. [1924](#) 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.

5. [2022](#) 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.

5.2 [13](#) 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.

5.24 Management and supervision of premises

~~Premises licence holders including qualifying (members) clubs are expected to exercise an appropriate degree of supervision of their premises and staff. 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.~~

Comment
Policy 5.24 on the Management and Supervision of Premises has been amalgamated into Policy 5.5.

5.225 Delivery of alcohol to a and consumption by persons under 18 or drunk personschild or young person

Where premises licence holders with an off sales facility operate a delivery service, policies and procedures ~~shouldare expected to~~ 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 and recording deliveries made. 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.

5.236 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~~^{primary} activity on ~~the~~ premises or areas of premises providing late night entertainment should be DJ led/~~discothèque~~ music. ~~'Primary' means on more than 50% of the occasions or days when late night entertainment takes place. 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.

7. LICENSED HOURS AND EXTENDED HOURS

- 7.1 While ~~ste~~ each application is assessed on its own merits, the following sets out the Licensing Board's policy on licensing hours. For applications seeking for licensed hours ~~at times~~ outwith the Board's policy, the practical onus is on the applicant to persuade the Board to grant the application. ~~a~~ Applicants ~~should will require to~~ 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 and that mandatory conditions specified by Regulation apply to those premises opening after 1 am, the Licensing Board considers [the following to be](#) 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 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

7.5 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	11pm <u>12am</u>	11pm <u>12am</u>	11pm <u>12am</u>	12.30am	12.30am	12.30am	12am
Festive period	12.45am <u>1am</u>	12.45am <u>1am</u>	12.45am <u>1am</u>	12.45am <u>1am</u>	12.45am <u>1am</u>	12.45am <u>1am</u>	12.45am <u>1am</u>

Comment

Once the Draft Licensing Policy Statement has been finalised, paragraphs 7.4 and 7.5 will be reversed such that 7.4 Restaurants will become paragraph 7.5 and paragraph 7.5 Social Demand will become paragraph 7.4. This is to reflect the order in which the Board deals with licensed hours in an Operating Plan.

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 7.45 but which

- a. have a separate function room and/or
- b. the bar shall be closed such that no alcohol is sold for 30 minutes prior to the commencement of the function
~~are closed down and cleared of patrons for at least one hour beforehand, for the purpose of entertainment and/or functions and~~

Or [Remove part b. entirely]

- c. where the provision of alcohol is ancillary to the entertainment function.
- e.d. No general public entry is permissible and entry should be limited and controlled

Entertainment/Functions considered acceptable for this purpose include dances, discos, dinner-dances,

wedding receptions and parties where a disco or band is provided. Entertainment/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 7.45. Where live entertainment is not an integral part of the function then this would also not be acceptable eg background piano music. The entertainment/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	11pm <u>1am</u>	11pm <u>1am</u>	11pm <u>1am</u>	1am <u>1:30am</u>	1.30am	1.30am	12am <u>1am</u>
Festive period	1.30am	1.30am	1.30am	1.30am	1.30am	1.30am	1.30am

Comments

For part b. (closedown), the Board is consulting on two options - a revised wording or removal of part b. entirely. No preference for either option has been stated by the Licensing Board.

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	11pm <u>2am</u>	11pm <u>2am</u>	1.30am <u>2am</u>	2.30am <u>3am</u>	3.00am	3.00am	1.30am <u>2am</u>
Festive period	2.30am	2.30am	2.30am	2.30am <u>3am</u>	3.00am	3.00am	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 has an existing practice of permitting longer licensed hours over the Festive period, and that will continue to be the case. The Festive period for the purposes of this aspect of the policy will be determined by the Board on an annual basis.~~

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.

7.98 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.

7.109 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 ~~will have~~ 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~~This will~~ 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.

~~The holders of a premises licence or a personal licence may make unlimited applications.~~

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 that can be sought in any period of 12 months.

To allow time to consult the Police and 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 and/or a late night catering licence 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 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.
- 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 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.
- 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.

8.32 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	11pm <u>12am</u>	11pm <u>12am</u>	11pm <u>12am</u>	12.30am	12.30am	12.30am	12am
Festive period	12.45pm <u>1am</u>	12.45pm <u>1am</u>	12.45pm <u>1am</u>	12.45pm <u>1am</u>	12.45pm <u>1am</u>	12.45pm <u>1am</u>	12.45pm <u>1am</u>

Functions (Where there is specific entertainment)

Period	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Annually except festive period	11pm <u>1am</u>	11pm <u>1am</u>	11pm <u>1am</u>	1am <u>1:30am</u>	1.30am	1.30am	12am <u>1am</u>
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—~~piano~~ music. The ~~entertainment~~/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.

- 8.43 For applications for licensed hours at times outwith the Board's policy, the practical onus is on the applicants ~~will require~~ 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.

8.54 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 ~~presently discussing~~ considering the question of overprovision with Perth and Kinross Alcohol and Drugs Partnership. The Board ~~and~~ will consult upon ~~and issue~~ 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.

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.

- 10.54 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 5.524.

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.

11.5 ~~Taking into account the licensing objectives of (a) preventing crime and disorder, (b) securing public safety (d) protecting and improving public health and (e) protecting children from harm, and therefore the government's message on drinking and driving, the Licensing Board, will impose conditions in relation to a garage which is not an excluded premises that all payments for fuel will be made separately from payments for alcohol either (i) through the use of different buildings or (ii) by payment of fuel from outside the premises or part of premises through a payment window without fuel customers entering the premises. The Licensing Board will also require the premises to have signage, the size, content and location of which it deems appropriate of that payment arrangement. The foregoing conditions will not apply when the Licensing Board is satisfied that it is not appropriate to impose such conditions.~~

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 roads consent is required. The Board expects those consents to be

in place before an application to include that pavement cafe in a premises licence is submitted.

- 12.34 During the hours of 11 am to 710pm, 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.

- 12.42 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 to 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.

Comment
For paragraph 12.3 (formerly 12.1), the changes shown reflect the Licensing Board's Supplementary Licensing Policy on Pavement Cafes with the exception of the time period is shown as 10pm, not 9pm.

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 ~~The Board's understanding of what constitutes an irresponsible promotion is evolving.~~ 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.

SPECIAL ISSUES - OPERATION OF RESTAURANTS/CAFES

- 15.1 ~~For those premises or parts of premises which are restaurant type operations, the Board may consider, particularly for those seeking licensed hours in line with paragraph 7.4 above, imposing a local condition that any sales of alcohol for consumption on the premises will be ancillary to a meal taken on the premises. Where an off sales facility is sought, the sale of alcohol for consumption off the premises shall only be to patrons who have consumed a meal on the premises. Off sales can only take place up to 10pm.~~
- 15.2 ~~For those premises or parts of premises which are café/refreshment type operations, the Board may consider, particularly for those seeking licensed hours in line with paragraph 7.4 above, imposing a local condition that the provision of alcohol is ancillary to the provision of food and non-alcoholic beverages on the premises. Where an off sales facility is sought, the sale of alcohol for consumption off the premises shall only be to patrons who have consumed refreshments on the premises. Off sales can only take place up to 10pm.~~

16. PERSONAL LICENCES

- 16.1 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.](#)

17. LICENSING STANDARDS OFFICERS

- 17.1 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.](#)

- 17.2 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.

Perth and Kinross Licensing Board's Policy With Regards to Noise - Environmental Health Review

1. Introduction

- 1.1 Noise from licensed premises is one of the main causes of noise complaints both locally and nationally and, due to the typically late night occurrence of this noise, can be tricky to deal with. The main noise sources arising from licensed premises are music and patrons. This can be from functions being hosted at hotels, nightclubs, pubs or even restaurants.

2. Current Policy - Inaudibility

- 2.1 The Licensing Board's current policy [1] states:

"No noise by way of music whether amplified or not or singing and speech emanating from licensed premises shall be audible in any adjoining property between 11pm and 7am.

Premises licence holders are expected to be aware of the impact on neighbours of noise from their premises or due to the activities taking place in and around the premises. Premises licence holders are expected to take all reasonable steps to prevent noise nuisance, particularly between 11pm and 7am. 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 The Environment Service, 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 The Environment Service, Perth and Kinross Council on that assessment”

Whilst the Licensing Board suspended the operation of this policy on 16 October 2017 and, pending review, applies the statutory nuisance test under the Environmental Protection Act 1990, the inaudibility test remains a policy option for consideration.

2.2 The inaudibility requirement between 23.00 and 07.00 has been in place for over a decade and whilst it has the advantage of being simple to understand, it also has a number of drawbacks namely:

- It is a subjective requirement meaning audibility changes for different people depending on their hearing. Additionally when a complaint becomes ongoing, people become sensitised to a particular noise and ‘tune into’ it meaning it is noticed when it would not normally be.
- Noise may be audible within a property however this may not cause annoyance to the occupant of the property.
- Inaudibility is much stricter than other night noise standards, which will typically allow some degree of noise during the night time period, due to this; inaudibility does not correlate well with Statutory Nuisance provisions nor other guidance and legislation.
- Inaudibility in a particular area will depend on the background noise level, for example in a city centre or near a busy road, the background level will be much higher than a rural location and may obscure low level noise emanating from a licensed premises.

3. Statutory Nuisance

- 3.1 Environmental Health (EH) enforces the Statutory Nuisance provisions of the Environmental Protection Act [2]. In undertaking these duties, we would not enforce to inaudibility, rather it would be along the lines of the other criteria below. We also have to take into account case law regarding Statutory Nuisance, which includes various precepts namely:

- I. Impact
- II. Locality
- III. Time
- IV. Frequency
- V. Duration
- VI. Convention
- VII. Importance
- VIII. Avoidability

- 3.2 This means that whilst noise arising from licensed premises may on occasion be intense enough to cause interference with enjoyment of domestic property, if it were happening on a relatively infrequent basis, it could not be considered a Statutory Nuisance.

The Environmental Protection Act does not define a set decibel level which would constitute a Statutory Noise Nuisance and as such other legislation and guidance has to be referred to when carrying out investigations (see Appendix 1).

The assessment for Statutory Nuisance can be very subjective and ultimately comes down to officer opinion. Investigations can take a considerable length of time and resources.

Should a Statutory Nuisance be determined arising from a licensed premises, they will still have a defence in court of 'Best Practicable Means', which means if the offender has taken all measures which are "reasonably practicable having regard to local conditions and circumstances, the current state of technical knowledge and to the financial implications" then they have a defence against Statutory Nuisance in court. This can curtail nuisance proceedings by Environmental Health, but no such restriction would be placed on action taken by the Licensing Board.

4. Agent for Change Principle for Music Venues

- 4.1 The Agent for Change Principle for music venues has recently received a lot of attention. In Scotland, the Chief Planner [3] has written to all Heads of Planning advising of the Scottish Government's support for the Agent for Change Principle; that it is supported (generally, not expressly) in existing planning policy; and that it is the Scottish Government's intention to implement the principle explicitly through future national planning policy. In England and Wales, there is the Planning (Agent of Change) Bill 2017-2019. Neither the new national policy in Scotland nor the England and Wales Bill will be in place and have effect prior to the Licensing Board's new Licensing Policy Statement taking effect on 3 November 2018. The precise terms proposed are therefore not known presently.
- 4.2 The Agent for Change Principle places the responsibility for mitigating any detrimental impact of noise on neighbours to a music venue with those carrying out the new development or operations. For example, for a new build house next to an existing music venue the responsibility for mitigating adverse effects is with the house developer. If it is a new music venue, or an existing venue is to be extended, the responsibility for mitigating adverse effects is with the venue operator.
- 4.3 The Agent for Change Principle is proposed for Planning only and for new developments or operations only in music venues. It does not cover non-music venues and does not cover existing properties where there is no development or operational change. The Chief Planner's letter also makes it clear that this does not affect the operation of noise music controls under the Environmental Protection Act, nor any consideration of licensing issues.

