

PERTH AND KINROSS LICENSING BOARD

Council Building
2 High Street
Perth
PH1 5PH

Thursday, 24 May 2018

A Meeting of the **Licensing Board** will be held in **the Council Chamber, 2 High Street, Perth, PH1 5PH** on **Thursday, 31 May 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, 31 May 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 INTRODUCTION

2 DECLARATIONS OF INTEREST

3 MINUTES OF 19 APRIL 2018 FOR APPROVAL AND SIGNATURE

4 2018-05-31 - AGENDA

5 REPORT ON REVIEW OF LICENSING POLICY STATEMENT

APPENDIX 1 BOARD POLICY WITH POSSIBLE REVISALS

APPENDIX 2 ENVIRONMENTAL HEALTH NOISE REVIEW

APPENDIX 3 SCOTTISH EXECUTIVE GUIDANCE SECTION 2

6 PROVISIONAL PREMISES LICENCE APPLICATION

111 HIGH STREET, AUCHTERARDER

7 VARIATION (MAJOR) APPLICATION

THE BOTHY

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 the Customer Service Centre on 01738 475000.

You can also send us a text message on 07824 498145.

All Council Services can offer a telephone translation facility.

PERTH AND KINROSS LICENSING BOARD
Minutes of Statutory Meeting of the Licensing Board
Held on 19 April 2018

Present:-

Councillors Baird; Jarvis; Brock; Gray; Pover; and James (only for Item 7, major variations for Cridos; Glendoick Garden Centre & Restaurant; Niblick; Scone Palace; The Cree's Inn; The North Port Restaurant).

Councillor Baird presiding.

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

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 08 March 2018 was submitted and approved as a true record and authorised for signature.

4. REPORT ON DISABILITY ACCESS AND FACILITY STATEMENT

The Board noted the Report on the Disability Access and Facility Statement.

5. PERSONAL LICENCE APPLICATION

Applicant	Decision
Michelle Robertson C/O GNE Consultancy Ltd 47 Wallace Brae Drive Reddingmuirhead Falkirk FK2 0FB	<p>Motion (Councillors Baird and Jarvis) Grant with the relevant offence(s) to be marked on the personal licence.</p> <p>Amendment (Councillors Brock and Pover) Refuse on the basis that, having regard to all of the licensing objective(s), the applicant is not a fit and proper person to be the holder of a personal licence.</p> <p>Amendment - 2 votes; Motion – 3 votes.</p> <p>Determined in accordance with the Motion.</p>

6. PREMISES LICENCE APPLICATION

Premises	Applicant	Decision
Altamount House Coupar Angus Road Blairgowrie Perthshire PH10 6JN	Altamount House Ltd	<p>Amend the premises licence as follows:</p> <p><u>Operating Plan</u></p> <p>5 Amend as follows: Outdoor drinking YYN</p>

		<p>7 Amend to read 'On sales 150 persons Off sales – nil'.</p> <p>Thereafter, grant subject to mandatory conditions.</p>
--	--	--

7. MAJOR VARIATION APPLICATIONS

Premises	Applicant	Decision										
Cridos 6 St John's Place Perth PH1 5SZ	Cridos Limited C/o Janet Hood Consulting, Kirkton of Balfour, Edzell, Brechin, Angus DD9 7XU	<p>Grant subject to amending the premises licence as follows:</p> <p><u>Premises Licence</u></p> <p>Delete existing Description of Premise and insert instead: `Family friendly city centre licensed restaurant/cafe/bar located in the Café Quarter of Perth'.</p> <p><u>Operating Plan</u></p> <p>1(a) Amend to 'NO'</p> <p>1(c) Amend to 'YES'</p> <p>2 Amend Sunday opening time to 11am</p> <p>3 Add off sales hours, 11am to 10pm, 7 days per week</p> <p>5 Amend Activities as follows:</p> <table><tr><td>Receptions</td><td>YYY</td></tr><tr><td>Club meetings</td><td>YYY</td></tr><tr><td>Recorded music</td><td>YYY</td></tr><tr><td>Live performances</td><td>YYN</td></tr><tr><td>Dance</td><td>YYN</td></tr></table>	Receptions	YYY	Club meetings	YYY	Recorded music	YYY	Live performances	YYN	Dance	YYN
Receptions	YYY											
Club meetings	YYY											
Recorded music	YYY											
Live performances	YYN											
Dance	YYN											

		<p>Theatre YYN</p> <p>Films YYN</p> <p>Outdoor drinking YYY</p> <p>Box after 5(e) Delete existing and insert instead: 'The following column 4 activities can commence before core hours: Business meetings, service of restaurant/bar meals/snacks/teas/coffees/breakfasts. Patrons may choose to sit in the outdoor drinking area before core hour opening time conform to Board policy in respect of outside drinking. Restaurant and bar meals and recorded music can take place after core hours during restaurant hours.'</p> <p>5(f) Delete existing and insert instead: 'The premises are a cafe/bar/restaurant and therefore the premises will be operated daily after the end of core social demand hours as per Board's policy all drinks served during restaurant hours after the end of core social demand hours to be ancillary to a meal served on the premises.</p> <p>Business meetings.</p> <p>Food/drink matching and tastings and food drink promotions.</p> <p>Comedians, magicians, poetry readings, small theatrical performances etc and other live entertainment as from time to time may be engaged for the entertainment of customers.</p> <p>Ancillary takeaway and off sales with takeaway meals. All deliveries including alcohol subject to challenge 25. Also,</p>
--	--	--

		<p>off sales to patrons who have taken a table meal on the premises.'</p> <p>5(g) Amend to 'N/A / N/A'</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, snacks, meals and ice creams from 8a.m. - 6 p.m. 3. Children and Young Persons must be accompanied by an adult from 6p.m. -10p.m. or until the end of a meal whichever is the later <p>All subject to suitable age verification documents being provided where required and at the discretion of management.'</p> <p>6(c) Delete existing and insert instead 'All ages'</p> <p>6(d) Delete existing and insert instead '8am — 10pm or until the end of meal whichever is later'</p> <p>6(e) Delete existing and insert instead 'All public parts of the premises'</p> <p>7 Amend to 'On sales - 120 persons. Off sales — nil'</p> <p><u>Conditions</u></p> <p>Amend local condition 1 to read: 'The outside seating area shall be operated in accordance with the Licensing Board's Policy on Pavement Cafes.'</p> <p>Add local condition as follows:</p> <ol style="list-style-type: none"> (2) A written policy shall be in place for the premises
--	--	--

		<p>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> <p>(i) the taking of orders and subsequent delivery of alcohol out with the premises</p>
<p>Glendoick Garden Centre & Restaurant Glendoick Perth PH2 7NS</p>	<p>Glendoick Gardens Ltd</p>	<p>Grant subject to amending the premises licence as follows:</p> <p><u>Operating Plan</u></p> <p>5 Amend as follows: Conference facilities YYY Receptions YYY Club meetings YYY</p> <p>Box after 5(e) Add the following: 'Conference/meeting room available from 9am which can be used for conferences, club or other group meetings/birthday parties for children all within and outwith core hours.'</p> <p>6(b) Delete existing and insert instead: 'Young persons and children over the age of 10 years are permitted unaccompanied access to all parts of the premises. Children under 10 years of age are permitted access to all parts of the premises but must be accompanied by a responsible adult at all times.'</p> <p>6(d) Delete existing and insert instead, 'All times'.</p> <p>7 Amend to read: On sales – 300 persons Off sales – 3.685m²</p> <p><u>Layout Plan</u></p>

