

**NOTICE OF MEETING**

**MONDAY 26<sup>th</sup> NOVEMBER 2018**

**START TIME 9.30am**

**Dean of Guild Room, City Chambers, Edinburgh**

**AGENDA**

1. Minutes of Meeting of:-
  - (a) 29<sup>th</sup> October 2018
  - (b) 13<sup>th</sup> November 2018
2. Applications for variation of existing premises licences, new premises and provisional premises licences, personal licences, etc – as detailed in separate list
3. Section 45 – Extension of Provisional Period – 20-30 Cockburn Street, Edinburgh
4. Section 83 Notification – Neil Young
5. Statement of Licensing Policy updates:-
  - (a) Assessment of Overprovision
  - (b) General Licensing Policy
6. Annual Functions Report – 2017/18
7. Annual Finance Report – 2017/18
8. Gambling Act 2005 – Statement of Licensing Policy - consultation

Nick Smith  
Clerk of the Licensing Board

# ◆ EDINBURGH ◆

LICENSING BOARD

Licensing Board membership:

Councillor Steve Burgess	Councillor Gillian Gloyer
Councillor Lezley Marion Cameron	Councillor David Key
Councillor Nick Cook	Councillor Callum Laidlaw
Councillor Cammy Day	Councillor Joanna Mowat
Councillor Catherine Fullerton	Councillor Norman Work (Convener)

General information about the Licensing Board's meeting dates, Policies, etc is available online:-

[http://www.edinburgh.gov.uk/info/20023/licences\\_and\\_permits/960/licencing\\_board](http://www.edinburgh.gov.uk/info/20023/licences_and_permits/960/licencing_board)

**Members present:** Councillors Norman Work (Convener); Catherine Fullerton; David Key; Joanna Mowat; Callum Laidlaw; Gillian Gloyer; Steve Burgess;

**Apologies:** Councillors Nick Cook; Lezley Marion Cameron; Cammy Day

**Police Officer:** Sergeant John Young

**Council Officers:** Tom Veitch (Licensing Standards Manager); Colin McCulloch (Building Standards)

**NHS Lothian:** Elizabeth Oldcorn

**Depute Clerk:** Nick Fraser (items 1-4); Morag Leck (items 5-6)

**1. Minutes of Meeting of 24<sup>th</sup> September 2018**

The minutes and decision list for the meeting of 24<sup>th</sup> September 2018 were agreed as providing an accurate record of that meeting.

**Decision:** minutes agreed

**2. Applications for variation of existing premises licences, new premises and provisional premises licences, personal licences, etc – as detailed in separate list**

The Board considered sixteen applications for variation of premises licences, one application for transfer and variation, nine applications for provisional premises licences and two applications for personal licences, the decisions for which are as detailed in the list appended to these minutes.

**Declarations of interest:** None

**Divisions:**

*Variation of premises licence application – 1. The Inverleith, 10 Bowhill Terrace*

Councillor Burgess, seconded by Councillor Key, moved grant of the application, but with commencement hour to remain at 1000 rather than 0900 as requested, Mondays to Saturdays. Councillor Work, seconded by Councillor Fullerton, moved as an amendment that the application should be granted, with the condition that the provision of alcohol during the additional hour Mondays to Saturdays would be with food. Following a division, the application was granted, with the condition that the provision of alcohol during the additional hour Mondays to Saturdays would be with food.

*Variation of premises licence application – 4. ONE20 Wine Café, 120 Dundas Street*

Councillor Fullerton, seconded by Councillor Work, moved grant of the application. Councillor Gloyer, seconded by Councillor Mowat, moved as an amendment that the application should be granted, but with terminal hour of 2300 Sunday – Thursday, rather than 2330 as requested. Following a division, the application was granted, but with terminal hour of 2300 Sunday – Thursday, rather than 2330 as requested.

*Personal licence application – 1. Cletus Calvin Okpala*

Councillor Burgess, seconded by Councillor Gloyer, moved grant of the application. Councillor Fullerton, seconded by Councillor Laidlaw, moved as an amendment that the application should be refused. Following a division, the application was granted.

**NHS Lothian representations:**

11.	variation	Zana 12 Ltd	88 Grassmarket
7.	new premises	Mr Ugar Yavus	54-56 West Port

**3. Section 83 Notification – Neil Young**

The Depute Clerk advised it had recently been confirmed Mr Young had moved address. The Board agreed to continue consideration of the matter, to allow his attendance.