- 4.4 The statutory nuisance test under the Environmental Protection Act 1990 does not differentiate between new and existing premises. Statutory nuisance can still apply to an existing music venue even although the neighbouring house is built after the music venue. For that reason, Environmental Health are not suggesting the Agent for Change Principle as an option, however, it is a matter for the Licensing Board whether it wishes to consider this principle.

5. Interaction Between the Licensing Boards Policy and Statutory Nuisance

- 5.1 PKC's EH Team receive several noise complaints regarding licensed premises each year and quite often the measured levels can fall somewhere in between inaudibility and statutory nuisance, leaving enforcement at the discretion of the Board. This may cause inconsistencies and difficulty for Board members when deciding on outcomes.
- 5.2 A proactive approach is currently undertaken whereby EH will respond to consultation on licences, including major variations. This is very useful for reducing the likelihood complaints happening and as a minimum serves to make the licensee aware of Board policy, however depending on the proposal, a noise impact assessment may be required. It is recommended that EH continue to respond to consultations from Licensing and attend the Board meetings where required to provide technical advice.

6. Potential Future Policy

- 6.1 There is beginning to be a move away from inaudibility as a requirement in policy and planning conditions, although many Licensing Board's still have inaudibility as part of their Licence Policy. Edinburgh City Licensing Board have moved away from inaudibility as a requirement for licensed premises towards a policy of amplified music not causing "an audible nuisance in neighbouring properties" linking nuisance in with Scottish Government guidance [4]. The Agent for Change Principle may also be applied to music venues in Planning.

6.2 If the Board were to move away from inaudibility as a policy for noise post 23.00, what should replace it? There has been some research and policy developed regarding this but unfortunately much is over 10 years old and not widely adopted.

6.3 Summarised in Table 1 below are options for noise limits as part of the Licensing Boards policy, further background is given in Appendix 1

Table 1: Options for Noise Limits

Options	Measured Noise Level	Pros	Cons
1. Inaudibility	N/A	Simple to assess. Can be done without a noise meter by Licensing (LSO) Standards Officer	Strict standard, subjective
2. Absolute Levels	30-35dBA	Relatively easy to measure with a noise meter	Does not take account of background levels which can be above this level in urban areas
3. Above Background Levels	5dB above background	Takes into account background level	More difficult to measure. Requires a comparison measurement with the music off
4. Combination	31dB or 10dB above underlying	Best of both worlds i.e. absolute and above background. Ties in with Antisocial Behaviour Act levels	More complex to understand and measure
5. Low Frequency Levels	47dB in 63Hz band and/or 41dB in	Takes account of the most annoying	Again more complex to understand and

	125Hz octave bands	aspect of music noise. Can be used in combination with Option 4	measure
6. Statutory Nuisance	All the above measurements would be taken and assessed	Can result in service of an Abatement Notice	Complex to measure, more difficult to assess, very subjective, does not address short duration/infrequent noise nuisance

6.4 Inaudibility is a very strict condition which can lead to difficulties in enforcement due to differing sensitivities of officers and complainer's. Additionally an overly strict policy on music noise could be at odds with the Perth City Plan and vision to have a "vibrant arts and culture scene".

For example; music from a venue in the city centre has always been audible within a neighbouring property, however the occupant is not annoyed by the noise and therefore does not complain. This occupant moves out and a new resident moves in and subsequently complains about the music noise. The licensee has been unaware that music from his venue has been audible and has not changed his operations. Is it unreasonable to expect complete silence when moving into a property in the city centre next to a music venue?

However, this has to be balanced with the rights of nearby residents to enjoy their property without unreasonable interference, including sleep interference.

In comparison, Statutory Nuisance can be notoriously difficult to prove as it has to take into account other factors such as: locality; frequency; sensitivity as well as proving the nuisance is not transient. This can be difficult for complaints which are worse some weekends than others. There is also the defence of "best practicable means" in nuisance cases which can prevent satisfactory resolution for complainants.

6.5 If the Licensing Board is minded to move away from inaudibility as a policy post 23.00, Environmental Health's recommendation would be to move to the Combination criterion (option 4) which brings levels into line with those laid down by the Scottish Government for residential to residential noise as specified under the antisocial behaviour regime. It is also recommended that additional controls on low frequency noise (option 5) be applied, as this would help with the bass beat from music which is perhaps the most annoying. The low frequency controls set down in Table 1 are still strict, but not inaudible.

Having assessed a number of cases that have been investigated previously including those that have been presented to the board it has been found that some that have had on occasion an audible bass beat but not met the criteria for Statutory Nuisance have been above the option 5 levels, whilst others have been found to be below the suggested low frequency levels.

Unfortunately, option 4 levels cannot be measured retrospectively therefore whether these complaints were above/below that level cannot be assessed at this time.

6.6 Environmental Health's recommendation is that the partnership working continues with Licensing to resolve noise complaints, but that a more objective criterion is adopted as policy. EH would continue to act as consultees to the Board for new premises licence applications, major variations and for premise licence reviews. We would revise the template for presentation of information to the Board to take account of the new noise policy. Working in conjunction with the Licensing Department is seen as the most effective means of seeking resolution to noise complaints from licensed premises in that;

- The LSO has an in depth knowledge of licensed premises and can also highlight other issues ensuring a more holistic approach to enforcement.
- The LSO can mediate between a complainer and the premises licence holder in an effort to reach a satisfactory level without formal measurements having to be taken.
- In our experience licensees have considerably more respect for the Licensing regime rather than the Statutory Nuisance regime as it could directly affect their business operations.

References

- [1] Perth and Kinross Licensing Board Policy Statement under the Licensing (Scotland) Act 2005 2013 – 2018 (2014).
- [2] Environmental Protection Act 1990, Part III (as amended).
- [3] Chief Planner's Letter, 16 February 2018.
- [4] The Scottish Government (2009), *Guidance to accompany the Statutory Nuisance Provisions of the Public Health etc (Scotland) Act 2008*.
- [5] Defra (2005) Noise from Pubs and Clubs NANR92.
- [6] Defra (2006) Noise from Pubs and Clubs (Phase II) Final Report NANR163.
- [7] Scottish Government (2005) *Guidance on Noise Nuisance, Antisocial Behaviour etc (Scotland) Act 2004*.
- [8] WHO (2000), *Guidelines for Community Noise*, World Health Organisation
- [9] BSI (2014) BS8233 *Guidance on Sound Insulation and Reduction for Buildings*
- [10] BSI (2014), BS 4142, *The Method for Rating Industrial Noise Affecting Mixed Residential and Industrial Area*
- [11] The Noise Council (1995), *Code of Practice on Environmental Noise Control at Concerts*
- [12] DEFRA (2011), *Procedure for the Assessment of Low Frequency Noise Complaints NANR45*

Appendix 1: Technical Appendices on Options for Noise

Defra Research

The University of Salford on behalf of DEFRA undertook research in 2 phases with respect to noise from pubs and clubs, no definitive assessment technique is recommended.

The Defra Phase 1 report [5] sets the scene for developing an optimal method for assessing noise from pubs and clubs and states some likely features of this type of method would include LAeq, some form of bass prominence (in 63 and 125Hz octave bands) Some form of temporal features like bass beat evaluated by $L_{10}-L_{90}$ in a low f octave band and should be as simple as possible without sacrificing accuracy.

The Phase 2 research [6], which is not now widely available online does not set out one optimal method, but instead gives 3 recommended approaches to this type of noise:

Absolute LAeq 5 minutes of 34dBA

$L_{A90} - L_{A90}$ (no music)

$L_{Aeq} - L_{A99.8}$ (similar to Antisocial Behaviour Act methodology)

Unfortunately, no recommendation for low frequency noise is given, which is unfortunate as this tends to be the noise causing the most issues.

The absolutely level of 34dBA may be more appropriate for highly urbanised areas in England and conurbations but could be very high for quieter villages in Perth and Kinross. It is 3 dBA above the Scottish Government recommended levels laid out in the Antisocial Behaviour Act (ASBA) [7] of 31dBA as a LAeq 5 minute measurement.

$L_{A90} - L_{A90}$ (no music) has the big disadvantage of requiring a measurement with no music playing which can be difficult.

$L_{Aeq} - L_{A99.8}$ is the approach taken for Antisocial Behaviour Act [7] and has the advantage of considering both the absolute and the background levels and does not require a period with no music playing as the background (called the underlying here) is measured in between the gaps in the songs.

Other Standards

There are a number of standards Environmental Health will use to aid them in enforcing nuisance objectively a table of these is presented below.

Table 2: Other Standards

Standard	Noise Level Night	Noise Level Day
WHO Guidelines on Community Noise (1999) [8]	L_{Aeq} 8 hour 30dB	L_{Aeq} 16hour 35dB
BS8233 (2014) [9]	L_{Aeq} 8 hour 30dB	L_{Aeq} 16hour 35dB
ASBA (2004) [7]	L_{Aeq} 5 mins 31dB	L_{Aeq} 5mins 37dB or 41dB
BS4142 (external) (2014) [10]	$L_{A90} + 5dB$	$L_{A90} + 5dB$
Noise Council Concerts CoP (1996) [11]	Inaudible	L_{Aeq} 15min 65dB

Some of the standards are more complex or contain various caveats but the most used form of the standard is included for brevity.

From the above standards BS8233, WHO and ASBA are of a very similar level and possibly the most appropriate. BS4142, whilst for industrial/commercial noise specifically precludes music or entertainment noise and also requires a robust background measurement without the noise therefore is not deemed appropriate. The Noise Council Code of Practice is used for festivals such as T in the Park and is appropriate for one off events whereby local residents will tolerate more noise rather than for every weekend thus is deemed inappropriate.

Considering BS8233, WHO and ASBA guidance, WHO/BS8233 are quite simple to measure but have the disadvantage of not considering the background, which may be

already above 30dBA in some properties during the night. ASBA does consider this as the 31dBA is only applicable where the underlying level ($L_{A99,8}$) is under 21dB. If it is above the 31dBA limit is increased to the underlying +10dBA.

The drawback of this approach is that it is a little more complex than the other which could potentially lead to errors when officers are analysing measurements. It also does not take into account low frequency noise which WHO states:

“Where noise is continuous, the equivalent sound pressure level should not exceed 30 dBA indoors, if negative effects on sleep are to be avoided. When the noise is composed of a large proportion of low-frequency sounds a still lower guideline value is recommended, because low frequency noise (e.g. from ventilation systems) can disturb rest and sleep even at low sound pressure levels.”

Given the nature of modern bass heavy dance music, consideration should also be given to a low frequency limit to noise.

Low Frequency Limits

Low frequency noise can be a contentious issue, which leads to complaints which if measured with A weighting, may not adequately capture the potential for disturbance. This is because A weighting removes much of the low frequency content of the measured noise spectrum in favour of the more audible higher frequency noise.

Defra published research on this initially in 2005 then finalised in 2011 [12]. This lays out recommended limits at each of the one-third octave bands between 10 and 160Hz and has been quoted by the EH team in the past. The only issue with this criterion is that the report did not consider music noise in the research and states it should not be used for this. The Pubs and Clubs Defra Research does however quote this guidance:

“Based on laboratory experiments with real and simulated low-frequency noise, Moorhouse et al. derived a proposal for a UK low-frequency noise criterion. Their test sounds were typical of the kind of noise complained of by UK low-frequency noise sufferers and so did not include music. Nevertheless, following the promising results of McCulloch, both DIN 45680 and the proposed UK variant should be

investigated further as assessment techniques for pub and club noise. The Moorhouse proposed method is as follows:

Record L_{eq} , L_{10} and L_{90} in the third octave bands between 10Hz and 160Hz.

If the L_{eq} , taken over a time when the noise is said to be present, exceeds the values in Table 3 it may indicate a source of LFN that could cause disturbance. If the noise occurs only during the day then 5dB relaxation may be applied to all third octave bands. If the noise is steady then a 5dB relaxation may be applied to all third octave bands. A noise is considered steady if either of the conditions a. or b. below is met:

a. $L_{10}-L_{90} < 5\text{dB}$

b. the rate of change of sound pressure level (Fast time weighting) is less than 10dB per second where the parameters are evaluated in the third octave band which exceeds the reference curve values (Table 3) by the greatest margin.”