		Amend location and layout plans as sought.
Niblick 2 Crown Court High Street Auchterarder PH3 1DF	Greene King Retailing Limited, C/o TLT LLP, Solicitors, LP10, Glasgow 6	<p>Grant subject to amending the premises licence as follows:</p> <p><u>Operating Plan</u></p> <p>5 Amend as follows: Bar meals YYY</p> <p>Box after 5(e) Add a new paragraph at beginning: 'Bar meals – the premises may open early for the provision of teas, coffees, breakfasts etc. but not before 8am.'</p> <p><u>Conditions</u></p> <p>Delete local condition 8.</p>
Scone Palace Scone Palace Perth PH2 6BD	Heather Jane McArthur C/o TLT LLP 140 West George Street, Glasgow, G2 2HG.	<p>Grant subject to amending the premises licence as follows:</p> <p><u>Premises Licence</u></p> <p>Delete Description of Premises and insert instead: "Stately home set in 100 acres of gardens located two miles north of the City of Perth and west of the A93. Five star historic site and open to the public. Situated within the Palace are retail and catering outlets. The premises are also a multifunctional event space that also provides accommodation."</p> <p><u>Operating Plan</u></p> <p>2 Amend Thursday terminal hour to 12:30am</p> <p>3 Amend terminal hours, Monday to Sunday to 10pm</p>

		<div>4Delete existing and insert instead: "Festive social demand hours (premises offering no significant entertainment) and festive function hours."</div> <div>5Amend as follows:</div> <div>5Amend as follows: AccommodationY Conference facilitiesYYY Club meetingsYYY TheatreYYY FilmsYYY Indoor/outdoor sportsYYY Televised sportYYY</div> <div>Box after 5(e)Delete existing and insert instead: "Conference facilities, restaurant facilities, bar meals, receptions, club or other group meetings etc, recorded music, live performances, dance facilities, theatre, films, indoor/outdoor sports, televised sport, and outdoor drinking facilities may take place before core hours from 6am."</div> <div>5(f)Delete existing and insert instead: "The premises are a tourist attraction and multi-purpose function venue hosting events including but not limited to weddings, dances, private parties and corporate hospitality. The premises' grounds will cater for wide ranging activities including sporting events and entertainment. Function hours as per Board Policy".</div> <div>5(g)Amend to N/N</div> <div>6(b)Delete existing and insert instead: "Children and young persons will be permitted access to the entire premises and outdoor area when accompanied by an adult."</div>
--	--	---

		<p>6(d) Delete existing and insert instead: "When attending a function or event children and young persons will be permitted to remain until the end of the function or event otherwise they will be required to leave by 10pm."</p> <p>6(e) Delete existing and insert instead: "All public parts."</p> <p>7 Amend as follows: On sale First floor - 200 Ground floor - 225 Second floor - 40 External - 200 Total – 665</p> <p>Off sale 12.82m2</p> <p><u>Layout Plan</u></p> <p>Amend layout plans as sought.</p> <p><u>Conditions</u></p> <p>Add mandatory late opening first aider condition.</p>
The Cree's Inn Main Street Abernethy Perthshire PH2 9LA	L.G.C. Inns Ltd	<p>Grant subject to amending the premises licence as follows:</p> <p><u>Premises Licence</u></p> <p>Amend Description of Premises to: 'A "B" listed public house with 4 letting bedrooms, restaurant, lounge and public bar set in a rural village in</p>

		its own grounds.'
		<u>Operating Plan</u>
	2	Amend Sunday opening time to 11am
	3	Amend Sunday opening time to 11am
	4	Delete existing and insert instead: 'Festive social demand hours (premises offering no significant entertainment).'
	5	Amend as follows: Conference facilities YYN Recorded music YYN Live performances YYN Gaming YYN Indoor/outdoor sports YYN Televised sports YYN
	Box after 5(e)	Delete existing and insert instead: 'Breakfast and restaurant facilities are available to residents and non-residents from 10am Monday to Sunday.'
	5(f)	Add: 'Alcohol may be served to residents at any time. Fundraising events and quiz nights.'
	6(b)	Delete existing and insert instead: 'Children and young persons are allowed entry in all areas accompanied by an adult.'
	6(d)	Delete existing and insert instead: 'All times'
	6(e)	Delete existing and insert instead: 'All public areas of the premises including the bedrooms if a guest'.
	7	Amend to 'On sales – 100 persons; Off sales – nil'.

		<p><u>Layout Plan</u></p> <p>Amend revised layout plan as sought</p> <p>With an undertaking given by the premises licence holder not to use the additional upstairs bedroom until all necessary statutory consents are in place.</p>
<p>The House of Bruar By Blair Athol Perthshire PH18 5TW</p>	<p>The House of Bruar</p>	<p>Grant subject to amending the premises licence as follows:</p> <p><u>Premises Licence</u></p> <p>Amend Name of Company to 'The House of Bruar Limited'</p> <p><u>Operating Plan</u></p> <p>5 Amend as follows: Outdoor drinking facilities NNN Box after 5(e) Delete the wording 'and in outdoor seating areas'.</p> <p>7 Amend to read: 'On sales – 600 persons seated Off sales – 52.09m2'</p> <p><u>Layout Plan</u></p> <p>Amend location and layout plans as sought.</p> <p><u>Conditions</u></p> <p>Add local conditions as follows:</p>

		<p>(1) A written policy shall be in place for the premises 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> <p>(i) the taking of orders and subsequent delivery of alcohol out with the premises.</p>
<p>The North Port Restaurant 8/12 North Port Perth PH1 5LU</p>	<p>Andrew Duncan Moss</p>	<p>Grant subject to amending the premises licence as follows:</p> <p><u>Operating Plan</u></p> <p>1(a) Amend to 'NO'</p> <p>1(c) Amend to 'YES'</p> <p>3 Add off sales hours of 11am to 10pm, 7 days per week</p> <p>4 Delete existing narrative</p> <p>5(f) Delete "There will be no off sales and insert instead, 'We offer "Foragin" only for off sales.'</p> <p>6(b) Amend to read 'Children and young persons....'</p> <p>6(c) Amend to read '.... children and young persons....'</p> <p>6(e) Amend to read 'Children and young persons....'</p> <p>7 Amend to read: 'On sales – 40 persons Off sales – nil'</p> <p><u>Conditions</u></p> <p>Amend local condition 1 to read 'The provision of alcohol for consumption on the premises is ancillary to table meals taken by customers on the premises.'</p>

--	--	--

8. **PREMISES LICENCE REVIEWS**

Licence Holder	Applicant	Decision
McColls 168 Oakbank Road Perth PH1 1HA	Perth & Kinross Licensing Board	Note the offence with no further action being taken.
R S McColl 13 High Street Crieff PH7 3HU	Perth & Kinross Licensing Board	Note the offence with no further action being taken.
R S McColl 189 Rannoch Road Letham Perth PH1 2DP	Perth & Kinross Licensing Board	Note the offence with no further action being taken.

PERTH AND KINROSS LICENSING BOARD

Meeting 31 May 2018 at 10:00 am in Council Chamber, Ground Floor, 2 High Street, Perth, PH1 5PH

Licensing (Scotland) Act 2005

Provisional(s)

	Premises	Applicant	Date Received	Comments
1	FORMER POST OFFICE 111 HIGH STREET AUCHTERARDER PH3 1BJ	YAU CHEUNG (KNOWN AS ALAN) TANG C/O TRAINOR ALSTON 18 ACADEMY STREET COATBRIDGE ML5 3AU	13 March 2018	E-mail Support from Community Council Cited for 10.00 am

PERTH AND KINROSS LICENSING BOARD

Meeting 31 May 2018 at 10:00 am in Council Chamber, Ground Floor, 2 High Street, Perth, PH1 5PH

Licensing (Scotland) Act 2005

Variation (Major)(s)

Premises		Applicant	Date Received	Comments
2	THE BOTHY 33 KINNOULL STREET PERTH PH1 5EN	G1 GROUP PLC	14 March 2018	Cited for 10.00am

PERTH AND KINROSS LICENSING BOARD

Board Meeting: 31 May 2018

REVIEW OF LICENSING POLICY STATEMENT 2018

Report by Clerk to the Licensing Board

PURPOSE OF REPORT

This report provides further information, including Perth and Kinross Licensing Forum's recommendations, and asks the Board to decide the terms of its Draft Licensing Policy Statement to publically consult on.