**Decision:** continued

**4. Personal Licence Renewals and Refresher Training**

The Depute Clerk advised that the first of the personal licences issued under the 2005 Act were coming up for their ten year renewal date, for those who wanted to continue to hold a licence. He referred to the existing requirements placed upon personal licence holders to carry out refresher training every five years, providing evidence to the Board of having done so. Applicants seeking renewal of licence would have to demonstrate to the Board they had obtained the appropriate training qualification.

The Board was advised Scottish Government had recently issued guidance on licence renewals and accredited training details, all of which was available on the Scottish Government website. Guidance from Scottish Government suggested it would be beneficial for licence holders to carry out the necessary processes to ensure their licence renewal and refresher training notification were dealt with at the same time.

**Decision:** (1) Scottish Government guidance noted and approved, to be published on Board's website (link to guidance - [Licensing \(Scotland\) Act 2005 : communications for personal licence holders](#)); (2) personal licence holders would be encouraged to undertake their refresher training in sufficient time to enable the

submission of their renewal application and refresher training requirement to be dealt with together

## 5. Update report – Statement of Licensing Policy

The Depute Clerk referred to the terms of the report prepared for the Board, setting out details of the statutory requirements placed upon the Board to publish a new Statement of Licensing Policy. She narrated the steps which had been taken by the Board, in the period since the consultation process began in October 2017, including an initial consultation, hearings on the responses to that consultation, a workshop on overprovision and the preparation of a draft updated policy with relevant questions, for consideration as part of a formal consultation process.

That process having concluded on 5<sup>th</sup> October 2018, she advised of the details of responses to the formal consultation, which the Board had before them in full and in summary.

The Depute Clerk referred to each of the five questions posed by the Board in its consultation, providing details of the consultee responses in each case. Board members discussed each topic in turn before reaching agreement on the following:-

Question 1 – Children and young persons' access to licensed premises – the Depute Clerk advised that of the mixed responses received, there was generally a view in favour of a terminal hour for children and young persons' access, but with individual applications continuing to be considered on a case by case basis.

The Board agreed indicative maximum times of 2300 for children's access and 0100 for young persons' access should be stated in the policy, with applications to be considered case by case.

Question 2 – Extended use of occasional licences – the Depute Clerk advised consultees were generally in favour of applications being given more scrutiny by the Board. Some considered limiting occasionals by number of days, and others by number of applications. She explained consultees generally favoured more clarity in the policy to distinguish use of occasionals during festive and festival periods, from pop-up bars at other times of the year. A number of consultees had commented on the use of occasional licences following grant of provisional premises licences, suggesting the Board's policy should limit this practice.

The Board agreed that an indicative limit of 2 months or 4 consecutive applications for occasional licences would provide an appropriate trigger beyond which applications for occasionals licences for continuous periods would be referred to the Board for consideration.

Question 3 – Extended hours for events in licensed premises – the Depute Clerk advised that there was general support for the Board's policy setting out a list of events which the Board would consider to be of local or

national significance for the purposes of considering applications. Some had commented on the option for premises to apply for extended hours for special events to be catered for on the premises. She advised some comments had been made about the need for two hour extensions and whether one hour may be more appropriate.

The Board agreed an indicative list would be beneficial, provided it was not too prescriptive. The Board discussed the potential impact of extended hours in more residential areas. It was agreed that applicants should be asked to provide sufficient information to support their application for extended hours, and that the policy should encourage this. The Board discussed the duration of extensions and agreed that one hour, rather than two hour, extensions might be more appropriate in certain circumstances.

Question 4 – Amplified music in licensed premises – The Depute Clerk advised of a division of opinion among consultees, with the general view from community representatives that the effectiveness of this part of the policy should be reviewed, while trade representatives were of the view it should remain unchanged.

The Board agreed that the amplified music and vocals policy would remain unchanged at present, but that the Board would carry out a review, to be considered in more detail at a later date.

Question 5 – Licensed hours – the Depute Clerk advised that the general view was that the current policy was effective, and that applications should continue to be considered on a case by case basis against that background. Some consultees were of the view that there should be a review of licensed hours, with a range of views on what the Board should consider.

The Board discussed the terms of the current licensed hours policy in some detail, including consideration of terminal and commencement hours, as well as the duration of licensed hours and the terms of Scottish Government guidance in that regard. The Board agreed the current policy would remain unchanged, but that it would be made clear that the hours stated in the policy were an indicative maximum, and that applicants would be required to justify the basis upon which operating hours were sought.