Table 3: table of limits is given as:

1/3 Octave Bands (Hz)	10	12.5	16	20	25	31.5	40	50	63	80	100	125	160
Limit (dB)	92	87	83	74	64	56	49	43	42	40	38	36	34

Not many Local Authorities quote these, one which does is Manchester within their planning guidance: **‘Music noise levels in the 63Hz and 125Hz octave centre frequency bands (L_{eq}) should be controlled so as not to exceed (in habitable rooms) 47dB and 41dB (L_{eq}), respectively.**

These limits seem to be calculated by adding together the 50, 63 and 80Hz limits and 100, 125 and 160Hz respectively from Table 3 above.

Appendix 2: Acoustic Terminology

Decibel (dB)

The ratio of sound pressures which we can hear is a ratio of $10^6:1$ (one million: one). For convenience, therefore, a logarithmic measurement scale is used. The resulting parameter is called the 'sound pressure level' (Lap) and the associated measurement unit is the decibel (dB). As the decibel is a logarithmic ratio, the laws of logarithmic addition and subtraction apply.

dB(A)

The unit used to define a weighted sound pressure level, which correlates well with the subjective response to sound. The 'A' weighting follows the frequency response of the human ear, which is less sensitive to low and very high frequencies than it is to those in the range 500Hz to 4kHz.

In some statistical descriptors the 'A' weighting forms part of a subscript, such as LA10, LA90, and LAeq for the 'A' weighted equivalent continuous noise level.

Equivalent continuous sound level

An index for assessment for overall noise exposure is the equivalent continuous sound level, Leq. This is a notional steady level which would, over a given period of time, deliver the same sound energy as the actual time-varying sound over the same period. Hence fluctuating levels can be described in terms of a single figure level.

Frequency

Frequency is the rate of repetition of a sound wave. The subjective equivalent in music is pitch. The unit of frequency is the hertz (Hz), which is identical to cycles per second. A 1000Hz is often denoted as 1kHz, e.g. 2kHz = 2000Hz. Human hearing ranges approximately from 20Hz to 20kHz. For design purposes the octave bands between 63Hz to 8kHz are generally used. The most commonly used frequency bands are octave bands, in which the mid frequency of each band is twice that of the band below it. For more detailed analysis, each octave band may be split into three one-third octave bands or in some cases, narrow frequency bands.

Statistical noise levels

For levels of noise that vary widely with time, for example road traffic noise, it is necessary to employ an index which allows for this variation. The L_{10} , the level exceeded for 10% of the time period under consideration, and can be used for the assessment of road traffic noise (note that L_{Aeq} is used in BS 8233 for assessing traffic noise). The L_{90} , the level exceeded for 90% of the time, has been adopted to represent the background noise level. The L_1 , the level exceeded for 1% of the time, is representative of the maximum levels recorded during the sample period.

A weighted statistical noise levels are denoted L_{A10} , dBL_{A90} etc. The reference time period (T) is normally included, e.g. dBL_{A10} , 5min or dBL_{A90} , 8hr. A weighted statistical noise levels are denoted L_{A10} , dBL_{A90} etc. The reference time period (T) is normally included, e.g. dBL_{A10} , 5min or dBL_{A90} , 8hr.

Typical levels

Some typical dB(A) noise levels are given below:

Noise Level, dB(A)	Example
130	Threshold of pain
120	Jet aircraft take-off at 100m
110	Chain saw at 1m
100	Inside disco
90	Heavy lorries at 5m
80	Kerbside of busy street
70	Loud radio (in typical domestic room)
60	Office or restaurant
50	Domestic fan heater at 1m
40	Living room
30	Theatre
20	Remote countryside on still night
10	Sound insulated test chamber

2. Statements of Licensing Policy

Background

9. Section 6 of the Act requires a Licensing Board to prepare and publish a statement of its licensing policy every three years. Licensing policies must be published before the Board carries out any function in respect of individual applications made under the terms of the Act. During each three year period, the policy must be kept under review and the Licensing Board may make to it such revisions as it considers appropriate. For example, such revisions may be made in response to feedback from the Local Licensing Forum.

10. Before determining its policy for any three year period, the Licensing Board must consult the persons listed in section 6(3) of the Act. These are:

- the Local Licensing Forum for the Board's area;
- if the membership of the Forum is not representative of the interests of all of the persons specified in paragraph 2(6) of schedule 2 of the Act - that is: holders of premises licences and personal licences; the chief constable for the police area in which the Forum's area is situated; persons having functions relating to health, education or social work; young people; and persons resident within the Forum's area, then the board must consult such person or persons as appear to the Boards to be representative of those interests of which the membership is not representative, and
- such other persons as the Board thinks appropriate.

11. Boards should have regard to the views of all those listed and the views should be given appropriate weight when the policy is determined. In some areas, it may be difficult to identify persons or bodies representative of all parts of the industry affected by the provisions of the Act. In such circumstances Licensing Boards must make reasonable efforts to identify and engage with the persons or bodies concerned. Licensing Boards should note that the terms of the Act do not prevent them consulting other bodies or persons before determining their policies. Indeed, it would be good practice to consult bodies with a particular role in licensing, for example, Building Standards Officers when considering overprovision of licensed premises. Boards should keep in mind Best Value when considering the resource implications of consulting large groups of people.

Licensing Objectives

12. All statements of licensing policy should seek to promote the 5 licensing objectives set out in the Act. In setting its policy, a Licensing Board must have regard to this Guidance and give appropriate weight to the views of those consulted.

13. Licensing Boards' statements of policy may set out a general approach to the making of licensing decisions, but must not ignore, or be inconsistent with, provisions in the Act.

14. Similarly, no statement of policy should override the right of any person to make representations on an application or to seek a review of a licence where such provision has been made in the Act.

15. Statements of policies should make clear that licensing is about regulating the sale of alcohol and premises on which alcohol is sold, and for connected purposes within the terms of the Act.

16. A statement of policy should also make clear that licensing law is not the primary mechanism for the general control of nuisance and antisocial behaviour by individuals once they are no longer on the licensed premises and beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned.

Overprovision of licensed premises

17. Guidance for Boards on the issue of overprovision of licensed premises is provided at section 3 of this guidance.

18. Boards should note that the duty under section 7 to assess overprovision will not be brought into force until the main provisions of the Act are brought into force in 2009. This approach recognises that the task of assessing the capacity of licensed premises in Boards' areas, as required by section 7, is significant. The decision not to bring this section into force until 2009 is a pragmatic approach which gives Boards time to assess the number and capacity of licensed premises. Ultimately this will enable a more accurate assessment of overprovision to be made. By autumn 2009 the transition period will have been completed and all the new licence applications will have been processed. At that point Boards will have an accurate baseline of information, including capacity of premises, which can be used to inform their overprovision policy.

Licensing hours

19. Each application will be considered on its individual merits, but the statement of licensing policy should provide information on the Board's policy on licensing hours. Statements of policy should recognise that licensing hours are important not only to individual licensed premises but can have a wider impact for an area. For example, considerations should be given as to ways in which large numbers of customers leaving premises simultaneously can be appropriately managed. This might be necessary to reduce friction outside establishments, at taxi ranks and other transport sources which can lead to disorder and disturbance. Licensing hours should not however unnecessarily inhibit the development of thriving and safe evening and night-time local economies which are important for investment, employment, and tourism.

20. Licensing Boards must observe the requirement set out in section 64 of the Act which provides an assumption against routine 24 hour opening of licensed premises. Any application received by a Licensing Board from a premises wishing to open for 24 hours must only be granted in limited exceptional circumstances.

21. Ministers are of the view that Licensing Boards should consider "exceptional circumstances" to cover special events such as one-off local or national festivals. It is unlikely that "exceptional circumstances" would be constituted in the case of premises where there were routine requests to sell alcohol for 24 hours. In considering applications for licensed hours Boards may wish to consider applications

for up to 14 hours as being reasonable but local circumstances and views of Local Licensing Forums should always be considered. Any application for licensed hours for more than 14 hours should require further consideration to the effect of granting extra operating hours.

22. Licensed hours will be those agreed following the Board's consideration of the, operating plan and any national and local licence conditions applied. Particular attention should be drawn to those premises wishing to open after 1.00am since mandatory licence conditions will apply. Boards should also be reminded that when considering licensed hours for premises, anyone can make representations to the Board. As such they may request a review of the licence. It is important that in developing its policy on licensed hours the Board must take account of the views of the Local Licensing Forum so that any policy published has the backing and confidence of the local community. Further to this, following a review, reducing licensed hours can be one of the sanctions applicable against a license holder.

Relationship with other strategies

23. Ministers recommend that statements of policy should provide clear indications of how the Licensing Boards will take into account other matters relating to alcohol, for example: local crime prevention; community safety strategies; health, particularly in relation to the Scottish Executive Action Plan on Alcohol Problems; planning; transport; tourism; race equality schemes; cultural strategies; and any other plans introduced for the management of town centres and the night-time economy when developing policy statements. Some of these issues may not directly relate to the promotion of the five licensing objectives, but may indirectly impact upon them.

Transport

24. A statement should describe any arrangements agreed between the police and Licensing Standards Officers for reporting views or concerns to the local authority transport committee (or other bodies with responsibility for transport in their area). It is recognised that this may not be feature in the first policy statements prepared during transition, but Boards may wish to include such a statement in subsequent reviews of their policy statements. The police are best placed to advise on the need to disperse people from town and city centres quickly and safely to avoid high concentrations of people in particular vicinities which may lead to disorder, disturbance and pressures on public transport facilities. Boards may wish to be aware that some trade associations (for example, the British Entertainment and Dance Association) have developed comprehensive dispersal policies which offer practical guidance and advice.

Tourism, planning and building control

25. Policy statements should also indicate:

- that arrangements have been made for Licensing Boards to receive, when appropriate, reports on the needs of the local tourist economy for the area to ensure that these are reflected in their considerations;
- that planning, building control and licensing regimes will be properly managed to avoid duplication and inefficiency. An application for a premises licence

must be from a business with planning consent for the property concerned. Licensing applications should not be a re-run of the planning application and should not cut across decisions taken by the local authority planning committee, nor should they seek to challenge decisions taken by that committee. Similarly, the granting by the Licensing Board of any variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building control ⁴ where appropriate. Proper liaison and communications should be assured between Licensing Boards and the planning committee on the situation of licensed premises in the area. For example, in relation to new premises or a significant extension of existing premises. This might include the general impact of alcohol related crime and disorder.

Duplication

26. Statements of licensing policy should include a firm commitment to avoid duplication with other regulatory regimes so far as possible. For example, legislation governing health and safety at work and fire safety will place a range of duties on the self-employed, employers and operators of venues. These may be in respect of employees and customers on the premises. Similarly, many aspects of fire safety will be covered by existing and future legislation and should not be duplicated through the licensing regime.

Discretionary conditions

27. Boards have the discretion to apply licence conditions, but must recognise how these relate to the mandatory licence conditions set out in regulations, orders, or any other instruments made under the Act.

Content of policy statements

28. Policy Statements should provide local communities with a clear indication of the Licensing Board's policy and must be consistent with the licensing objectives set out in the Act. In particular the policy statement should include: -

- A clear indication of the Board's policy on the granting of licensed hours generally and where different policies may apply in different localities according to local circumstances;
- A statement of their policy on overprovision of licensed premises or particular types of premises (as required by section 7 of the Act once that is brought into force) and which localities (if appropriate) have (1) been determined to be overprovided for by the Board, or (2) are approaching overprovision;
- A general statement on how many Licensing Standards Officers the authority intends to employ, their role and remit, and how they can be contacted; and
- A statement of the agreed procedures the Board has developed for handling applications, objections, representations, delegation of functions and review hearings etc. for premises and personal licences.