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's existing Licensing Policy Statement, the further information and the Forum recommendations are set out in Appendix 1 to this Report. Appendix 1 follows the format of showing possible changes to existing policy using the track and trace facility. Tables are also inserted at relevant points to provide the further information requested, the Forum's recommendations, and further comment. 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.

- 1.6 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. Section 2 has been revised but has not been made public and has not been through the necessary parliamentary approval process. Appendix 3 therefore remains relevant.
- 1.7 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.
- 1.8 Once the Board has decided on the items of its Draft Licensing Policy Statement, that will then be issued for public consultation. It is intended to issue the consultation shortly after this meeting to allow for approximately 6-8 weeks consultation up to Friday 3 August 2018. Any responses received will be reported back to the Board for a final decision to be taken on the content of the next licensing policy statement.
- 1.9 It should be noted that once public consultation takes place, new or substantially revised policies cannot be put forward as they have not been consulted upon. Minor revisions may be possible. The Board may also not proceed with proposed policies when finalising the policy statement.

2. PROPOSALS

- 2.1 The purpose of this report is to provide sufficient information to enable the Board to decide on the terms of a Draft Licensing Policy Statement. It is proposed that the Board considers Appendices 1, 2 and 3. The Board can seek clarification on any matter.

3. CONCLUSION AND RECOMMENDATIONS

- 3.1 The Board is requested to:

- (i) Consider the terms of Appendices 1, 2 and 3;
- (ii) Decide the terms of its Draft Licensing Policy Statement.

Author(s)

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

Approved

Name	Designation	Signature
Lisa Simpson	Clerk to Perth and Kinross Licensing Board	
Date 23 May 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

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 to the public generally.

2. Resource Implications

2.1 Workforce

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

3. Assessments

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

4. Consultation

- 4.1 Internal consideration of this Report has taken place within Licensing. External consideration of the Licensing Policy Statement has also taken place with Perth and Kinross Licensing Forum. In the future, public consultation will take place on the draft licensing policy statement.

5. Communication

- 5.1 Consultation will take place direct to those listed as consultees. Public consultation will also be undertaken by placing the Draft Licensing Policy Statement on the Board's webpages. A Press Release will also be prepared to assist in notifying the public of the consultation.

2. BACKGROUND PAPERS

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

3. APPENDICES

- 1 Perth and Kinross Licensing Board Policy Statement 2013-2018 incorporating issues and comments for next licensing policy statement.
- 2 Environmental Health Review of Noise Policy.
- 3 Scottish Government Guidance for Licensing Boards and Local Authorities, April 2007, Section 2.



Perth and Kinross Licensing Board

Policy Statement under the Licensing (Scotland) Act 2005

201318 – 202318

***~~[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]~~***

Background and Additional Information

The purpose of this document is to (i) show possible changes to the existing Perth and Kinross Licensing Board Licensing Policy Statement, and (ii) provide information, all with a view to the Board deciding the terms of a Draft Licensing Policy Statement for public consultation.

The Convenor, Vice Convenor and Depute Clerk to Perth and Kinross Licensing Board met Perth and Kinross Licensing Forum on 26 April 2018. The Licensing Forum can give advice and make recommendations on policy matters. On 26 April, Perth and Kinross Licensing Forum recommended changes to policy. Clarification was obtained on those recommendations.

Possible changes arising from previous discussions of the Licensing Board and arising from Licensing Forum recommendations are shown using the track and trace facility. The tables inserted into this document provide comment and narrate Licensing Forum recommendations and the reasoning behind them. Other possible changes are also discussed.

The possible changes shown are for the purpose of debate. It is a matter for the Board whether to accept all, some or none of the changes.

The tables and possible changes not agreed will be removed to leave a Draft Licensing Policy Statement for public consultation.

Background and Additional Information

As a general overview, the following information is provided:

- As at 1 May 2018, there were 590 premises licenses in Perth and Kinross and 1756 valid personal licenses.
- From 3 November 2013 until 1 May 2018, before the Board (not accounting for delegated applications) there were:
 - 34 premises licence applications
 - 44 provisional premises licence applications
 - 96 major premises licence variation applications
 - 86 premises licence reviews (including non-payment annual fees)
 - 65 occasional licence applications
 - 16 extended hours applications
 - 19 personal licence applications
 - 13 personal licence reviews
- Census' of population are carried out every 10 years. The census on 27 March 2011 gave a population for Perth and Kinross of 146,652. The average age of population in Perth and Kinross was 43, higher than the Scottish average of 40. 18.1% of the Perth and Kinross population are 65 or over compared to 10.6% for Scotland as a whole.
- In 2016, 73% of alcohol sold in Scotland was off-sales. Scots bought 17% more alcohol per adult compared with England and Wales (Alcohol Sales in Scotland 2016, NHS Scotland).
- In 2016 an average of 24 people died from illnesses only caused by drinking alcohol (ONS (2017) Alcohol-related deaths in the UK: registered in 2015).

- In 2015 alcohol-related death rates in Scotland were 67% higher in men and 50% higher in women compared with England & Wales. Scottish rates are improving but still 26% higher than in 1981 (Giles L, Robinson M. Monitoring and Evaluating Scotland's Alcohol Strategy: Monitoring Report 2017).
- In 2016/2017 there were more than 36,200 admissions to an acute hospital due to an alcohol-related illness.
- In 2016/17, alcohol-related hospital admission rates for people living in the most deprived communities were nine times higher than those in the least deprived. Death rates from alcohol are six times higher in the most deprived areas compared with the least (Giles L, Robinson M. Monitoring and Evaluating Scotland's Alcohol Strategy: Monitoring Report 2017).
- 36% of 15 year olds who drank said they had done something that they later regretted after drinking alcohol – 16% reported getting into trouble with the police, and 17% said they had tried drugs as a consequence of drinking (Scottish Government (2016) Scottish School Adolescent Lifestyle and Substance Use Survey (SALSUS) 2015: Alcohol Report, Edinburgh: NHS National Services Scotland).
- Minimum unit pricing was introduced into Scotland on 1 May 2018. The unit price is set at 50p per unit.

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

FOREWORD

Consultation on this document took place between ~~20 December 2013~~ X June 2018 and ~~14 February 2014~~ 3 August 2018. The policy will be applied during the ~~three-year~~ period from 4 November 2018 to ~~4 November 2023~~¹⁶. 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

Comment
The commencement date for consultation will be entered after the Board has decided on the terms of its Draft Licensing Policy Statement to consult upon.
The period for consultation on past Policy Statements has generally been 6 weeks. On this occasion it is suggested consultation takes place until Friday 3 August. Allowing for time to issue the consultation, that will give 6 – 8 weeks for responses.

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
Index to be updated once new policy statement 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 ~~her~~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 ~~an~~-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. 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.

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

Formatted: Indent: Left: 0.49", First line: 0.01", Tab stops: Not at 1"

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 Ssupervision 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 5.25 on the Management and Supervision of Premises has been amalgamated into Policy 5.5 due to overlap between these two policies.