Use of toughened glass – the Depute Clerk advised Police Scotland had suggested review of the policy to encourage the use of toughened glass in late night premises and certain other circumstances. The Board agreed this would be appropriate.

It was agreed at this point that the remainder of the report would be continued for consideration by the Board, together with an updated draft policy statement taking account of what had been agreed, all to be considered at a date to be agreed.

**6. Update report – Assessment of Overprovision**

The Board agreed to continue consideration of the terms of the report, to a date to be agreed.

**Decision:** continued

Councillor Norman Work  
Convener of the Licensing Board

DRAFT

**VARIATION OF PREMISES LICENCE APPLICATIONS**

**CONTINUED FROM 24 SEPTEMBER 2018**

No	Reference	Applicant	Agent Details	Premises	On Sale	Off Sale	On & Off Sale	Remarks	Decision
1.	391303	Spiers Bar Limited	MacDonald Licensing  Bf, 21 Rutland Square, Edinburgh, EH1 2BB	The Inverleith  10 Bowhill Terrace, Edinburgh, EH3 5QY	No	No	Yes	Change licence holders address, delete the current Condition on amplified music and vocals, and to replace it with the new Condition agreed by the Licensing Board at its meeting on 26th September 2016, as an amendment to its Policy, increase on sale hours, amend details to children and young persons access to premises.  CC LSO	GRANTED  condition – alcoholic drinks during extra hour to be provided with breakfast only  amplified music and vocals condition – “no audible nuisance”



2.	372975	Silverknowes Golf Club	Silverknowes Golf Club 118 Silverknowes Road, Edinburgh, EH4 5ET	Silverknowes Golf Club 118 Silverknowes Road, Edinburgh, EH4 5ET	No	No	Yes	Remove club conditions, increase on sale hours, add off sales and add a designated premises manager  CC LSO BSR	Partially GRANTED, on basis that on sales commencement remains 1100, Mondays – Sundays  Off sales commencement 1100, Mondays - Sundays
3.	391304	The Scotch Whisky Heritage Centre Limited	Brunton Miller Solicitors 22 Herbert Street, Glasgow, G20 6NB	The Scotch Whisky Experience 354 Castlehill, Edinburgh, EH1 2NE	No	No	Yes	Increase capacity.  CC LSO BSR	GRANTED

**TRANSFER & VARIATION OF PREMISES LICENCE APPLICATIONS**

**29 OCTOBER 2018**

No	Reference	Applicant	Agent Details	Premises	On Sale	Off Sale	On & Off Sale	Remarks	Decision
1.	393627	Mr Robert Michael Baxter	Burness Paull 50 Lothian Road Festival Square Edinburgh EH3 9WJ	235 Cowgate, Edinburgh, EH1 1JQ	No	No	Yes	To increase the capacity to 130, to change the premises licence holder and to also substitute a new layout plan. CC x2 BSR	CONTINUED for Site visit

## VARIATION OF PREMISES LICENCE APPLICATIONS

29 OCTOBER 2018

No	Reference	Applicant	Agent Details	Premises	On Sale	Off Sale	On & Off Sale	Remarks	Decision
1.	392653	Trust Inns Limited	Macdonald Licensing Bf, 21 Rutland Square, Edinburgh, EH1 2BB	1 Peffer Street, Edinburgh, EH16 4BA	No	No	Yes	To delete the current Condition on amplified music and vocals, and to replace it with the new Condition agreed by the Licensing Board at its meeting on 26th September 2016, as an amendment to its Policy, increase on sale hours, add Festival Period to Seasonal Variations and allow certain activities outwith core hours. CC LSO	GRANTED  amplified music and vocals condition – "no audible nuisance"