Shona Douglas

From: Gordon Lindsay
Sent: 17 July 2018 15:27
To: Liquor Licensing - Generic Email Account
Subject: FW: Perth and Kinross Licensing Board - Review of Licensing Board Policy Statement 2018 Consultation
Attachments: Draft Licensing Policy Statement 2018.pdf
Follow Up Flag: Follow up
Flag Status: Completed

Hi Debbie

I have had a look through the draft and would only make the following observations, that may or may not be relevant under your legislation.

1. In Section 4.1 there is reference to the need for a disabled access and facilities statement – what happens if there is an existing premise that has no access to all disabilities. Should there be something to say they comply with the Equalities Act?
2. In the section 5.10 relating to young people there is mention of need to protect glazing. I would suggest that this should be a requirement for any licensed premise as a mix of potentially busy premises, drink and unprotected glass is a potential hazard regardless of the age of customers. I also find it a bit strange that the section also mentions toilets must be of a reasonable standard where children have entry, should that not apply generally and is "reasonable" an adequate standard?
It is also noted that the requirements for facilities where under 5's are permitted does not include any provision for changing facilities.
3. In section 5.13 does this need updated to remove the first two sentences given that the ban on smoking has been in place for such a long time?
4. In 5.16 I would suggest that in terms of maintaining premises the term 'safe' should be added.
5. I am not quite sure where, but I wonder if there should be a condition stating for an occasional licence where any staging or platforms are being provided that the licence holder must demonstrate that all necessary permissions have been obtained.

Gordon J Lindsay
 Building Standards Manager
 Housing & Environment
 Perth & Kinross Council
 Pullar House
 35 Kinnoull Street
 PERTH
 PH1 5GD
 E-mail: [REDACTED]
 Phone: [REDACTED]

Appendix 4

Comment on Building Standards' consultation response

Response	Comment
<p>1 Section 4.1 – refer to existing premise that has no access to all disabilities complying with the Equalities Act.</p>	<p>In general, applicants and premises licence holders are under a duty through the Equality Act 2010 to make reasonable adjustments to premises to allow for access by disabled persons. This is a separate legal requirement from alcohol licensing.</p> <p>As this is a matter of fact, if the Board is minded, this could be added into the finalised Licensing Policy Statement as a minor amendment.</p> <p>However, this would not fit within Section 4.1. Instead, Section 1.9 already refers to the Equality Act 2010. At the end of that Section could be added:</p> <p>‘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.’</p> <p>It should be noted that this duty will be apparent to applicants and existing premises licence holders who complete a Disabled Access and Facilities Statement. The accompanying Scottish Government Guidance makes reference to the Equalities Act 2010.</p> <p><u>Recommendation</u></p> <p>Amend Section 1.9 as narrated above.</p>
<p>2 Section 5.10 requirements on glazing and toilets only applies to children and young persons.</p>	<p>Section 5.10 is specifically aimed at children and young persons due to the licensing objective, (e) protecting children and young persons from harm.</p> <p>To make such requirements apply for all patrons would be a new policy requiring public consultation.</p>

<p>Requirements for facilities where under 5s are permitted not including any provision for changing facilities.</p>	<p><u>Recommendation</u></p> <p>No change</p> <p>This used to be Board policy, however, other legislation introduced the requirement for nappy changing facilities. It was deleted as a Board policy requirement, however, a reminder that premises licence holders must comply with other legislation including providing nappy changing facilities was added and is currently contained in the last paragraph of Section 5.10.</p> <p><u>Recommendation</u></p> <p>No change</p>
<p>3 Section 5.13 – remove first two sentences given ban for smoking has been in place for a long time.</p>	<p>The first two sentences can be seen as general statements irrespective of when the ban on smoking in public places came into force.</p> <p>To revise this Section would be a minor amendment, however, it would not be a case of just deleting the first two sentences. Revised wording instead of those two sentences could be 'Premises licence holders should ensure patrons and staff do not smoke within their premises. Other issues can arise'.</p> <p><u>Recommendation</u></p> <p>Amend Section 5.13 as narrated above.</p>
<p>4 Section 5.16 – add the word 'safe'</p>	<p>Section 5.16 on Condition of Premises may become Section 5.17 but is otherwise not proposed for change.</p> <p>It is debatable whether adding the word 'safe' would be a substantive amendment or a minor amendment.</p> <p>If it is added the wording would be amended to '... good, clean, tidy and safe condition at all times.'</p>

	<p><u>Recommendation</u></p> <p>Amend Section 5.16 as narrated above.</p>
<p>5 Add condition that occasional licence holders with a stage or platform must demonstrate all necessary permissions must be obtained.</p>	<p>Such permissions are required from Building Standards under the Civic Government (Scotland) Act 1982. It would be difficult to include a requirement to demonstrate a separate Act has been complied with. There would also be practical problems in identifying which occasional licence applications this applied to.</p> <p>As a general matter of fact, it would be possible to add reference to this and other permissions as a minor amendment for the purpose of providing more information. In the last paragraph on 8.1 Occasionals, the last sentence could be amended to read: ‘Applicants should also be aware that they may also require a public entertainment licence, market operator licence, street trading 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.’</p> <p><u>Recommendation</u></p> <p>Amend Section 8.1 as narrated above.</p>

From: Peebles, Gordon [REDACTED]
Sent: 01 August 2018 11:34
To: Debbie Merchant
Subject: RE: Perth and Kinross Licensing Board - Review of Licensing Board Policy Statement 2018 Consultation [OFFICIAL]

OFFICIAL

Good Morning Debbie,

Having now had a chance to read through the revised Policy Statement, I can confirm that Police Scotland has no adverse comments to make and that unless criticism is drawn from elsewhere, we support the revised statement as is.

Regards

Gordon Peebles, Sgt, D9613
Divisional Licensing Team
Police Scotland
D- Division
West Bell Street
(Annexe Building)
Dundee
DD1 9JU

Tel: [REDACTED]

Email: [REDACTED]

Appendix 5

Comment on Police Scotland consultation response

Response	Comment
No adverse comments to make and unless criticism is drawn from elsewhere, they support the revised statement.	It is a matter for the Board what weight to attach to this response. It is of note that the police are not objecting to the increases in licensed hours.

Shona Douglas

From: Councillor Alasdair Bailey
Sent: 01 August 2018 20:48
To: Liquor Licensing - Generic Email Account
Subject: RE: Perth and Kinross Licensing Board - Review of Licensing Board Policy Statement 2018 Consultation

Follow Up Flag: Follow up
Flag Status: Completed

Dear Sir/Madam,

Please consider this my response to the consultation;

"I support the adoption of the principle of Agent of Change in the revised Policy Statement. I further suggest that, if within our powers to do so, this provision is extended to apply retrospectively to cases where, without this provision, the license of a music venue can be challenged by persons who moved to the area in full knowledge of the existence of the venue."

Kind regards,
Alasdair

Alasdair Bailey
Councillor, Ward 1 – Carse of Gowrie

o: [REDACTED] | m: [REDACTED] | e: [REDACTED]

follow my work @ [REDACTED]

Appendix 6

Comment on Councillor Alasdair Bailey consultation response

Response	Comment
<p>Section 5.11 Noise – supports the Agent for Change principle and, where possible, this should be applied retrospectively.</p>	<p>It is a matter for the Board to decide which option in Section 5.11 on Noise that it wishes to adopt, taking into account Environmental Health's Report and the consultation responses received.</p> <p>Any option chosen could not be applied retrospectively in the sense of changing existing decisions already taken.</p> <p><u>Recommendation</u></p> <p>For the Board to decide which option in Section 5.11 to adopt.</p>

SGF

Scottish Grocers' Federation

www.scottishshop.org.uk

Promoting Responsible Community Retailing Since 1918
to ensure a sustainable and prosperous convenience industry in Scotland

SGF Centenary Year

**Response from the Scottish Grocers' Federation
on
Perth and Kinross Licensing Board - consultation on
Statement of Licensing Policy**

**Luke McGarty
Scottish Grocers' Federation**

August 2018

PERTH AND KINROSS LICENSING BOARD – CONSULTATION ON STATEMENT OF LICENSING POLICY

The Scottish Grocer's Federation

- The Scottish Grocers' Federation (SGF) is the trade association for the Scottish Convenience Store Sector. There are 5,286 convenience stores in Scotland, which includes all the major symbol groups, co-op and convenience multiples in Scotland. SGF promotes responsible community retailing and works with key stakeholders to encourage a greater understanding of the contribution convenience retailers make to Scotland's communities. In total, convenience stores provide over 41,000 jobs in Scotland.
- Modern local convenience stores are community assets, from providing busy families with a top up shop facility on the one hand, to allowing patrons (particularly the elderly) with an alternative to larger or out of town supermarkets. Many people rely on their local convenience store with the average shopper visiting their local store 3.47 times per week¹ and with 56%² of customers choosing to walk as a mode of travel to stores. The age range of shoppers is as follows³:
 - 14% are 16 to 24
 - 18% are 25 to 34
 - 33% are 35 to 54
 - 28% are 55 to 74
 - 7% are 75+
- Local shopping has, over the years, often been replaced by large destination retail parks, gone from many areas are the local butcher, baker and grocery. The personal interaction with your local retailer is now almost uniquely reserved for your local convenience store.
- Modern convenience stores now offer a wide range of products and services, from deli counters and coffee to Amazon collection lockers. Being able to offer a diverse range is of paramount importance. A more restrictive range simply provides the potential customer with a reason to shop at a competitor. Whilst it is ancillary to wider ranges of grocery and retail, alcohol is an important sales category for our member's stores. A typical convenience store offers a range of at least 17 kinds of different product categories. Alcohol accounts for approx. 15%⁴ of total sales turnover. 76%⁵ of convenience stores have an alcohol licence.

¹ The Scottish Local Shop Report 2017

² The Scottish Local Shop Report 2017

³ The Scottish Local Shop Report 2017

⁴ The Scottish Local Shop Report 2017

⁵ The Scottish Local Shop Report 2017

Introduction

- SGF welcomes the opportunity to contribute to the consultation exercise. We trust that you will find our comments helpful. Our comments relate primarily to points raised in Section 5 – Management of Premises, Section 7 – Licensed Hours and Extended Hours, Section 9 – Overprovision and Occupancy Capacity, Section 13 – Irresponsible Promotions and Section 14 – Price Variation of Alcohol.

Management of Premises (Section 5)

- SGF have the following comments to offer in relation to Section 5 of the draft licensing policy statement:

Proof of Age (5.2)

- SGF consider that the current policy is appropriate and reasonable.

Purchase of alcohol for a child or young person (5.3)

- SGF agree with the policy as set out in the draft statement of licensing policy. SGF promote responsible community retailing and recognise the importance of selling alcohol in a responsible way. The Board should be aware that SGF members participated in the recent 'You're Asking For It' campaign in North Lanarkshire which was aimed at tackling underage drinking by targeting adults who buy alcohol for under 18's. This was organised in conjunction with the Scottish Alcohol Industry Partnership, Police Scotland and North Lanarkshire Community Safety Partnership and ran from the school holidays up to mid-September 2017 and proved to be very successful campaign. A similar project was also undertaken in the Leith area of Edinburgh in 2016. Again, this was highly successful. It is hoped that other local authorities will consider adopting similar campaigns in due course. Inverclyde Council recently have agreed to participate and will launch their campaign in November 2018.

Training (5.4) and Incident Book (5.6)

- SGF consider that the suggested policies are appropriate and reasonable.

CCTV (5.15)

- An extract from the draft statement of licensing policy in relation to the use of CCTV states that:

"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..."

- SGF do not believe that it should be a requirement for all staff to be trained in the use of CCTV (or for a CCTV trained member of staff to always be present during licensed trading hours). SGF would see such a condition as an additional burden on convenience sector retailers who often have to operate with the minimum amount of

staff due to cumulated cost pressures. Figures from our Scottish Local Shop Reports show that retailers are now employing less staff and hours are being cut. For example, in 2016 convenience stores in Scotland provided almost 42,000⁶ jobs and those working between 17 to 30 hours was 33%. In 2017⁷ these figures had dropped to 41,000 and 28% respectively. On top of this retailers are having to do more hours themselves with 21%⁸ of shop owners in Scotland working more than 70 hours a week and are now looking towards utilizing staff-less shopping lanes to cut costs.