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. 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.

Licensing 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 of 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.

Comment
<p>Access to dart boards by children – the primary issue for the Board has been the safety of children (young persons have been permitted entry where there are dart boards). The concern has been that children may be injured by darts when thrown. The Board has, in the past, refused some premises licence applications or insisted upon changes to the operating plan and layout plan such that children are not permitted in the same room where a dart board is sited. However, in the past couple of years there have been a few applications where the Board has taken a different approach by permitting children (at least those under 12 with no restriction on those 12 or over) in the same room as a dart board when the dart board is not being used. They are not permitted entry when the dart board is use. For at least two premises no restrictions were imposed at all although those relate to the possibility of darts competitions only with no fixed dart boards (Horsecross and Perth Theatre).</p> <p>Those children not covered by any restriction can play darts. It should be borne in mind that children, particularly those around 12 or so do play darts including in competition.</p> <p>The smaller the premise or part of premise, the more likely the need to exclude children from the whole part of the premise or part of. Whilst applications incorporating dart boards are uncommon nowadays, they do still occur. It should also be borne in mind any change to policy will also affect existing premises licenses. Those premises licence holder may apply to vary their premises licence to be in line with policy.</p> <p>The issue for the Board is whether to continue with the present policy of not permitting children to have direct access to dart boards, or to refine that policy. Options include:</p> <ol style="list-style-type: none"> (1) <i>The Licensing Board will not normally grant a premises licence or occasional licence where children would have direct access to dart boards.</i> (2) <i>The Licensing Board will not normally grant a premises licence or occasional licence where children under 12 would</i>

have direct access to dart boards.

(3) Children will not be permitted direct access to dart boards when in use.

(4) Children under 12 will not be permitted direct access to dart boards when in use.

(5) Premises licence holders and occasional licence holders are expected to have policies and procedure in place to protect children from harm when dart boards are in use.

(6) [remove reference to dart boards entirely].

Access to pool tables by children - the primary issue for the Board has been the safety of children (young persons have been permitted entry where there are pool tables). The concern has been that children may be injured by pool balls that are knocked off tables or by pool cues. In the past few years, the Board has not imposed any local conditions on premises licence where there are pool tables.

An issue for the Board is whether there should be a policy on pool tables at all. It could be said that present policy as worded indicates less of a concern for safety compared to dart boards. Again, it should be borne in mind children do play pool including in competition.

It is a matter for the Board whether to continue with the present policy of asking for pool tables to be carefully sited, or to refine that policy. Options include:

(7) Pool tables should be carefully sited, taking into account the possible presence of children.

(8) The Licensing Board will not normally grant a premises licence or occasional licence where children would have direct access to pool tables.

(9) The Licensing Board will not normally grant a premises licence or occasional licence where children under 12 would have direct access to pool tables.

(10) Children will not be permitted direct access to pool tables when in use.

(11) Children under 12 will not be permitted direct access to pool tables when in use.

(12) Premises licence holders and occasional licence holders are expected to have policies and procedure in place to protect children from harm when pool tables are in use.

(13) [remove reference to pool tables entirely].

Facilities expected for children under 5 – the Board has had a long standing policy, dating back to the Licensing (Scotland) Act 1976, where certain facilities such as high chairs are expected to be in

place for children aged 5 or under.

The Board has not imposed such requirements as a local condition on premises licenses for a long time. It has considered it has not needed to. Where the Board's Supplementary Information document indicates those facilities are in place, the Board has accepted that position. The Licensing Standards Officer then checks for such facilities.

Most premises do have such facilities but not all. The issue for the Board is whether to continue with such a policy or not.

Other Licensing Boards have varied approaches. Some have no requirement. Others have similar or other requirements. Glasgow and Edinburgh both require heating sources and electrical appliances to be adequately protected and high chairs to be provided. They also have additional requirements such as stairs being risk assessed and a gate put across if necessary; floor covering to be non-slip; accessible wash hand basins, and childrens' menus and portions to be available. An issue with expecting too many requirements is that that may discourage premises from having children on the premises.

It should be noted that it has been suggested that requirement (vi) in the policy is deleted – displaying the times children will be permitted entry and replaced by a paragraph referring to the requirement under mandatory condition 11 for on consumption premises licences to display a notice regarding whether or not there is entry by persons under 18 or not and to where. To this has been added an expected that the times of entry will also be displayed.

Gaming machines – the Board requested that consideration be given to the number of and siting of gaming machines on alcohol licensed premises. After further consideration, it is clear that this is a matter not for the Board's alcohol function but its gambling function. The number of and siting of gaming machines on alcohol licensed premises should be considered as part of the Board's Gambling Statement of Principles. That is due for review by January 2019.

5.11 Noise

~~During 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 ~~neighbouring adjoining~~ property ~~between 11pm and 7am.~~

Or

During 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 30-35dBA be audible in any neighbouringadjoining property between 11pm and 7am.

Or

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

Or

During 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 41dB in 125Hz octave bands be audible in any neighbouringadjoining property between 11pm and 7am.

Or

During 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 an audible nuisance in any neighbouringadjoining property between 11pm and 7am.

Or

During 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 audible 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 3 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.

During the hours of 11am to 7pm, premises licence holders are expected to take all 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 al 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 al Health Service, Perth and Kinross Council on that assessment.

Comment
<p>On 16 October 2017, the Board suspended the operation of its policy on noise and, in the interim, stated that noise in any adjoining property from licensed premises shall be assessed according to statutory nuisance under the Environmental Protection Act 1990.</p> <p>Policy 5.11 therefore needs to be reviewed.</p> <p>Environmental Health, Perth and Kinross Council have prepared a review of noise issues for consideration. That Review is Appendix 2 of the Report to the Board.</p> <p>Rather than agreeing one option only for public consultation, it is open to the Board to (i) select a preferred option for noise between 11pm and 7am but consult on all options, or (ii) consult on all options set out in the Environmental Health Review without selecting a preferred option at this stage. An option not consulted upon cannot be adopted as policy without further consultation..</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 both refer to waste and have therefore been amalgamated into one policy heading. Should the Board imposed a local condition on a premises licence requiring a written policy be in place for litter and waste management this change will mean that there is no doubt it will cover both the dropping of litter/waste and the disposal of waste.

5.1~~56~~ 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.

5.1~~67~~ 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.

5.1~~78~~ 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.

Comment

This policy proved to be the most controversial of all when the very first licensing policy statement was being consulted upon in 2008. Media coverage (wrongly) equated the policy with an attempt to ban patrons from standing at the bar.
--

This policy is aimed at ensuring that there is adequate seating in
--

premises to avoid patrons consuming alcohol whilst standing all the time. It has never been imposed as a condition on a premises licence.

Some of the issues that arise with this policy include (i) what does the Board do if a premises does not have the requisite 25% floorspace given over to seating?; (ii) giving over 25% floorspace to seating does not indicate the level of seating to be provided; (iii) over the past 5-10 years, there are fewer traditional pubs where standing predominates. Such places have closed or provide more seating, sometimes as food is introduced or food provision increases; (iv) the most likely occasion when there is reduced floorspace for seating is when a function takes place. For functions such as weddings, the seating is often not removed but placed around the sides to allow for the creation of a dance floor.

It is a matter for the Board whether to continue with this policy or not. It is difficult to envisage an alternatively worded condition.

5.1~~89~~ 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.