2.	392934	Broughton Properties Limited	Brunton Miller Solicitors 22 Herbert Street, Glasgow, G20 6NB	104 Hanover Street, Edinburgh, EH2 1DR	Yes	No	No	Amend opening hour on Sunday to 11:00am. CC	GRANTED
3.	393308	Five Guys JV Limited	Brodies LLP 15 Atholl Crescent, Edinburgh, EH3 8HA	12 Frederick Street, Edinburgh, EH2 2HB	No	No	Yes	To extend the terminal hour on Fridays and Saturdays to 01:00. CC	GRANTED
4.	393617	KLR & RCR International Limited	Macdonald Licensing Bf, 21 Rutland Square, Edinburgh, EH1 2BB	120 Dundas Street, Edinburgh	No	No	Yes	Increase on sale hours to 23:30 hrs Sunday - Thursday and 00:00 hrs Friday & Saturday; Add outdoor drinking as an activity CC LSO O x1	Partially GRANTED  Terminal hour on sales – 2300 Mondays – Thursdays  No outdoor drinking beyond 2200  (on a division)
5.	392776	Martin McColl Limited	Lockett & Co Lockett House, 13 Church Street, Kidderminster, Worcestershire, DY10 2AH	120-122 Portobello High Street, Edinburgh, EH15 1AH	No	Yes	No	Change to layout of premises resulting in an increase in capacity for alcohol display. CC LSO BSR	GRANTED

6.	393619	Mrs Samra Iqbal Sohail	Macdonald Licensing Bf, 21 Rutland Square, Edinburgh, EH1 2BB	20 Broughton Street, Edinburgh, EH1 3RH	No	Yes	No	Increase in capacity for alcohol. CC LSO BSR	APPLICATION WITHDRAWN
7.	391794	K-Star Limited	Woodswur Solicitors Devonshire House, 38 York Place, Leeds, LS1 2ED	237 Cowgate, Edinburgh, EH1 1JQ	No	No	Yes	Increase capacity,remove off sales, increase on sale hours. Remove restaurant facilities and televised sports as activities, remove certain activities outwith core hours, amend details to children and young persons access to premises, approve internal reconfiguration, change name of premises to 'Supercube(Cow gate)' and add premises manager. CC BSR	CONTINUED for Site visit (Board to visit licence holder's premises in George Street)

8.	392933	Mitchells & Butlers Retail Ltd	Hill Brown Licensing RWF House, 5 Renfield Street, Glasgow, G2 5EZ	4 South Charlotte Street, Edinburgh, EH2 4AW	No	No	Yes	Remove reference to bar meals and access for children and young persons CC	GRANTED
9.	392384	The Edinburgh Woollen Mill Ltd	TLT LLP 140 West George Street, Glasgow, G2 2HG	62 Princes Street, Edinburgh, EH2 2DF	No	No	Yes	Remove seasonal variation; Allow restaurant facilities outwith core hours; include receptions and live performances both during and outwith core licensed hours; amend other activities. CC BSR	GRANTED

10.	391796	The Edinburgh Woollen Mill Ltd	TLT LLP Hobart House, 80 Hanover Street, Edinburgh, EH2 1EL	70-74 Bangor Road, Edinburgh, EH6 5JU	No	No	Yes	Increase onsales hours to read 11:00 - 22:00 hrs Monday to Sunday, amend terminal hour for off sales to 22:00 hrs daily, amend wording for seasonal variations, add live performances and receptions, allow activities prior to core hours. CC LSO BSR	CONTINUED for redisplay of Site Notice
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11.	393128	Zana 12 Limited	Macdonald Licensing Bf, 21 Rutland Square, Edinburgh, EH1 2BB	88 Grassmarket, Edinburgh, EH1 2JR	No	No	Yes	Add off sales; increase capacity; allow outside area to be used prior to licensed hours, but not for the consumption of alcohol; reflect the addition of the premises known as 86 Grassmarket into the licensed area CC BSR NHS O x5	Application amended to remove off sales  GRANTED  Capacity – 40
12.	393278	Vue Entertainment Limited	Poppleston Allen 37 Stoney Street, The Lace Market, Nottingham, NG1 1LS	Unit 11, 61 Leith Street, Edinburgh, EH1 3AU	Yes	No	No	Amend wording in childrens access CC LSO	GRANTED  Licence holder to provide amended operating plan confirming Challenge 25
13.	393277	Vue Entertainment Limited	Poppleston Allen 37 Stoney Street, The Lace Market, Nottingham, NG1 1LS	Unit 30, Ocean Terminal, 98 Ocean Drive, Edinburgh, EH6 6JJ	No	No	Yes	Amend wording in childrens access CC LSO	GRANTED  Licence holder to provide amended operating plan confirming Challenge 25