Delivery of Alcohol and consumption by persons under 18 or drunk persons (5.22)

- Home (or online) deliveries are not routinely offered and so represent an area for development for convenience stores. This point of difference however allows convenience stores to offer another important and valued service to customers. An extract from the draft statement of licensing policy states that:

“Where premises licence holders with an off sales facility operate a delivery service, 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 and recording deliveries made. 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.”

- SGF consider that the suggested conditions are appropriate and reasonable.

Licensed Hours and Extended Hours (Section 7)

- SGF have the following comments to offer in relation to Section 7 of the draft licensing policy statement:

Off-Sales (7.2)

- The Licensing (Scotland) Act 2005 sets out the maximum permitted hours for off sales type premises are 10am to 10pm, each day of the week. We note that the current policy statement indicates that the Licensing Board will have no discretion to permit licensed hours out with these times. On that basis, SGF support the current policy on licensed hours.

⁶ The Scottish Local Shop Report 2016

⁷ The Scottish Local Shop Report 2017

⁸ The Scottish Local Shop Report 2017

Special Issues – Overprovision and Occupancy Capacity (Section 9)

- SGF have the following comments to offer in relation to Section 9 of the draft licensing policy statement:

Overprovision (9.1)

- We recognise the Board's duty to assess overprovision under Section 7 of the Licensing (Scotland) Act 2005 in respect of licensed premises or licensed premises of a particular description in any locality within the Board's area.
- We note however that the licensing board does not have an overprovision policy however, will be assessing whether one should now be adopted. We thought it would be useful to set out how many of our members will view such a policy. We respectfully suggest that overprovision is a blunt instrument and does little to reduce alcohol related harm. In future, if the licensing board decided to develop an overprovision policy, SGF would strongly urge that this is based on a locality as opposed to whole area approach.
- We also recognise that groups such as Alcohol Focus Scotland assert that there is a strong body of evidence to show that the availability of alcohol (i.e. the number of premises) is a significant factor in the prevalence of alcohol-related problems, particularly alcohol-related crime. However, we are not convinced that this evidence is either robust or conclusive enough. There is no simple cause-and-effect relationship between the number of premises and alcohol-related problems and overall it is becoming increasingly difficult to make a link between individual premises and problems in a specific locality. Inequality continues to be the main determining factor: alcohol-related harm in Scotland is still disproportionately experienced by those from more deprived areas.
- Our members are responsible retailers and they put considerable effort into ensuring that alcohol is sold in a responsible way. This happens through the following key areas:
 - Full compliance with the Challenge 25 regulations;
 - Staff training;
 - Appropriate signage;
 - In-house test purchasing;
 - Refusal books;
 - Use of CCTV;
 - Full compliance with the stores operating plan
- SGF recognise the associated benefits that come from a convenience store opening in a local area. A store opening will create jobs and also offer access to fruit and vegetables to the local community. The SGF Healthy Living Programme (HLP) has been successful in enabling customers to make healthy eating purchases in-store and now has over 2,000 stores participating. With 5,286 convenience stores in Scotland⁹ and with 80% of independent retailers¹⁰ engaged in some form of community activity in the last year

⁹ The Scottish Local Shop Report 2017

¹⁰ The Scottish Local Shop Report 2017

convenience stores have an increasingly important role in their local communities. In the SGF's submission this may be entirely relevant to the licensing objective of Improving and Protecting Public Health and therefore, may be taken into account when the Board is determining whether to introduce an overprovision policy.

- Convenience stores provide a range of key services for their customers and this includes that ability to be able to offer their customers a full range of products, i.e. giving the customer the chance purchase an alcoholic beverage as an accompaniment with home dining. Therefore, a consequence of overprovision is that new entrants to the market are unable to obtain premises licences to authorise the sale of alcohol and are therefore, disadvantaged. The availability of alcohol in a pre-existing competitor store gives the prospective customer a reason to choose to shop there. The convenience element of being able to get their "full basket" from the competitor provides an unfair commercial advantage.
- SGF believe that the entire concept of overprovision should be reviewed to consider whether it is remains fit for purpose. We live in an age where customers are able to order alcohol online as part of their shop from a supermarket and have it delivered to their home. This order can be made from anywhere given the prevalence of smartphones. Given this, what does declaring a geographical area as being overprovided for actually achieve? It would seem, arguable, that overprovision has not kept up the development of modern technology and consumer shopping habits. For example, a resident of Perth and Kinross may order an online grocery shop and this could be quite legitimately be dispatched from a premises in Fife or Stirling.

Special Issues – Irresponsible Promotions (Section 13) & Price Variation of Alcohol (Section 14)

- SGF consider that the suggested policies are appropriate and reasonable. SGF works with its membership and the convenience sector as a whole to ensure that they are fully compliant with licensing legislation and are selling alcohol responsibly both in terms of pricing and promotions. Indeed the SGF retailers guide to minimum unit pricing¹¹ – produced in partnership with the Scottish Government – has been issued to all our members and is being used by Licensing Standards Officers.

While we welcome this consultation exercise the SGF believe the licensing system should not be onerous on retailers. We hope that you find these comments helpful.

Yours sincerely

Luke McGarty
Public Affairs Assistant
Scottish Grocers' Federation
222/224 Queensferry Road
Edinburgh, EH4 2BN
T: [REDACTED]
E-mail: [REDACTED]

3 August 2018

¹¹ SGF – Guidance on Minimum Unit Pricing for Retailers (March 2018)

Appendix 7

Comment on Scottish Grocers' Federation consultation response

Response	Comment
Various Sections of the Draft Policy Statement are commented on. For the most part the SGF state the draft policies are appropriate and reasonable.	No comment is required other than to observe that the majority of policies the SGF refer to are either not indicated for revisal or only limited revisal. The SGF are therefore mainly stating existing policies are appropriate and reasonable.
Section 5.15 CCTV – the SGF do not believe it should be a requirement for all staff to be trained in the use of CCTV.	<p>To make a change would be a new or substantially amended policy requiring public consultation.</p> <p>One of the reasons for the requirement could be said to be to assist the police in any enquiry by allowing for immediate or quick access to CCTV images. To alter the requirement would require public consultation to allow the likes of Police Scotland to comment. Another issue would be what would the requirement be altered to? Would it only refer to the designated premises manager, for example or would it be removed entirely?</p> <p><u>Recommendation</u></p> <p>No change</p>

Shona Douglas

From: Ken Lockley [REDACTED]
Sent: 14 August 2018 11:41
To: Liquor Licensing - Generic Email Account
Cc: John Mckenzie
Subject: Draft Licensing Policy Statement for Consultation

Importance: High

Follow Up Flag: Follow up
Flag Status: Completed

We would like to comment on a portion of the above consultative document.

We are Moness Group Ltd who own: the Moness House Hotel, the Moness Resort & Country Club and the Aberfeldy Caravan Park, all situated in Aberfeldy, Perthshire.

We are particularly interested in ***Paragraph 5.11 Noise.***

We have been directly affected by this particular subject and would welcome any change in the current situation of: No noise by way of music whether amplified or not or singing and speech emanating from licenced premises shall be audible in adjoining properties between 11pm & 7am.

Due to space restrictions, we use our permanent marquee for events such a weddings and celebrations which is situated in the grounds of the resort. This is a double skinned structure with curtains to all windows. We have invested a huge amount of money and resources in order to comply with the above condition. This included the development and design by a specialist company in supplying a bespoke sound system, frequency specific control platform and using attenuation methods for the specific landscape and environment. This sound system alone was in excess of £40,000.

In addition, as a secondary precaution we landscaped the banking to the rear of the marquee to a height that would absorb/deflect any remaining sound away from neighbourhood properties.

All this was undertaken with the co-operation and consultation of Perth & Kinross Councils Environmental Health team. Indeed, it is this team who currently control the sound levels within the marquee.

Even with this level of sophistication and control, we still attract mischievous calls from neighbours sometimes on nights when there is no activity whatsoever in the marquee.

We feel that the current policy between the hours of 11pm and 7am is far to ridged and strict which can provoke hostility against the venue even with a notional increase in the background noise level.

We prefer the Combination Option of:

31dB or 10dB above underlying measured noise level

We feel that this would provide flexibility and clarity in the matter and dovetails nicely into the Antisocial Behaviour Act levels

We sincerely hope that you take our views into consideration when producing the Policy Statement.

Finally, could you please acknowledge receipt of this communication?

Best regards

Kenneth Lockley

Moness Group Ltd

T: [REDACTED]

M: [REDACTED]

E: [REDACTED]

Appendix 8

Comment on Moness Group Ltd consultation response

Response	Comment
<p>Section 5.11 – supports the Combination Option of 31dB or 10dB above underlying measured noise level.</p>	<p>It is a matter for the Board to decide which option in Section 5.11 on Noise that it wishes to adopt, taking into account Environmental Health's Report and the consultation responses received.</p> <p>It should be noted that Moness Group Ltd stated preference is for only the first part of what is the fourth option set out in Section 5.11 of the Draft Licensing Policy Statement. They do not refer to the second part, namely (ii) for low frequency, exceed 47dB in 63Hz band and/or 41dB in 125Hz octave bands. Environmental Health in their Report recommend the fourth option in its entirety.</p> <p><u>Recommendation</u></p> <p>For the Board to decide which option in Section 5.11 to adopt.</p>

Perth & Kinross Licensing Board Policy with regards to Noise – Environmental Health Review

Response from Stephen Kelly-Barton, Proprietor of the Inchtute Hotel, Perth PH14 9RN

Introduction

I am grateful for the opportunity to respond to the Perth & Kinross Licensing Board's Consultation on the appropriate way forward in respect of its Policy on music noise emanating from licensed premises.

Background

As Licensing Board records will show, the Inchtute Hotel has, to a significant extent, suffered at the hands of the previous Policy and complaints from a residential neighbour. In light of this fact one could readily assert that the views expressed herein are as a result of being on the sharp end of the "inaudibility policy". Notwithstanding my own experience, I recognise that the Licensing Board has a duty to balance the rights of licensed businesses against those of residential neighbours. I hope in this regard that the eventual tone and tenor of the Policy acknowledges the legitimate right of businesses to operate and the wider social and cultural benefit arising from people coming together to enjoy music within licensed premises. It is submitted that licensed premises, such as the Inchtute Hotel, act as a gathering place for families and local communities allowing people to meet and socialise. This function as a social hub and a place to celebrate or commiserate is important in the context of a recent study that found social isolation to be a material health risk.¹

Current Policy

The Licensing Board's current Policy (suspended circa 16 October 2017) states "no noise by way of music, whether amplified or not, or singing and speech emanating from licensed premises shall be audible in any adjoining property between 11pm and 7am."

The future Policy should not, for a host of reasons, see the Board revert to the arbitrary inaudibility test. The subjective nature of what is and what is not inaudible means that the test is highly prejudicial and compliance by the licence holder is almost impossible. Any licence conditionalised on this basis sees the licence holder having to obtemper a condition which he or she cannot objectively assess and no tolerance is inbuilt. It is important that both the licence holder and any interested party has clarity as to whether a condition is being breached.

Inaudibility sees the pendulum swing too far and it defeats the legitimate rights of a business to operate thereby depriving the local community of an important asset.

Whilst it is not binding on the Perth & Kinross Licensing Board the English Courts have, on Judicial Review, quashed the use of inaudibility conditions².

In summary this case, in part, centres on a Licensing authorities decision to impose a condition on the Premises Licence obliging the licence holder to ensure that all noise from entertainment at the premises should be inaudible. On Judicial Review the relevant inaudibility condition was considered by the Court. The condition was quashed and the court held that "without some degree of specificity as to what is meant by inaudibility, the condition is in my judgment so vague as to be unenforceable. In those circumstances I consider that the noise condition is liable to be quashed...."³

I would submit to the Board that in terms of its consultation option 1 i.e. "inaudibility" should not be pursued.