Comment
<p>This policy is aimed at ensuring premises licence holders are aware that allowing team colours in the premises can lead to rival groups of supporters causing disturbance. This policy has never been imposed as a condition on a premises licence.</p> <p>Issues arising include (i) this covers all sports, not just football; (ii) has society moved on from such issues?; (iii) from recollection, no persons including the police have highlighted any disturbance for which the wearing of team colours could, at least in part, be attributed; (iv) no local condition has been imposed on a premises licence although it remains as an expectation that premises licence holders should be aware of and adhere to.</p> <p>Perth and Kinross Licensing Forum have recommended this policy remains in place as a safeguard.</p>

5.~~1920~~ Radiolink & Pubwatch

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

Comment
<p>Perth and Kinross Licensing Forum has advised that Pubwatch continues to operate. It is run through Community Safety of Perth and Kinross Council. Members of Pubwatch can also participate in Radiolink. At a cost of £280/year a radio is provided by the police to a licensed premise. Members of the scheme can communicate with each other. For example, if a person has caused some difficulty in one premise, the other premises can be alerted. The police can also be informed so that they can turn the police cameras onto any incident and attend to developing situations. It is understood that there may only be four premises in Perth that participate presently.</p>
<p>Perth and Kinross Licensing Forum has recommended that if a premise wants to use the extra hour recommended for social demand hours on Mondays, Tuesdays and Wednesdays (see paragraph 7.5, and if accepted by the Board) then that premise must be a member of Pubwatch and Radiolink.</p>
<p>It has been suggested membership of Pubwatch and Radiolink is compulsory in Glasgow and Edinburgh, however, a statement encouraging membership was found in Glasgow's licensing policy statement and no statement was found in Edinburgh's licensing policy statement.</p>
<p>Although membership is to be encouraged, there are difficulties with making membership compulsory including that (i) Pubwatch and Radiolink are run by third party organisations, not by the Licensing Board. It is of questionable legitimacy to make membership compulsory; (ii) compulsory membership would mean imposing an annual cost on each premise as a blanket policy; (iii) which licensed premises are to be covered? Businesses are very diverse and it could lead to inconsistencies if categories are introduced such as pubs, nightclubs, restaurants, hotels, restaurants, and cafes. A lot of businesses also have more than one of these facilities; (iv) where would it apply? It could not apply to areas where there is no Pubwatch scheme presently; (v) using the grant of additional hours on Monday, Tuesdays and Wednesdays may discourage operators from applying for those hours; and (vi) membership would be imposed through three nights but apply to seven nights a week, particularly the busier nights of the week, Thursday, Friday and Saturday. It is recommended the</p>

policy remains as it is – encouragement to join.

5.2~~01~~ Best Bar None Award Scheme

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

Comment
The Best Bar None Scheme continues to operate locally. It is understood that it may be more difficult for a smaller operator to participate in the scheme due to the time and resources required. Perth and Kinross Licensing Forum are to contact the organisers of the Scheme to raise this issue.

5.2~~12~~ 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~~23~~ 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.~~

~~5.235~~ Delivery of alcohol to-a and consumption by persons under 18 or to 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.

~~5.246~~ 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 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.

Comment
The definition of entertainment refers to the primary activity being at least 50% of occasions but does not define the entertainment on other occasions. It is difficult to set out precise definitions, particularly as it is difficult to draw a distinction between functions

and entertainment and as there is a risk of being overly prescriptive on the type of music, act or performer permissible. Differences may not immediately be apparent or entertainment is unintentionally not described when it should be included. Some changes are proposed to emphasise DJ led disco music and to narrate what is not entertainment. This accords with the approach for functions.

Consideration could also be given to a policy that no children or young persons should be permitted entry while entertainment takes place.

Terms of entry for children and young persons for existing night club licensed premises include:

That Bar/The Loft

Children and young persons may be admitted if attending a private function not open to the general public. Children must be accompanied. Young persons unaccompanied.

Children allowed entry prior to 11am and until 10pm unless attending a private function when allowed to 11pm. Young persons allowed entry prior to 11am and during core hours.

Ice Factory

Only when private function – all children must have adult supervision.

Private functions – core hours. Under 18 events, over 12 years – midnight.

44, 44 Atholl Street, Perth

Children and young persons accompanied unless attending a particular event appropriate to those under 18. Under 18 performers permitted entry unaccompanied only for the purposes of performing.

During core hours and function hours per Board policy.

The Venue

Children accompanied adult, young persons unaccompanied. Children and young persons also admitted access as entertainer or part of live music performance.

Children until 11pm or until end of appropriate private function. Young persons during core hours or until end of appropriate

private function. Exception is a child or young person will also be admitted access as entertainer or part of live music performance.

Harry's (City/Sportsters)

Children and young persons accompanied.

Children – midnight. Young persons – normal terminal hour.

Wrist bands distinguishing adults from children and young persons operate.

These premises licences were not written with a direct restriction on entry by children and young persons during entertainment in mind, however, four of the licences indicate they do not allow such entry. One licence does allow entry for young persons, namely Harry's (City/Sportsters). That premise has been closed for some time.

It is a matter for the Board whether a policy of not permitting children and young person for entertainment is appropriate.

It should be borne in mind that entertainment generally does not take place until around the conclusion of social demand hours, however, it can take place before.

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 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.:-

Social demand hours should be entered in Section 2 of the Operating Plan. Any later hours sought should be entered into Section 5(f) of the Operating Plan.

Comment
<p>Perth and Kinross Licensing Forum has recommended an increase in licensed hours as set out in later parts of this Section 7.</p> <p>For each relevant category of hours, the Forum's position is set out along with a comparison of licensed hours for other licensing boards' hours as taken from their current licensing policy statements. This is for comparison purposes only. The setting of licensed hours is a matter for each Board where the Boards members' knowledge and experience of their area is important.</p> <p>Previously, the setting of licensed hours for on sales premises has largely followed the hours that have applied in the Perth and Kinross area for a long time, including prior to the Licensing (Scotland) Act 2005, namely the practice of the Board under the Licensing (Scotland) Act 1976.</p> <p>Limited changes have taken place under the 2005 Act since 2008, however, those changes have always been increases in hours, not decreases.</p> <p>It is particularly difficult for a Board to reduce on sales licensed hours in a licensing policy statement. This is due, in part, to (i) existing premises licenses set the hours of operation for premises that licence holders rely on, and (ii) there is no direct and easy mechanism to allow a Board to amend the hundreds of premises licenses that a policy change may apply to. Where it is an increase in hours, a licence holder can apply to vary their premises licence. There is no incentive for a licence holder to apply to vary their licence at cost to reduce their licensed hours. The Board would have to undertake a premises licence review for each licence affected and each review would be open to appeal to the Sheriff Principal. There should also arguably be a consistency of policy</p>

over more than one licensing policy statement for licensed hours to avoid changes every few years.

There is an argument that it would be better to have the same terminal hour for each day of the week, especially for social demand hours. However, unless this is an overall increase in licensed hours to, for example, 12:30am 7 days per week for social demand hours, then this may meet the same problem of reducing some hours.

There is also the argument with the change towards more off sales, that any reduction in on sales hours would have a detrimental impact on such businesses.

Previously, it has been of particular concern to nightclub owners to ensure there is a sufficient differential between entertainment hours and other types of hours, mainly social demand and function hours. They have viewed this differential as crucial to distinguish them from other activities and to make them the destination venue at the end of an evening.

When considering each individual recommendation to increase licensed hours, the Board should bear in mind the overall context of the other licensed hours and the differential of hours as mentioned above. Residential amenity should also be a strong consideration.

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 12am	11pm 12am	11pm 12am	12.30am	12.30am	12.30am	12am
Festive period	12.45am 1am	12.45am 1am	12.45am 1am	12.45am 1am	12.45am 1am	12.45am 1am	12.45am 1am

Comment

These hours are generally referred to as the 'social demand' hours where drinking can take place for its own sake without any other activity. It is suggested that reference is now made to these hours being social demand hours.