**PROVISIONAL PREMISES LICENCE APPLICATIONS**

**CONTINUED FROM 24 SEPTEMBER 2018**

No	Reference	Applicant	Agent Details	Premises	On Sale	Off Sale	On & Off Sale	Remarks	Decision
1.	390978	Royal Yacht Enterprises Ltd	Pinsent Masons LLP 141 Bothwell Street, Glasgow, G2 7EQ	MV Fingal 1 Prince of Wales Dock, EH6 6JJ	No	No	Yes	23 bedroom boutique hotel with restaurant and function suite CC LSO BSR O	Amended to remove seasonal variations; capacity of 150  GRANTED  On sales terminal hour:- 0000 Mondays to Thursdays 0100 Fridays to Sundays  No Outdoor drinking beyond 2200 – all onboard areas and areas adjacent to premises  No deliveries or collections of refuse outwith the hours of 0900 to 1700  amplified music and vocals condition – “no audible nuisance”



**PROVISIONAL PREMISES LICENCE APPLICATIONS**

**29 OCTOBER 2018**

No	Reference	Applicant	Agent Details	Premises	On Sale	Off Sale	On & Off Sale	Remarks	Decision
1.	391611	QM Hotel (UK) Limited	John Gaunt & Partners Omega Court, 372-374 Cemetery Road, Sheffield, S11 8FT	1 Fairview Road, Edinburgh, EH28 8AP	No	No	Yes	The proposed premises is the development of a hotel with restaurant, bar, meeting room facilities, function room associated access and parking with an external area. CC x2 LSO BSR	GRANTED  No outdoor drinking beyond 2200  amplified music and vocals condition – “no audible nuisance”  capacity - 915
2.	393711	Ms Yu-Huan Wang	Macdonald Licensing Bf, 21 Rutland Square, Edinburgh, EH1 2BB	1 Palmerston Place, Edinburgh, EH12 5AF	No	No	Yes	Cafe premises located at the corner of Palmerston Place and West Maitland Street, with access from street level via a flight of stairs. CC LSO BSR	GRANTED  amplified music and vocals condition – “no audible nuisance”  capacity - 70

3.	393025	DDG Consultancy LTD	Mr Niall Hassard Hobart House, 80 Hanover Street, Edinburgh, EH2 1EL	15 Salisbury Place, Edinburgh, EH9 1SL	No	No	Yes	Restaurant/ bistro in a promenade of shops in a mixed residential and commercial area CC LSO BSR	GRANTED  amplified music and vocals condition – “no audible nuisance”  capacity - 40
4.	393712	Mr Graziano Borghese	Macdonald Licensing Bf, 21 Rutland Square, Edinburgh, EH1 2BB	16 Buckstone Terrace, Edinburgh, EH10 6PZ	No	No	Yes	Small café premises located on the ground floor and lower ground floor of a building on Buckstone Terrace. CC LSO BSR O x5 S x1	Application amended  Terminal hour for on and off sales:-  Mondays to Saturdays 2000 Sundays 1800  GRANTED  amplified music and vocals condition – “no audible nuisance”  capacity - 25

5.	391966	Escape Hunt Group Limited	Poppleston Allen Solicitors 37 Stoney Street, The Lace Market, Nottingham, NG1 1LS	26 Castle Street, Edinburgh, EH2 3HT	Yes	No	No	Escape Hunt is part of an international company which offers a range of escape games which have become increasingly popular recently for the public and for corporate clients. A number of different games and experiences are offered. As part of the overall experience the operator wishes to be able to offer refreshments including the sale of alcohol at the conclusion of the entertainment. CC LSO BSR	Application amended to confirm children and young persons access until end of core hours  GRANTED  amplified music and vocals condition – “no audible nuisance”  capacity - 60
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6.	392769	Tattu Manchester Limited	TLT LLP 140 West George Street, Glasgow, G2 2HG	50 West Register Street, EH2 2AA	Yes	No	No	Modern Chinese Restaurant in mainly commercial area located at the west Register Street corner of St Andrew Square CC x2 LSO BSR	GRANTED  amplified music and vocals condition – “no audible nuisance”  capacity - 165
7.	393616	Mr Ugar Yavus	Macdonald Licensing Bf, 21 Rutland Square, Edinburgh, EH1 2BB	54-56 West Port, Edinburgh, EH1 2LD	No	No	Yes	Cafe consisting of two interconnecting properties located on the ground floor of a building in West Port. CC LSO BSR NHS	GRANTED  amplified music and vocals condition – “no audible nuisance”  off sales to be with provision of food only  capacity - 24
8.	392552	Fortuna Scotland Ltd	Macdonald Licensing Bf, 21 Rutland Square, Edinburgh, EH1 2BB	74-77 Queen Street, Edinburgh, EH2 4NF	No	No	Yes	Cafe premises within building in Queen Street. CC LSO BSR	GRANTED  amplified music and vocals condition – “no audible nuisance”  capacity - 20