¹ <https://static1.squarespace.com/static/531897cde4b0fa5080a9b19e/t/533d7dade4b099c54d485b54/1396538797567/social-isolation.pdf>

² R (on the application of Developing Retail Limited) v East Hampshire Magistrates' Court [2011] EWHC 168 (admin)

³ Ibid para 33

Cultural benefit

The cultural benefit derived from small to medium sized independent music venues is often underestimated. The key findings of a combined study by the Universities of Edinburgh and Glasgow, *The Cultural Value of Live Music from the Pub to the Stadium*⁴ held

- The weakest point of the live music ecology at present is the small to medium independent venues.
- Policymakers need to pay more heed to the economic and cultural contribution of smaller venues. Local regimes often focus their attention on major developments whose key beneficiaries are larger businesses.

The problems continue to the present for small live music venues as evidenced by the 2017 UK Live Music Census. It evidences that smaller venues continue to face significant challenges, affecting their sustainability. Many challenges reported are external, such as increased business rates, strict licensing laws and the property development.⁵ At page 11 of the Census it confirms 27% of all venue survey respondents said that noise-related complaints had affected their business with almost 20% citing licensing issues.

Turning to address the first four options they are too draconian and arbitrary so it is my view that the final option, namely, *"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 be a statutory nuisance under the Environmental Protection Act 1990 in any neighbouring property"* with some further explanation should be taken forward. This is the closest to striking some sort of balance. The other options, by my reading, are inflexible and strict.

The problem with the reference to "statutory nuisance" in isolation is that it remains somewhat hard to understand and quantify. Respectfully I would suggest that the Board must elucidate on the concept and I would refer you to the statutory guidance on the nuisance provisions of the Public Health Etc (Scotland) Act 2008⁶. The Board's Policy should make clear that when assessing nuisance, officers should be objective, thus a particularly sensitive auditory response is not to be given any higher standard of protection than a person with 'normal' response. The Policy should therefore take account of the guidance and assess (1) impact, (2) locality, (3) time, (4) frequency, (5) duration, (6) convention, (7) importance & (8) avoidability.

These eight indicators represent a practical proportionate approach and would help assist officers in identifying nuisance and explaining their rationale to both parties.

From an operator's point of view, the eight points provide the hope of some balance and tolerance which could work for both noise producer and receptor as follow -

(1) impact – the noise receptor can explain the disturbance and the impact of this on them. On the other hand the noise producer can explain the impact of restricting or limiting the noise. By way of example, the majority of our live entertainment at the Inchture is from bands for weddings. Two years ago (prior to restrictions being imposed by way of noise limiter) we had 38 wedding. With the limiter in place booking have fallen dramatically. Next year 2019-2020 we only have 5 weddings booked.

(2) locality – discussions around the characteristics of the locality can help manage parties expectations.

(3) time – focusing on acceptable times for live music noise can see common ground reached or areas of dispute focused.

⁴<http://livemusicexchange.org/wp-content/uploads/The-Cultural-Value-of-Live-Music-Pub-to-Stadium-report.pdf>

⁵<http://livemusicexchange.org/resources/valuing-live-music-uk-live-music-census-report-2017-emma-webster-matt-brennan-adam-behr-and-martin-cloonan-with-jake-ansell-2018/>

⁶<https://www.gov.scot/Publications/2009/01/23142152/5>

(4) frequency – identifying how often music events happen and agreeing parameters surrounding the numbers of music events or regularity of same can help mitigate the impact on both the business and the receptor.

(5) duration – the overall length of the noise from music can again be looked at to assess tolerable limits.

(6) convention – what has the position been? For example, the Inchture has been playing host to weddings with the accompanying live bands and Ceilidh bands since circa 1950. This pre-existing established use should be recognised in the decision making around nuisance.

(7) importance – whilst not being disturbed regularly late at night is important, this can be balanced against the overall cultural importance and the significance of live music as part of family and community celebrations as is apparent throughout the ages.

(8) avoidability – are both parties taking all reasonable steps to avoid/ mitigate the issue. It should very much be looked at from both sides.

Finally, turning to the question of adopting the agent of change principal, I would very much support its inclusion in the Perth & Kinross Licensing Board Licensing Policy Statement and would endorse this whole heartedly. In my opinion it goes hand in hand with many of the eight indicators advocated above. For too long there has been a presumption that the licensed premises or noise source is always at fault. The adoption of the agent of change principal will help demonstrate that the Licensing Board recognises that music within licensed premises plays an important part in the local community and that the interests of a licensed premises should not always be second to those of resident or neighbours who have effected the change.

This response is for the Licensing Board's consideration but should any further information be required or indeed attendance at any hearing or oral evidence session, please do not hesitate to let me know.

Yours faithfully

Stephen Kelly-Barton

Comment on Stephen Kelly-Barton, Inchture Hotel consultation response

Response	Comment
<p>Section 5.11 - future policy should not revert to inaudibility test. First four options are too draconian and arbitrary. Should adopt 5th Option (statutory nuisance under Environmental Protection Act 1990) with some further explanation added. Also supports the addition of the Agent for Change Principal.</p>	<p>It is a matter for the Board to decide which option in Section 5.11 on Noise that it wishes to adopt, taking into account Environmental Health's Report and the consultation responses received.</p> <p>There is reference to an English case of <i>Developing Retail Limited v East Hampshire Magistrates' Court</i> from 2011. It is correct that this is an English case based on different legislation not binding in Scotland. It also concerns the interpretation of the wording of a condition to cover a building and outdoor area rather than a detailed examination of a licensing authority noise policy. In Scotland, there has been some indirect consideration in appeals of noise policies through conditions, however, there has been no appeal directly examining the validity of a noise policy. There are other Licensing Boards in Scotland that have the same or similar no noise policy.</p> <p>To add further explanation to the statutory nuisance test (5th Option) would be adding wording not already publically consulted upon.</p> <p>The eight indicators referred to are part of the guidance to officers of local authorities (primarily environmental health officers) on how to assess statutory nuisance. There is other guidance in addition to the eight indicators.</p> <p><u>Recommendation</u></p> <p>For the Board to decide which option in Section 5.11 to adopt, with no additional wording.</p>



AFS RESPONSE TO PERTH AND KINROSS LICENSING BOARD'S LICENSING POLICY STATEMENT CONSULTATION (AUGUST 2018)

Alcohol Focus Scotland (AFS) welcomes the opportunity to comment on Perth and Kinross Licensing Board's Statement of Licensing Policy (SLP). The licensing system plays a key role in minimising the risks of harm to individuals and society from the sale and consumption of alcohol. AFS is therefore keen to support the development of licensing policy and practice in Scotland that works most effectively to prevent and reduce alcohol related problems.

As a national organisation, we offer our opinion on the general approach, policy direction, and emerging issues relevant to alcohol licensing, which we hope the Licensing Board will find useful. We have also provided suggestions regarding the sections of the draft policy which we believe may warrant particular scrutiny.

Links with other strategies

AFS welcomes that the existing policy includes a commitment that the Board will work towards ensuring the integration of its policy statement with local strategies relevant to the licensing objectives. The various strategies detailed in the current policy are those that we believe to be the most appropriate e.g. local community plans, and the various strategies and action plans of local partnerships.

It will be important that the new policy continues to recognise the value of linkages with other bodies interested in alcohol regulation, and specifically references the policies and strategies which are most relevant to the work of the Board. The Board should also take into account the views of local partners, the Forum, communities, and other strategies and plans which have relevance to alcohol when developing and implementing their new policy.

The alcohol licensing regime provides a locally led system for regulating the sale of alcohol and is one of the key mechanisms by which availability can be controlled at a local level. As alcohol licensing is the responsibility of licensing boards, it will be essential that boards can identify where they share similar objectives to Community Planning Partners, and understand how they can best support each other towards these ends. In many respects, licensing boards and CPPs are already working towards shared goals and stand to benefit from more collaborative approaches. It will therefore be important that the new Licensing Policy aligns with community planning Local Outcome Improvement Plans (LOIPs). In addition, the work undertaken by the Alcohol and Drug Partnership will be of particular significance, and the new policy could signpost people to where they can access a copy of the ADP's Strategy and Delivery Plan. AFS would also recommend that the new policy references relevant strategies of the Health and Social Care Partnership (HSCP).

Scotland's alcohol strategy 'Changing Scotland's relationship with Alcohol a Framework for Action' remains of key relevance to the policy and should continue to be included. This established a whole population approach to reducing alcohol harm and identified action on availability as one of three key mechanisms - alongside price and marketing - to achieve this. The Scottish Government's

consultation on the strategy, published in 2008, recognised that the main mechanism for controlling alcohol availability was licensing legislation.

The existing policy recognises that licensing boards have legal obligations under the Equality Act. AFS would recommend that the new policy also recognises that boards are bound by human rights legislation. Action on human rights in Scotland is currently being driven through Scotland's National Action Plan for Human Rights (SNAP) and there a range of links between alcohol related harm and the realisation of human rights in Scotland.

Accessibility and participation

During a series of regional licensing seminars, hosted by AFS in 2016, a lack of public participation in licensing was reported across the country. Barriers to participation can relate to poor accessibility of licensing processes, but inconsistencies in policy and practice can also prevent meaningful engagement.

The existing policy includes a commitment that the Board will conduct its business in an open and transparent way. This is welcomed but the new policy could provide much more detail about the means by which the Board's processes and procedures will provide for increased accessibility, transparency and accountability for communities, for example by requiring:

- a set of published standing orders;
- board papers and minutes being published on time;
- board minutes recording the names of board members voting for/against a decision; and
- details to be made available of what people can expect when attending meetings and the supports available to them.

The new policy could also have an increased focus on supporting public engagement and participation. The current policy states that the Board has guidance notes available to assist the public, however it would appear that the only guidance notes available on the Perth and Kinross Council website are those intended to assist licence applicants to correctly complete the relevant forms. The new policy should more clearly signpost the general public to where they can find guidance to support them to get involved, or this guidance should be included as an Appendix e.g. the [Alcohol Licensing in Your Community Toolkit](#).¹ It would be particularly helpful to make guidance available for the public on making objections and representations. The current section of the policy outlining the role of the Licensing Standards Officer could also be expanded to include more detail about the assistance they are able to offer to the public and how they can be contacted.

The new policy could also include a commitment that the Board will attempt to make the experience of attending a hearing as informal and friendly as possible. This can be a particularly important commitment for many community members, who may feel intimidated by overly formal processes and environments.

¹ Alcohol Focus Scotland (2015). *Alcohol Licensing in Your Community How You Can Get Involved*. Glasgow: Alcohol Focus Scotland: <https://www.alcohol-focus-scotland.org.uk/media/133477/Community-licensing-toolkit.pdf>

In addition, policy statements should be easily understood by all licensing stakeholders, including by members of the public without technical expertise. Ensuring that the new policy is written in plain, accessible language could help facilitate the involvement of a wide range of stakeholders.

AFS would also recommend that the Board includes details of the evidence considered by the Board in developing the policy. Boards should be explicit and demonstrate within the policy how it has been informed through consultation, with the material considered by the Board being published and links to this material being included in the policy itself. Stating this in the policy statement helps demonstrate the Board's responsive approach to consultation.

Further details about accessibility and participation in licensing can be found in AFS's 2017 report *Taking Stock*.² This report analyses experiences of progress within the alcohol licensing system in Scotland since the Licensing (Scotland) Act 2005 was implemented in 2009. It also identifies learning and challenges, and makes recommendations for improvement and reform, many of which may be of interest to the Board.

Promotion of the licensing objectives

As s.6 of the Licensing Scotland Act (2005) makes clear, the policy statement must seek to promote the licensing objectives. For all objectives, AFS would suggest the following format:

1. State the licensing objective.
2. Give a statement as to what the licensing board is trying to achieve with this objective.
3. List concerns in the area relating to this objective – identify what evidence was used to identify these concerns.
4. List what the licensing board intends to do. Note that this could include declaring overprovision, controlling licensed hours, or applying certain conditions – referring to the relevant section/s in the policy.
5. List any suggested actions the licensing board would like to see the licensed trade in the area undertake to meet this objective.