Social demand hours are the basic hours. All other on sales hours are later hours following on from social demand hours.

There is a case for swapping paragraphs 7.5 and 7.4 so that social demand hours come first. This would reflect Board practice in dealing with premises licence applications. In the Operating Plan, Section 2 for on sales core hours, social demand hours are entered whilst later hours sought are entered in Section 5(f) of the Operating Plan of the premises licence.

Perth and Kinross Licensing Forum's position on social demand hours is as follows:

Recommendation

- To amend core hours on a Monday, Tuesday and Wednesday night from 11pm to 12am (midnight)

And

- For the times to remain the same on a Thursday, Friday and Saturday night, namely 12:30am and Sunday night 12.00 (midnight)

Reasons

- To aid tourism within Perth & Kinross area
- To encourage events coming to Perth
- If go to a concert, can't go for a drink
- Won't cause antisocial behaviour.

Evidence

- Businesses not coming to Perth
- New housing developments investing in PKC area
- Social/night life within Perth for students – university city now
- Out with Areas have longer hours i.e. Dundee, Stirling, Dunfermline.

Other Licensing Board Policy Statements have been consulted for comparison purposes. They are:

- Dundee – to 12 midnight except Friday/Saturdays 1am
- Angus – 11am to midnight Sunday to Thursday, 1am for Friday/Saturday nights
- Fife – 10am to midnight Sunday to Thursday, 10am to 1am Friday/Saturday
- Stirling – Sunday to Thursday to 12 midnight, Friday/Saturday 1am
- Edinburgh – 9am (except Sundays 11am) to 1am. Members clubs to 3am.
- Glasgow – 11am – 12 midnight, 7 days.

Comment – it is a matter for the Board what policy hours are but a balanced consideration should be carried out whereby neighbouring amenity should be considered as well as factors relating to the running of licensed premises.

In terms of consistency alone, this is difficult to achieve across social demand hours; function hours; and entertainment hours without there being a reduction in licensed hours on at least one evening, however the closest to consistency would be:

	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Social Demand	12	12	12	1230am	1230am	1230am	12
Functions	1am	1am	1am	130am	130am	130am	1am
Ent	2am	2am	2am	3am	3am	3am	2am

Following this model would involve later hours on Thursday and well and Friday and Saturday nights.

Alternatively, it could be:

	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Social Demand	12	12	12	1230am	1230am	1230am	12
Functions	1am	1am	1am	1am	130am	130am	1am
Ent	2am	2am	2am	230am	3am	3am	2am

Or

	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Social	12	12	12	1230a	1230a	1230a	12

Demand				m	m	m	
Functions	1am	1am	1am	130am	130am	130am	1am
Ent	230am	230am	230am	230am	3am	3am	230am

Consistency is not the only consideration. If it is felt, for example, that extending entertainment hours on Monday/Tuesday/Wednesday to 2am or 2:30am would not be appropriate at this time, then other options are available such as:

	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Social Demand	12	12	12	1230am	1230am	1230am	12
Functions	1am	1am	1am	130am	130am	130am	1am
Ent	1am	1am	1am	230am	3am	3am	130am

Consideration could be given to increasing social demand festive hours by 15 minutes to 1am. It should be borne in mind that 15 minutes drinking up time applies. Also, such an increase would apply to occasional licenses as well. If increased, festive hours would be:

Festive	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Social Demand	1am	1am	1am	1am	1am	1am	1am
Functions	130am	130am	130am	130am	130am	130am	130am
Ent	230am	230am	230am	230am	3am	3am	230am

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

- have a separate function room and/or
- are closed down and cleared of patrons for at least 30 minutes~~one hour~~ before the commencement of the function~~and, for the purpose of entertainment and/or functions and [or – the bar shall be closed such that no alcohol is sold for 15/30 minutes prior to the commencement of the function~~

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	4pm 1:30am	4pm 1:30am	4pm 1:30am	4am 1:30am	1.30am	1.30am	4am 1:30am
<u>Weddings</u>	<u>1am</u>	<u>1am</u>	<u>1am</u>	<u>1am</u>	<u>1:30am</u>	<u>1:30am</u>	<u>1am</u>
Festive period	1.30am	1.30am	1.30am	1.30am	1.30am	1.30am	1.30am

Comments
These hours are generally referred to as function hours. It is suggested they are labelled as such.
The requirement for a closedown can also be reviewed.
The purpose of operating a closedown in a premises where a function is taking place is to separate social drinkers from those attending a function. Function hours are later than social demand hours. A closedown avoids a social drinker staying in the same place and continuing drinking without being part of the function activity. That social drinker would be able to drink alcohol for longer than social demand hours. A closedown also allows for better control of a function.
The closedown period is set at one hour. Over the years several applicants have sought to reduce this period. If it is to be reduced,

the question is what to. 30 minutes has been suggested but that is a matter for the Board.

Perth and Kinross Licensing Forum make further recommendations on the closedown requirement.

Recommendation

- Preferred Option – 15 minute shut down of the bar and no to clear the area
- Compromise Option – 30 minutes shut down of the bar and not to clear the area

Reasons

- Causes confusion to customer
- Opportunity to expand business
- For some premises, social demand patrons can move to a different part of the premises to wait to return when the function commences, however, for other premises social demand patrons have to leave the premises at closedown which can lead to noise and antisocial behaviour issues outside.
- If a wedding has been on, some may wish to stay on but may have to wait one hour.
- Social demand patrons can go next door and consume alcohol but not if in the same premises due to the closedown.
- Should the period be 30 minutes, patrons are less likely to stay on as social drinkers.

Evidence

- Current situation causes an issue at present for premises and police
- Patrons going out into cold air causes issues
- Does not exist elsewhere i.e. Edinburgh and Glasgow

Comment – if the Forum recommendation is accepted, that would mean social demand patrons can remain in the same part of the premises where the function is due to take place. It then becomes an operational issue for the premises licence holder to close the bar so that no alcohol is sold for the specified period of time and then to control entry to the function so that social demand patrons are choosing to attend the function rather than just continuing on drinking.

The Board has an agreed position that licensed hours for weddings on Sundays to Wednesdays can extend to 1am. This should be

reflected in policy (this may not be required if the Board accepts the Licensing Forum's recommendation on function hours (see below))

Perth and Kinross Licensing Forum also make recommendations on extending function hours.

Recommendation

- Increase hours to 1:30am, 7 days per week

Reasons

- Increase in demand for weddings and other functions midweek
- Attract more business to area
- Cost implication for couples getting married
- Support existing businesses

Evidence

- Increase in number of occasionals being requested for midweek to over weddings
- Modernising and bringing PKC into line with other areas

The Forum has provided further information at the end of this recommendation although it can apply to all their recommendations:

POPULATION GROWTH

<https://www.dailyrecord.co.uk/news/local-news/population-perth-kinross-rise-7000-12295014>

The population of Perth and Kinross, believed to have stood at 150,680 just two years ago, is projected to increase to 157,468 over the next eight years.

[UK House Price Index Scotland: August 2017](#)

New housing developments:

[Proposed Local Development Plan 2](#)

Recent research has revealed that Perth is the best place in the UK to get a foot on the housing ladder.

<https://www.investinperth.co.uk/perth-is-the-place-to-get-a-foot-on-the-housing-ladder/>

Springfield Properties to construct 3,000 homes to the west of Perth. This development (Bertha Park) represents the biggest single expansion of the city in a generation.