**PERSONAL LICENCE APPLICATIONS**

**29 OCTOBER 2018**

<b>No</b>	<b>Reference</b>	<b>Applicant</b>	<b>Agent Details</b>	<b>Comments</b>	<b>Decision</b>
1.	388798	Cletus Calvin Okpala		CC (Continued from September)	GRANTED  (on a division)
2.	392549	Bhupinder Singh	MacDonald Licensing Bf 21 Rutland Square Edinburgh EH1 2BB	CC	Application WITHDRAWN

**ITEM No.**

2

**THE CITY OF EDINBURGH LICENSING BOARD**

**APPLICATIONS FOR VARIATION OF EXISTING  
PREMISES LICENCES, NEW & PROVISIONAL  
PREMISES LICENCES AND PERSONAL LICENCES**

**26 NOVEMBER 2018**

**THE CITY OF EDINBURGH LICENSING BOARD**  
**LICENSING (SCOTLAND) ACT 2005**  
**NOTICE OF APPLICATIONS – Continued Transfer & Variation PREMISES LICENCE APPLICATIONS**

**26 NOVEMBER 2018**

No	Reference	Applicant	Agent Details	Premises	On Sale	Off Sale	On & Off Sale	Last Date for Objection	Remarks	Decision
1.	393627	Mr Robert Michael Baxter	Burness Paull 50 Lothian Road Festival Square Edinburgh EH3 9WJ	235 Cowgate, Edinburgh, EH1 1JQ	No	No	Yes	11/10/18	To increase the capacity to 130, to change the premises licence holder and to also substitute a new layout plan. CC x2 BSR	

**THE CITY OF EDINBURGH LICENSING BOARD**  
**LICENSING (SCOTLAND) ACT 2005**  
**NOTICE OF APPLICATIONS – Continued Variation PREMISES LICENCE APPLICATIONS**

**26 NOVEMBER 2018**

No	Reference	Applicant	Agent Details	Premises	On Sale	Off Sale	On & Off Sale	Last Date for Objection	Remarks	Decision
1.	391794	K-Star Limited	Woodswhur Solicitors Devonshire House, 38 York Place, Leeds, LS1 2ED	237 Cowgate, Edinburgh, EH1 1JQ	No	No	Yes	11/10/18	Increase capacity, remove off sales, increase on sale hours. Remove restaurant facilities and televised sports as activities, remove certain activities outwith core hours, amend details to children and young persons access to premises, approve internal reconfiguration, change name of premises to 'Supercube(Cow gate)' and add premises manager. CC BSR	



**THE CITY OF EDINBURGH LICENSING BOARD**  
**LICENSING (SCOTLAND) ACT 2005**  
**NOTICE OF APPLICATIONS – Continued Variation PREMISES LICENCE APPLICATIONS**

**26 NOVEMBER 2018**

No	Reference	Applicant	Agent Details	Premises	On Sale	Off Sale	On & Off Sale	Last Date for Objection	Remarks	Decision
2.	391796	The Edinburgh Woollen Mill Ltd	TLT LLP Hobart House, 80 Hanover Street, Edinburgh, EH2 1EL	70-74 Bangor Road, Edinburgh, EH6 5JU	No	No	Yes	11/10/18	Increase onsales hours to read 11:00 - 22:00 hrs Monday to Sunday, amend terminal hour for off sales to 22:00 hrs daily, amend wording for seasonal variations, add live performances and receptions, allow activities prior to core hours. CC LSO BSR	

**THE CITY OF EDINBURGH LICENSING BOARD**  
**LICENSING (SCOTLAND) ACT 2005**  
**NOTICE OF APPLICATIONS – Transfer & Variation PREMISES LICENCE APPLICATIONS**

**26 NOVEMBER 2018**

No	Reference	Applicant	Agent Details	Premises	On Sale	Off Sale	On & Off Sale	Last Date for Objection	Remarks	Decision
1.	393911	Darklighter Limited	Macdonald Licensing Bf, 21 Rutland Square, Edinburgh, EH1 2BB	19 Dalry Road, Edinburgh, EH11 2BQ	No	No	Yes	8/11/18	To delete the current Condition on amplified music and vocals, and to replace it with the new Condition agreed by the Licensing Board at its meeting on 26th September 2016, as an amendment to its Policy, transfer, increase on sale hours, add off sales, add indoor/outdoor sports as an activity and add seasonal variations. CC LSO NHS	