The 'Licensing Objectives' section of the policy currently sets out an expectation that applicants will provide information about the control measures they will put in place, but provides very few examples of what these measures could actually be. This section within the new policy could explain in much greater detail the control measures that licensees could put in place relative to each objective, or signpost them to where within the policy this information can be found (at present this primarily appears to be within the 'Management of Premises' section of the policy). In addition, the policy does not set out the actions the Board intends to take in promote the objectives, for example by describing the conditions it may consider applying in pursuance of each objective and why.

AFS has produced a Licensing Resource Pack³ that provides resources to support the collection of evidence on local alcohol-related harm, and provides examples of research which demonstrates the impact of particular licensing conditions on harms. This may be particularly useful to the Board when developing its new policy: <http://www.alcohol-focus-scotland.org.uk/media/291077/afs-licensing-resource-pack.pdf>

² Alcohol Focus Scotland (2017). *Taking Stock: Views and experiences of alcohol licensing in Scotland in 2016/17*. Glasgow: Alcohol Focus Scotland: <http://www.alcohol-focus-scotland.org.uk/media/287043/Taking-Stock-Report.pdf>

³ Alcohol Focus Scotland (2017). *Licensing Resource Pack*. Glasgow: Alcohol Focus Scotland: <http://www.alcohol-focus-scotland.org.uk/media/291077/afs-licensing-resource-pack.pdf>

It would also be beneficial to provide more of the Perth and Kinross context in relation to each objective e.g. relevant statistics or evidence of the current situation, identification of any issues that are a particular concern, measures that have had an impact etc. We would suggest including both statistical and expert opinion, as well as any available local data, on what the issues are in Perth and Kinross. There should then be a clear line of reasoning from the evidence to the conclusions in the policy.

AFS commends the Board for updating the policy to make clear that premises and provisional licence applicants are expected to submit the Board's Supplementary Information document alongside their application; setting out how the business will comply with the licensing objectives. Having this statement of licensing objectives attached to their licence could help to focus applicant's attention on the objectives and ensure that they are afforded proper consideration in any proceedings. In addition, it is appropriate that the Board should go further and look to the evidence in respect of each of the five licensing objectives, also expecting applicants to provide evidence that suitable measures will be implemented and maintained.

Specific to the objective of Preventing Crime and Disorder, the proportion of alcohol now bought to consume at home or in other private dwellings (73% of all alcohol sold being purchased in off-sales⁴) underlines the need for the new policy to reference the importance of licensing for preventing crime and disorder in private spheres as well as the public.

Specific to the objective of Protecting and Improving Public Health, AFS welcomes that the current policy suggests that applicants make available information regarding sensible drinking and where support can be accessed. The intention behind this is admirable and this approach should continue. However, AFS would recommend that the Board avoid using terms like 'sensible' drinking in its new policy, and instead make clear that any information provided should be based on the Chief Medical Officer's (CMO) low risk guidelines. The Board might also wish to consider providing materials to licensees which is independently produced. The World Health Organisation has stated categorically that the alcohol industry should not be involved in health promotion, and the Government has a duty to ensure access to information and advice on alcohol is based on the best available scientific evidence and is impartial. NHS Inform is the best website in Scotland for impartial health advice: <https://www.nhsinform.scot/healthy-living/alcohol>

In relation to the objective to protect children and young people from harm, the Board may wish to give consideration as to whether it will apply the same policy to young persons or should have a different policy from that applied to children. AFS would be interested to hear the views of children and young person's and their representative organisations on this issue; however, it would seem sensible to apply the same policy for the purposes of alcohol licensing.

The policy states that the Board has a long standing interest in encouraging family-friendly premises within Perth and Kinross and wishes to see them thriving in the area. AFS fully appreciates that some Boards wish to encourage applications for licensed events and venues which are family friendly and safe for children. However, evidence shows that children and young people are influenced by the behaviour of adults they observe and this should be taken into account when considering the appropriateness of licensing applications. It will also be important that the new policy addresses the broader impact of alcohol on children and young people, including the impact of parental drinking.

⁴ Giles, L., & Robinson, M. (2017). *Monitoring and Evaluating Scotland's Alcohol Strategy: Monitoring Report 2017*. Edinburgh: NHS Health Scotland

The 'Children and Young Persons on Licensed Premises' section of the policy appears to contain much of the detail of how the objective relevant to children and young persons might be promoted. However, the new policy could set out much more detail about the general expectations of the Board with regards to factors like when children normally be allowed entry, including the ages of children to be allowed entry, and the types, times and parts of premises to which children should have access. In general, AFS would expect that premises that do not offer food of any description are highly unlikely to be a suitable environment for children.

During the series of Regional events hosted by AFS in 2016, concerns were also expressed across Scotland regarding occasional licences being granted for events mainly or exclusively targeted at families where children would be present. The current policy of the Board is to pay particular attention to occasional licence applications for events primarily aimed at children and young persons. We would recommend that the new policy is strengthened in this regard by making clear that if there are no other activities available other than the sale of alcohol - or an event is aimed primarily at children and young persons or families where large numbers of children will be present - it is unlikely that a licence will be granted.

Overprovision

AFS notes that the Board intends to consult upon a supplementary policy statement in respect of overprovision in the future. As such, at this stage, the Board may be particularly interested to know that AFS has worked with the Centre for Research on Environment, Society and Health (CRESH) at the Universities of Edinburgh and Glasgow to publish further evidence of the links between alcohol availability and harm in Scotland.

Detailed local information on alcohol availability and harm at neighbourhood level can be found using the [CRESH WebMap](#). In addition, profiles containing information about the levels of alcohol availability and related harm (at both a national level and for each local authority) can now be accessed via our website: www.alcohol-focus-scotland.org.uk/campaigns-policy/availability-and-licensing/alcohol-outlet-availability. We have also sent a copy of the Perth and Kinross profile to accompany this response.

There is no simple numerical formula for pinpointing the threshold between provision and overprovision. Determining overprovision involves the application of reason and judgement in the interests of the community. Alcohol harm statistics for Perth and Kinross should therefore be considered in conjunction with density information, such as from the CRESH WebMap, to make an informed assessment of overprovision.

The CRESH data shows that Perth and Kinross is ranked 8th out of 30 local authority areas for alcohol outlet availability in Scotland (6th for on-sales and 23rd for off-sales outlets). Perth and Kinross has an alcohol outlet availability lower than Scotland as a whole; neighbourhoods had an average of 12.5 alcohol outlets within 800m of the population centre, compared to the Scottish average of 16.8 outlets. However, 15% of neighbourhoods in Perth and Kinross have a total outlet availability higher than the Scottish average, and of particular note is the finding that the most deprived neighbourhoods in Perth and Kinross have 5.8 times the number of alcohol outlets than the least deprived.

When considering links to harm, a statistically significant relationship was found in Perth and Kinross between alcohol outlet availability and alcohol-related hospitalisation rates and crime rates. Specifically, alcohol-related hospitalisation rates in the neighbourhoods with the most alcohol outlets were 3.9 times higher than in neighbourhoods with the least, and crime rates 5 times higher.

The links between alcohol outlet availability and harm was found even when other possible explanatory factors, such as age, sex, urban/rural status and levels of income deprivation, had been taken into account.

When developing its supplementary policy statement in respect of overprovision, AFS would recommend that the Board use the CRESH webmap to indicate areas where levels of availability and/or harm are sufficiently high to cause concern, and which may indicate that overprovision would be an appropriate response. The webmap can be used to compare areas against the Scottish average for outlet availability, compare alcohol outlet availability between neighbourhoods *within* the local authority, and also identify corresponding rates of harm (e.g. alcohol-related hospitalisations, crime rates, and alcohol mortality).

Decisions on overprovision should also be informed by evidence from the police, health authorities and other agencies. AFS is therefore pleased that the Board is discussing the question of overprovision with Perth and Kinross Alcohol and Drugs Partnership.

Licensed hours

The most apparent change within the draft policy appears to be in relation to the Board's policy on licensed and extended hours; specifically, the new policy significantly extends the generally permitted social demand hours, functions hours, entertainment/nightclub hours, and festive trading hours.

The reasoning for extending the hours in the ways indicated has not been set out. However, AFS would recommend that all licensing boards focus firmly on the licensing objectives when determining their policy on licensed hours. As a national organisation, we are not in a position to comment on local experiences, but can offer comment on the impact of licensed hours more generally and the evidence available to support this.

AFS has identified over 50 research studies published since 2000 that find an association between the total number of licensed premises and opening hours in a locality, and levels of alcohol harm. Localities examined include cities, states, provinces and countries and several studies have specifically investigated the links between temporal availability and alcohol harm. This includes a 2017 systematic review of literature (published between 2000-2016) studying the impact of policies regulating alcohol trading times on alcohol related harm, which found that policies regulating times of alcohol trading can contribute to reductions in injuries, alcohol-related hospitalisations/emergency department visits, homicides and crime.⁵

Extended hours increase availability of alcohol, which in turn is linked to increased consumption and increased harm. As such, AFS would recommend that longer licensed hours are not permitted. However, we would be interested to hear the views of local stakeholders on this issue and review any evidence/information gathered to help inform the proposed new policy in relation to hours – for example, to better understand whether this change is intended to better promote one or more of the licensing objectives.

With regards to off-sales hours, the current approach of the Board is to generally permit off sales hours from 10am until 10pm - the maximum allowed by law. AFS believes that the maximum permitted off-sales hours should be the exception and not the norm, particularly in areas of high-

⁵ Sanchez-Ramirez DC, Voaklander D (2018). The impact of policies regulating alcohol trading hours and days on specific alcohol-related harms: a systematic review. *Injury Prevention* 2018;24: 94-100.

rates of alcohol harm. Similarly, with regards to festive hours, extended hours increase availability of alcohol, which in turn is linked to increased consumption and increased harm, therefore AFS would recommend that longer hours are not granted.

Occasional Licences

AFS has identified that occasional licences are causing concern in some areas of the country, with licensing stakeholders reporting that this as an area where 'loopholes' in the legislation are being regularly exploited. People have reported to us that occasional licences are significantly increasing alcohol access and availability (although they were not being taken into account in overprovision assessments) and in some cases are being used to circumvent the requirement to have a premises licence to sell alcohol. In addition, as the updated policy identifies, although members clubs are premises that are not generally open to the public, occasional licenses can be obtained by members clubs in order to sell alcohol to the general public.

AFS commends the Board for updating its policy such that, where occasional licences covering more than 30 days are granted in one year for a single premise, the Board expects a premises licence application to be submitted. We also welcome that 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. The Board could also consider requiring a hearing where it identifies that an applicant has made repeated occasional licence applications.

In addition, in order to ensure that the sale of alcohol under occasional licences is appropriately conditioned to uphold the licensing objectives, the Board could also request that applicants complete an Occasional Licence Supplementary Information Form. This approach is already adopted in some other board areas, where occasional licence holders are asked to demonstrate how they will promote the five licensing objectives, and provide practical examples of how they plan to comply with each objective.

Alcohol deliveries and internet sales

Alcohol deliveries and internet sales are an emerging area of concern and should be considered as part of the policy development process. Remote alcohol sales and distribution across wide geographical areas have the potential to undermine local efforts to control the availability of alcohol and reduce alcohol-related harm. Online sales are not a new issue but are a continuously evolving and expanding area of retail; applications from large online retailers represent what AFS considers to be a considerable advancement of the online market for alcohol.

There is a distinct lack of information available about the business operations of online retailers, or the extent to which they contribute to alcohol sales and availability. For example, there is no data available pertaining to their distribution areas, or the volumes and types of alcohol they sell. Without this information, it is more difficult to make informed decisions about alcohol licensing or create robust alcohol policies, relevant to the needs of local communities.