<https://www.investinperth.co.uk/new-village-and-infrastructure-improvements-help-to-meet-perths-growing-ambitions/>

PERTH CITY PLAN:

http://www.pkc.gov.uk/media/33105/Perth-City-Plan-Part-1/pdf/Perth_City_Plan_v5_-_section_1

This plan sets out Perth's long-term vision for Perth as one of Europe's great small cities.

Perth and Perthshire's key sector strengths are in tourism, food and drink. Licensing hours are key to this and currently Perth and Kinross, although leading in many other areas of progression – licensing hours are not one of them.

Other Licensing Board Policy Statements have been consulted for comparison purposes. They are:

- Dundee – generally in favour dedicated function suites remain open until 1am; premises with substantial entertainment Friday/Saturday 0200
- Angus – 11am to midnight Sunday to Thursday, 11am – 2am for Friday/Saturday nights
- Fife – 10am to 1am (Adult entertainment); 10am to 1am Most licensed premises
- Stirling – Significant entertainment Sunday to Thursday to 11am to 2am, Friday/Saturday 3am
- Edinburgh – 9am (except Sundays 11am) to 3am (entertainment) except adult entertainment 1am.
- Glasgow – 1am, 7 days.

Comment – it should be borne in mind that the late night opening mandatory conditions apply to premises open after 1am. As a minimum a first aider must be present after 1am. Other late night conditions must be applied if certain criteria apply.

It is a matter for the Board what policy hours are but a balanced consideration should be carried out whereby neighbouring amenity should be considered as well as factors relating to the running of licensed premises.

In terms of consistency alone, this is difficult to achieve across social demand hours; function hours; and entertainment hours without there being a reduction in licensed hours on at least one evening, however the closest to consistency would be:

	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Social Demand	12	12	12	1230am	1230am	1230am	12

Functions	1am	1am	1am	130am	130am	130am	1am
Ent	2am	2am	2am	3am	3am	3am	2am

Following this model would involve later hours on Thursday and well and Friday and Saturday nights.

Alternatively, it could be:

	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Social Demand	12	12	12	1230am	1230am	1230am	12
Functions	1am	1am	1am	1am	130am	130am	1am
Ent	2am	2am	2am	230am	3am	3am	2am

Or

	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Social Demand	12	12	12	1230am	1230am	1230am	12
Functions	1am	1am	1am	130am	130am	130am	1am
Ent	230am	230am	230am	230am	3am	3am	230am

Consistency is not the only consideration. If it is felt, for example, that extending entertainment hours on Monday/Tuesday/Wednesday to 2am or 2:30am would not be appropriate at this time, then other options are available such as:

	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Social Demand	12	12	12	1230am	1230am	1230am	12
Functions	1am	1am	1am	130am	130am	130am	1am
Ent	1am	1am	1am	230am	3am	3am	130am

- 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 2:30am	11pm 2:30am	1.30am 2:30am	2.30am	3.00am	3.00am	1.30am 2:30am
Festive period	2.30am	2.30am	2.30am	2.30am	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.

Comment
These hours are generally referred to as entertainment or nightclub hours. It is suggested they are labelled as such.
Perth and Kinross Licensing Forum has not made a recommendation to increase entertainment hours, however, it understands the differential argument (as referred to above) and would welcome an increase in entertainment hours Sunday to Wednesday 2:30am.
Other Licensing Board Policy Statements have been consulted from comparison purposes. They are: <ul style="list-style-type: none"> Dundee – nightclubs and similar 2:30am; Friday/Saturday 3am; and a (specified list of occasions) 3:30am Angus – 11am to midnight Sunday to Thursday, 11am – 2am for Friday/Saturday nights (same as functions) Fife – 10am to 2am Stirling – Significant entertainment Sunday to Thursday to 11am to 2am, Friday/Saturday 3am (same as functions) Edinburgh – 9am (except Sundays 11am) to 3am (entertainment) except adult entertainment 1am and casinos 6am (same as functions except casinos are mentioned) Glasgow – 3am city centre; 2am out with city centre <p>It is a matter for the Board what policy hours are but a balanced consideration should be carried out whereby neighbouring amenity</p>

should be considered as well as factors relating to the running of licensed premises.

In terms of consistency alone, this is difficult to achieve across social demand hours; function hours; and entertainment hours without there being a reduction in licensed hours on at least one evening, however the closest to consistency would be:

	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Social Demand	12	12	12	1230am	1230am	1230am	12
Functions	1am	1am	1am	130am	130am	130am	1am
Ent	2am	2am	2am	3am	3am	3am	2am

Following this model would involve later hours on Thursday and well and Friday and Saturday nights.

Alternatively, it could be:

	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Social Demand	12	12	12	1230am	1230am	1230am	12
Functions	1am	1am	1am	1am	130am	130am	1am
Ent	2am	2am	2am	230am	3am	3am	2am

Or

	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Social Demand	12	12	12	1230am	1230am	1230am	12
Functions	1am	1am	1am	130am	130am	130am	1am
Ent	230am	230am	230am	230am	3am	3am	230am

Consistency is not the only consideration. If it is felt, for example, that extending entertainment hours on Monday/Tuesday/Wednesday to 2am or 2:30am would not be appropriate at this time, then other options are available such as:

	Mon	Tues	Wed	Thur	Fri	Sat	Sun
--	-----	------	-----	------	-----	-----	-----

Social Demand	12	12	12	1230a m	1230a m	1230a m	12
Functions	1a m	1am	1a m	130am	130am	130am	1am
Ent	1a m	1am	1a m	230am	3am	3am	130a m

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.

Comment

Festive hours have been referred to in Board Policy but the period for which they apply has operated by practice, not policy.

2017 festive hours practice has been shown as suggested changes.

It should be noted that the commencement dates of 1 and 8 December change from year to year as to what day of the week they are (thus affecting how many weekends are covered before Christmas), however, the number of days before Christmas is the same. The terminal date of 2 January has consistently been selected as that is when Christmas holidays for the majority of people end.

Extended hours can be granted for a period of up to one month. Occasional licenses can be granted for up to 14 days.

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~~ include:-

- 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 22 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 applied for in any period of 12 months.

To allow time to consult the Police and for objections to be made, applications should be submitted as far in advance of the event as possible. Applications

Formatted: Space Before: 13.95 pt,
Line spacing: Exactly 13.65 pt

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 licenses 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.

Comment
Board practices for occasional licence applications have been set

out in a new paragraph 8.2 with the exception of suggesting a new policy (first bullet point) for those premises applying for more than 30 days in any year.

One operation can apply for multiple occasional licenses for the same premises but this is against the spirit of the legislation and takes up considerable resources processing these applications. A clear statement could be included that if more than, say, 30 days are sought in any one calendar year then the Board expects that business to apply for a premises licence. Failure to do so may result in future applications being remitted to the Board for consideration. This would not apply to village halls or other venues used by different groups. It is not possible to state all further occasionals will be refused but rather that a premises licence application is expected. The period of 30 days is seen as reasonable, offering flexibility and is similar to the planning rule of allowing structures such as marquees for 28 days before planning permission is required.

Perth and Kinross Licensing Forum has recommended:

Recommendation

Put a limit on the number of occasionals to 30 per year per venue

Reasons

Unfair to Licensing Department with regard to work involved processing. Unfair to rural areas with fixed premises missing out on business. Unfair to premises licence holders in rural areas missing out on business i.e. weddings

Evidence

Increased number of occasionals received year on year.