**THE CITY OF EDINBURGH LICENSING BOARD**  
**LICENSING (SCOTLAND) ACT 2005**  
**NOTICE OF APPLICATIONS – Transfer & Variation PREMISES LICENCE APPLICATIONS**

**26 NOVEMBER 2018**

No	Reference	Applicant	Agent Details	Premises	On Sale	Off Sale	On & Off Sale	Last Date for Objection	Remarks	Decision
2.	394576	Murrayfield Bistro Limited	Macdonald Licensing Bf, 21 Rutland Square, Edinburgh, EH1 2BB	8 Murrayfield Place, Edinburgh, EH12 6AA	No	No	Yes	8/11/18	Transfer and extend licensed foot-print to include 6, 7 & 8, increase capacity, increase on and off sales terminal hours, add seasonal variations, add restaurant facilities, recorded music and live performances, deliveries and outside catering as activities, allow certain activities to take place outwith core hours. CC x2 LSO BSR O x10	

**THE CITY OF EDINBURGH LICENSING BOARD**  
**LICENSING (SCOTLAND) ACT 2005**  
**NOTICE OF APPLICATIONS - Variation PREMISES LICENCE APPLICATIONS**

**26 NOVEMBER 2018**

No	Reference	Applicant	Agent Details	Premises	On Sale	Off Sale	On & Off Sale	Last Date for Objection	Remarks	Decision
1.	394368	Montpeliers (Edinburgh) Ltd	TLT LLP Gf, 80 Hanover Street, Edinburgh, EH2 1EL	51a George Street, Edinburgh, EH2 2HT	No	No	Yes	8/11/18	To add Off Sales to the Premises, to amend and add activities to the Premises, to allow some activities to take place out with core hours, to amend Children and Young Persons access to the Premises and to change the description of the premises. CC	
2.	394642	G1 Group PLC	G1 Group PLC Hamilton House, 70 Hamilton Drive, Glasgow, G12 8DR	2-6 Rutland Place, Edinburgh, EH1 2AD	No	No	Yes	8/11/18	To amend children's and young person's access to premises, from 8pm to 10pm. CC	

**THE CITY OF EDINBURGH LICENSING BOARD**  
**LICENSING (SCOTLAND) ACT 2005**  
**NOTICE OF APPLICATIONS - Variation PREMISES LICENCE APPLICATIONS**

**26 NOVEMBER 2018**

No	Reference	Applicant	Agent Details	Premises	On Sale	Off Sale	On & Off Sale	Last Date for Objection	Remarks	Decision
3.	394942	Whitbread Group PLC	John Gaunt & Partners Omega Court, 372-374 Cemetery Road, Sheffield, S11 8FT	1 Lochside Court, Edinburgh, EH12 9FX	No	No	Yes	8/11/18	To amend the description of the premises to: "Premier Inn Hotel with restaurant, bar, meeting facilities and coffee shop." CC	

**THE CITY OF EDINBURGH LICENSING BOARD**  
**LICENSING (SCOTLAND) ACT 2005**  
**NOTICE OF APPLICATIONS - Variation PREMISES LICENCE APPLICATIONS**

**26 NOVEMBER 2018**

No	Reference	Applicant	Agent Details	Premises	On Sale	Off Sale	On & Off Sale	Last Date for Objection	Remarks	Decision
4.	395391	Mr Colin Makin	Macdonald Licensing Bf, 21 Rutland Square, Edinburgh, EH1 2BB	6 Tanfield, Edinburgh, EH3 5DA	No	Yes	No	8/11/18	To provide for the sale of various forms of alcohol to be sold/supplied in the premises, rather than only beer as presently provided for, to delete the words 'Selling Speciality German Beer' from the description, to add recorded music as an activity and to also substitute a new layout plan. CC LSO O x1	

**THE CITY OF EDINBURGH LICENSING BOARD**  
**LICENSING (SCOTLAND) ACT 2005**  
**NOTICE OF APPLICATIONS - Variation PREMISES LICENCE APPLICATIONS**

**26 NOVEMBER 2018**

No	Reference	Applicant	Agent Details	Premises	On Sale	Off Sale	On & Off Sale	Last Date for Objection	Remarks	Decision
5.	393926	Lidl UK Gmbh	Lidl UK GmbH Licensing Department, Locking Castle Business Park, West Wick, Weston-Super- Mare, BS24 7TG	Former, 11 Logie Green Road, Edinburgh	No	Yes	No	8/11/18	Increase capacity and also increase capacity of alcohol display for the period of 1 December each year until 2 January of following year. CC BSR	