A further concern relates the potential impact of on-line sales to children and young people. It is unclear how age verification can and will be effectively implemented when alcohol is being purchased on-line, or delivered to people's homes. Unlike supermarkets, which employ their own delivery staff, on-line alcohol retailers may rely on various contract carriers, who may not receive any instruction in this regard. This has the potential to make alcohol much more readily accessible

to young people, and could undermine progress made in meeting the licensing objective to protect children from harm.

AFS is therefore pleased that the new policy includes a section setting out expectations with regards to the delivery of alcohol to persons under 18 or drunk persons; including that applicants seeking a delivery service should expect local conditions requirements that relevant policies and procedures be in place, and that it is the responsibility of the premises licence holder to make sure any courier/third party also has these in place.

It could be specified that when making an alcohol delivery certain checks should be carried out such as Challenge 25. In addition, the policy could require that orders cannot be left in nominated safe places, and that staff delivering alcohol must be trained to the same level as staff who sell or supply alcohol in licensed premises. The Board could also explore the possibility of placing conditions on online retailers to request details of sales and distribution areas, as well figures on delivery refusal rates.

Appendix 10

Comment on Alcohol Focus Scotland consultation response

Response	Comment
<p>Page 1- Links with other strategies - signpost where can access the ADP's Strategy and Delivery Plan.</p>	<p>Per the Draft Policy Statement generally and Section 1.8 specifically, the Board approach has been to make reference to matters but not to provide extensive detail or links thereby increasing the length of the Policy Statement. Links also change over time and can be lost.</p> <p>The current Alcohol and Drugs Partnership (ADP) Strategy & Delivery Plan 2015-2020 is available on the Perth and Kinross Council website at:</p> <p>http://www.pkc.gov.uk/media/14660/Alcohol-and-Drug-Partnership-Strategy-2015-2020/pdf/Perth_Kinross_AD_PStrategy_Delivery_Plan_-_Version_3_(Edited).pdf?m=636161160671170000</p> <p><u>Recommendation</u></p> <p>No change</p>
<p>Page 1 – Links with other strategies - also recommend references relevant strategies of the Health and Social Care Partnership (HSCP).</p>	<p>The HSCP strategies are available on the Perth and Kinross Council website at:</p> <p>http://www.pkc.gov.uk/integration</p> <p>Those strategies are more aimed at the integration of adult health and social care rather than specific alcohol related issues.</p> <p><u>Recommendation</u></p> <p>No change</p>
<p>Page 2 – Links with other strategies - recommend recognise that Boards are bound by human rights legislation.</p>	<p>This would have to be added as a new policy statement section (as 1.10) and therefore would be a new policy requiring public consultation before it could be brought in to effect.</p>

	<p>In any event, it is implicit that the Board is subject to human rights legislation. It should not be breaching the human rights of applicants, licence holders or of the public, including objectors, more generally. However, it should be noted that possession of an alcohol licence is a privilege and not an inalienable right.</p> <p><u>Recommendation</u></p> <p>No change</p>
<p>Page 2 – Accessibility and participation – could provide much more detail on Board processes providing for increased accessibility, transparency and accountability.</p>	<p>This is more directed to practice and procedure rather than policy.</p> <p>The Board does not have a set of standing orders. It has operated by practice instead. Assistance is provided behind the scenes and advice given in letters what procedure to expect. To have a set of standing orders can lead to issues over interpretation and a lack of flexibility to meet the circumstances before the Board.</p> <p>Presently, the Board does not operate a roll call vote. It is a matter for the Board what procedures it adopts.</p> <p><u>Recommendation</u></p> <p>No change</p>
<p>Page 2 – Accessibility and participation – more clearly signpost the general public guidance to support them getting involved.</p>	<p>This is more directed to practice and procedure rather than policy.</p> <p>Assistance is provided behind the scenes and advice given in letters what procedure to expect.</p> <p><u>Recommendation</u></p> <p>Officers to work on a guidance note for potential objectors but no change in respect of policy.</p>
<p>Page 2 – Accessibility and participation – the current section on the role of the LSO</p>	<p>To do as recommended by AFS would require further consideration, possible</p>

could be expanded to include more detail of the assistance they are able to offer and how they can be contacted.	<p>development and further public consultation.</p> <p><u>Recommendation</u></p> <p>No change</p>
Page 2 – Accessibility and participation – make the experience of attending a hearing as informal and friendly as possible.	<p>This is more directed to practice and procedure rather than policy.</p> <p>The Board already acts in as informal a manner as possible. An issue is whether stating this would give any reassurance to the person reading the Statement.</p> <p>To do as recommended by AFS would require further consideration, possible development and further public consultation.</p> <p><u>Recommendation</u></p> <p>Officers to work on a guidance note for potential objectors including reference to informality but no change in respect of policy.</p>
Page 3 – Accessibility and participation – include details of the evidence considered by the Board in developing the policy	<p>That information is within the Reports that have been presented to the Board. To include such information in the Licensing Policy Statement would increase the size of the Statement. This has not been the approach of the Board to date.</p> <p><u>Recommendation</u></p> <p>No change</p>
Page 3 – Promotion of the licensing objectives – could explain in more detail the control measures expected; and describing the conditions it may consider	<p>The Board approach has been to consider control measures according to each set of circumstances.</p> <p>The Board also does not apply conditions to premises or occasional licences as a matter of course. Each application is assessed on its own merits. Where a condition is imposed, the Board often requires a written policy to be in place with the premises licence</p>

	<p>holder to devise the details of that policy depending on the circumstances of their business. That policy is then to the continuing satisfaction of the Board.</p> <p>To include such information in the Licensing Policy Statement would significantly increase the size of the Statement. This has not been the approach of the Board to date.</p> <p>To do as recommended by AFS would require further consideration, possible development and further public consultation.</p> <p><u>Recommendation</u></p> <p>No change</p>
<p>Page 4 Promotion of Licensing Objectives – Board’s supplementary Information documents – the Board should go further and expect applicants to provide evidence that suitable measures will be implemented and maintained.</p>	<p>To do as recommended by AFS would require further consideration, possible development and further public consultation.</p> <p>Consideration would have to be given to such matters as (i) whether this would be too onerous a burden, (ii) whether Board members would want that documentation produced to them; and (iii) what documentation would be sought. It would be difficult to set out which types of premises this would apply to and which it would not. An arbitrary division would be likely. To apply it to all premises would cover premises such as coffee shops and cafes.</p> <p><u>Recommendation</u></p> <p>No change</p>
<p>Page 4 – Promotion of Licensing Objectives – avoid using terms like ‘sensible’ drinking and instead base on Chief Medical Officer’s low risk guidelines.</p>	<p>The word ‘sensible’ in the context of the Draft Licensing Policy Statement, Section 2.1 on the licensing objective ‘Protecting and Improving Public Health’ is used as a general statement rather than meaning a specific level of alcohol consumption.</p>

	<p>An issue for the Board is whether they consider the term 'sensible' to be sufficient for its purpose or whether specific reference to alcohol consumption levels is appropriate.</p> <p>The UK Chief Medical Officers' Low Risk Drinking Guidelines is 9 pages long. A summary is also relatively extensive. It includes weekly drinking guidelines of not to drink more than 14 units of alcohol a week on a regular basis; and spread your drinking over 3 or more days. There is also guidance on single drinking episodes and pregnancy and drinking. A link to the guidance is:</p> <p>https://www.gov.scot/Topics/Health/Services/Alcohol/safer-drinking</p> <p>To make lengthy reference to the CMO guidelines would constitute new policy requiring further consideration, possible development and further public consultation.</p> <p><u>Recommendation</u></p> <p>No change</p>
Page 4 – Promotion of the Licensing Objectives – consider providing materials to licensees which is independently produced.	This suggestion is a practical one rather than a policy issue.
Page 4 – Promotion of the Licensing Objectives – the Board may wish to consider whether to apply the same policy to young persons or should have a different policy from that applied to children. However, it would seem sensible to apply the same policy for the purposes of alcohol licensing.	<p>To adopt a policy for young persons only would require further consideration, possible development and further public consultation.</p> <p><u>Recommendation</u></p> <p>No change</p>
Page 5 – Promotion of the Licensing Objectives – could set out more detail about general expectations with regard to when children will normally be allowed entry, and the types, times and parts of premises to which children should have access. Premises that do not offer food	<p>To do as recommended by AFS would require further consideration, possible development and further public consultation.</p> <p>To date the Board has looked at each application on its own merits. Detailed</p>

are highly unlikely to be a suitable environment for children.	<p>consideration would be required on what type of premises any policy would apply to. Perth and Kinross has a diverse economy. The number of alcohol only premises has been reducing. Another issue would be whether to exclude access by children to not just a whole premise but to individual parts of premises where part of the premise involves food and another does not. It would also be difficult to impose such a new policy on existing premises licences.</p> <p><u>Recommendation</u></p> <p>No change</p>
Page 5 – Promotion of the Licensing Objectives – occasional licences – recommend the new policy is strengthened by making clear that if there are no other activities to alcohol or an event is primarily aimed at children or young persons or families where large numbers of children will be present, it is unlikely that a licence will be granted.	<p>To do as recommended by AFS would require further consideration, possible development and further public consultation.</p> <p><u>Recommendation</u></p> <p>No change</p>
Page 6 – Licensed Hours – AFS would recommend that longer licensed hours for social demand hours; function hours; entertainment/nightclub hours; and festive trading are not permitted.	<p>It is a matter for the Board to decide whether or not to adopt the increased licensed hours as set out in the Draft Licensing Policy Statement.</p>
Page 6 – Licensed Hours – Off sales 10am to 10pm – AFS believes this should be the exception and not the norm.	<p>This would require further consideration, possible development and further public consultation.</p> <p>There is no duty to trade. A premises may seek off sales licensed hours of 10am to 10pm, however, that does not mean those hours are always traded. Other issues include (i) what would the restricted hours be, (ii) to restrict hours would reduce the flexibility of a business to open later at different times of the year; and (iii) applying this retrospectively to existing premises licences.</p> <p><u>Recommendation</u></p> <p>No change</p>

<p>Page 7 Occasional Licences – the Board could also consider requiring a hearing where it identifies an applicant has made repeated occasional licence applications.</p>	<p>To do as recommended by AFS would require further consideration, possible development and further public consultation.</p> <p>This recommendation would widen the scope of the policy beyond those that seek 30 or more days of occasionals in a year for a single premise to other situations such as one person applying for several premises or for an outside catering company covering many premises.</p> <p><u>Recommendation</u></p> <p>No change</p>
<p>Page 7 – Occasional Licences – the Board could also request applicants complete an Occasional Licence Supplementary Information Form where occasional licence holders are asked to demonstrate how they will promote the five licensing objectives.</p>	<p>To do as recommended by AFS would require further consideration, possible development and further public consultation.</p> <p>The Board has operated a more targeted approach, with staff seeking information when appropriate. The Board has also sought Alcohol Management Plans for large events where the capacity is to be 500 persons or more.</p> <p><u>Recommendation</u></p> <p>No change</p>
<p>Page 8 – Alcohol deliveries and internet sales – it could be specified that certain checks should be carried out such as Challenge 25. In addition, orders cannot be left in nominated safe places and that staff delivering alcohol must be trained to the same level as staff who sell or supply alcohol in licensed premises.</p>	<p>These approaches can be and are already, to an extent, adopted in practice. Licence holders would be expected to consider Challenge 25 and staff training in formulating a written policy.</p> <p>As regards orders not being left in nominated safe places, Perth and Kinross Licensing Board would not be able to insist on that for an online retailer operating under a premises licence from another licensing board area.</p> <p><u>Recommendation</u></p>

	No change
Page 8 – Alcohol deliveries and internet sales – the Board could also explore the possibility of placing conditions on online retailers to request details of sales and distribution areas, as well as figures on delivery refusal rates.	<p>To do as recommended by AFS would require further consideration, possible development and further public consultation.</p> <p>It is unclear if the Board has the legal power to require such information that may be seen as commercially sensitive.</p> <p><u>Recommendation</u></p> <p>No change</p>