Comment:

- As stated above, it is not possible to have a strict rule of only 30 days for occasionals in any calendar year. The Forum has been made aware of this.
- The number of occasionals for Perth and Kinross in recent years have been:-

2014	894
2015	854
2016	949
2017	1006
2018	424 (to 1 May only)

- 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 12am	11pm 12am	11pm 12am	12.30am	12.30am	12.30am	12am
Festive period	12.45pm 1am	12.45pm 1am	12.45pm 1am	12.45pm 1am	12.45pm 1am	12.45pm 1am	12.45pm 1am

Functions (Where there is specific entertainment)

Period	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Annually except festive period	11pm 1:30am	11pm 1:30am	11pm 1:30am	1am 1:30am	1.30am	1.30am	12am 1:30am
Festive period	1.30am	1.30am	1.30am	1.30am	1.30am	1.30am	1.30am

Comment

Any changes to occasional licence hours should match the equivalent hours for premises licences set out in Section 7, above.

It should be noted that the Board has an agreed position that licensed hours for weddings on Sundays to Wednesdays can extend to 1am.

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.

Comment
<p>The assessment of overprovision is a very complex area. The Board is, to a large degree, reliant on obtaining information and statistics focused on health and crime from other organisations.</p> <p>The Board previously stopped an overprovision assessment due the lack of linkage between the statistics and any harm that would demonstrate overprovision and wished to look at larger areas such as, possibly, the whole of Perth.</p> <p>Discussions have taken place with NHS Tayside through the Perth and Kinross Alcohol and Drugs Partnership. Those discussions have focused on the extent of the localities to consider and whether relevant information is available for those localities. Given the diverse nature of Perth and Kinross, it would appear that an all-area approach would not be appropriate. Focus has also been on the difficulty on obtaining relevant information that may directly link harm to off sales.</p> <p>Any assessment of overprovision will not be in place for 4 November 2018. As a result, this will come forward as a supplementary policy issue in the future.</p>

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.

Comment
The Scottish Government have prepared updated Guidance in relation to overprovision which also affects the calculation of capacity. This may necessitate capacity being recalculated. However, that guidance to Licensing Boards is not yet public and

has not been through the necessary parliamentary process. The issue of capacity can be revisited when assessing overprovision and when approved guidance is published.

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.

10.4 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.

Comment
Members clubs with a premises licence are exempt from the

assessment of overprovision; from having a designated premises manager; and from a personal licence holder having to authorise sales of alcohol.

They must be not for profit and must have a written constitution and rules covering various matters. One of the effects is that unless an occasional licence is in place, no person is to be supplied alcohol on club premises unless that person is a member; or accompanying that member by invitation; or is a member of another qualifying club.

The issue for the Board is whether to set a limit on what the numbers of accompanying guests should be. Qualifying clubs commonly refer to 5 or 10 guests in their constitution but there is no express limit in legislation before an occasional licence must be applied for to allow for general entry for the public.

Any limit should be set at a reasonable level as clubs are limited in the number of occasionals they can apply for in any calendar year.

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.*

Comment
<p>Policy 11.5 can be reviewed. That policy insists upon a separation of payments between alcohol and fuel in petrol filling stations. Usually that means paying for fuel through a hatch from outside the premises and paying for alcohol inside the premises. Such a policy derives from case law under the Licensing (Scotland) Act 1976. The purpose of the separation of payments is to not prejudice the government's message on drink driving.</p> <p>The issue is whether this policy should be removed or remain. The somewhat complex test for excluded premises is set in law and will remain irrespective of what happens to policy 11.5.</p>

Factors include (i) more premises licenses have been granted without the separation of payments than have been granted with the separation; (ii) do the public understand the purpose of the separation of payments?; (iii) is the separation of payments too great an inconvenience for customers?; (iv) as a customer has to pay at the hatch for fuel and then go inside for alcohol, does this increase the queuing of cars at the premises?; (v) customers have to stand outside including in winter; (vi) is paying for fuel outside quicker for the customer?; (vii) is a separation of payments more costly and less efficient for the business?; and (viii) such a policy does separate the sale of alcohol from the sale of fuel.

For information, the number of excluded premises that have been granted premises licenses has been limited. They include:

- Tesco, Scone – separation of payments operates
- Girvans of Aberfeldy – separation of payments operated until premises sold to Co-op. The petrol filling station does not now sell alcohol.
- Kirkmichael – community shop, no separation of payments
- Kinloch Rannoch – no separation of payments in the restaurant/cafe. Closed years ago.
- Pitlochry – off sales licence granted in 2017, no separation of payments.

There are also two pending applications for BP, The Triangle, Inveralmond, Perth and for BP Bullionfield, Invergowrie.

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 7pm, 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
<p>Board policy on pavement cafes has been amend on more than one occasion.</p> <p>Current policy is set out in a supplementary licensing policy statement of 22 April 2016. That increased the period when alcohol can be consumed on its own to 9pm and added in further requirements such as not playing music or televisions in or into pavement café areas and requiring table service. That supplementary policy should now be adopted into the new licensing policy statement.</p> <p>The policy cannot be revised much further (other than extending the time alcohol can be consumed on its own to 10pm) without removing the policy entirely such that there is no control over the operation of pavement cafes.</p> <p>Perth and Kinross Licensing Forum has recommended:</p> <p><u>Recommended</u></p> <ul style="list-style-type: none">• The existing 9pm limit for drinking alcohol on its own is increased to 10pm but with food still to be available.

Reasons

- To attract tourists to Perth. Tourists tend to eat later. Extend time patrons can eat within the outside area.

Evidence

- Cultural – to develop Perth as a cultural destination. Proven that drinking is less harmful whilst eating and sitting down rather than standing drinking. More attractive to families.

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.

15. 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.*

Comment
<p>The whole of Policy 15 should be reviewed. Depending on the Board's view, it may be the whole of the policy should be deleted.</p> <p>The first part of 15.1 referring to sales of alcohol for consumption on the premises will be ancillary to a table meal taken on the premises becomes unnecessary where that is inserted into paragraph 7.4 on restaurant hours. The later restaurant hours are granted beyond social demand hours on the basis that alcohol is ancillary to a table meal during those later hours. That statement more properly fits in paragraph 7.4.</p> <p>The second part of 15.1 refers to off sales shall only be to patrons who have consumed a table meal on the premises. That is intended to cover the issue of customers seeking alcohol with a takeaway meal and the possibility of premises changing away from being a restaurant. It can be argued that (i) off sales from a restaurant are legitimate like any other premise; (ii) the risk of persons drinking and driving having collected a takeaway meal are less likely or at least no higher due to wide public awareness of the reduced drink drive limit; (iii) the growth of companies like Deliveroo does not fit well with the policy; (iv) businesses have diversified such that they wish to offer a variety of different facilities such as a delicatessen offer along with a meal or a café operation (v) anecdotally, the level of sales of alcohol with takeaway meals is not high; (vi) the Board in the past couple of years has not imposed this policy as a condition on several premises licences; (vii) off</p>

sales can only be ordered up to 10pm; and (viii) removing this part of the policy would not disturb the Board's approach of alcohol being ancillary to a table meal during later restaurant hours. Arguably, removal would be more in line with the Board's approach of permitting any other activity during social demand but then limiting the provision of alcohol to the permitted activity during later licensed hours.

For Policy 15.2, that is arguably not required. A café/refreshment type operation can take place during social demand hours anyway but is not the type of operation that would justify later licensed hours, such as restaurant hours. Consumption of a limited range of food and/or consumption of non-alcoholic beverages does not amount to operating as a restaurant. Similarly, the restriction on off sales is not required and the café/refreshment operation only occurs during social demand hours when other activities and facilities are permissible. Again, some businesses, particularly cafes have diversified to include other offering such as a delicatessen with off sales included.

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 L₁₀-L₉₀ 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

LA₉₀ – LA₉₀ (no music)

LAeq – LA_{99.8} (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.

LA₉₀ – LA₉₀ (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.