**THE CITY OF EDINBURGH LICENSING BOARD**  
**LICENSING (SCOTLAND) ACT 2005**  
**NOTICE OF APPLICATIONS - Provisional PREMISES LICENCE APPLICATIONS**

**26 NOVEMBER 2018**

No	Reference	Applicant	Agent Details	Premises	On Sale	Off Sale	On & Off Sale	Last Date for Objection	Remarks	Decision
1.	384722	Sweetdram Limited	Brunton Miller Solicitors 22 Herbert Street, Glasgow, G20 6NB	54 Bankhead Crossway South, Edinburgh, EH11 4EP	No	No	Yes	8/11/18	The premises are located within a warehouse which contains a distillery. The premise will operate as a bar for visitors. Dispatch for online orders will also be operated from the site. CC LSO BSR	



**THE CITY OF EDINBURGH LICENSING BOARD**  
**LICENSING (SCOTLAND) ACT 2005**  
**NOTICE OF APPLICATIONS - Provisional PREMISES LICENCE APPLICATIONS**

**26 NOVEMBER 2018**

No	Reference	Applicant	Agent Details	Premises	On Sale	Off Sale	On & Off Sale	Last Date for Objection	Remarks	Decision
2.	392452	Buzzworks Hospitality Limited	Black Hay Solicitors 45/47 Main Street, Prestwick, Ayrshire, KA9 1AF	1/7, Port Edgar, Shore Road, South Queensferry, EH30 9SQ	No	No	Yes	08/11/18	The premises comprise a first floor restaurant and bar taking advantage of the favourable views on to the Firth of Forth specifically the three iconic bridges to both the East and West of the location. Scotts at Port Edgar has been created in a new first floor development over retail space within industrial buildings on the site at Port Edgar Marina. CC x2 LSO BSR	

**THE CITY OF EDINBURGH LICENSING BOARD**  
**LICENSING (SCOTLAND) ACT 2005**  
**NOTICE OF APPLICATIONS - Provisional PREMISES LICENCE APPLICATIONS**

**26 NOVEMBER 2018**

No	Reference	Applicant	Agent Details	Premises	On Sale	Off Sale	On & Off Sale	Last Date for Objection	Remarks	Decision
3.	394174	Co-Operative Group Food Limited	Hill Brown Licensing RWF House, 5 Renfield Street, Glasgow, G2 5EZ	8a Milton Road West, Edinburgh, EH15 1LF	No	Yes	No	8/11/18	Convenience store, part of a national chain, selling a broad range of products for consumption off the premises. CC x2 LSO BSR O x4	
4.	395444	C J Lang & Son Limited	TLT LLP Gf, 80 Hanover Street, Edinburgh, EH2 1EL	70/72/74 Gilmerton Dykes Street, EH17 8PL	No	Yes	No	8/11/18	The premises is a ground floor retail unit within a multi storey residential development. CC LSO BSR	

**THE CITY OF EDINBURGH LICENSING BOARD**  
**LICENSING (SCOTLAND) ACT 2005**  
**NOTICE OF APPLICATIONS - Provisional PREMISES LICENCE APPLICATIONS**

**26 NOVEMBER 2018**

No	Reference	Applicant	Agent Details	Premises	On Sale	Off Sale	On & Off Sale	Last Date for Objection	Remarks	Decision
5.	395587	UK Bar Limited	Macdonald Licensing Bf, 21 Rutland Square, Edinburgh, EH1 2BB	50C Moredunvale Road, Edinburgh	No	Yes	No	8/11/18	Retail premises located within single storey commercial building in Moredunvale Road. CC LSO BSR	
6.	395588	Mr Jaroslaw Wiatrowski	Macdonald Licensing Bf, 21 Rutland Square, Edinburgh, EH1 2BB	316 West Granton Road, Edinburgh, EH5 1QN	No	Yes	No	8/11/18	Convenience store located in single storey commercial building on West Granton Road. CC LSO BSR	
7.	395858	Meng-Li Fox	Macdonald Licensing Bf, 21 Rutland Square, Edinburgh, EH1 2BB	25-27 Bread Street, EH3 9AL	No	No	Yes	8/11/18	Restaurant premises situated on ground floor and lower ground floor of property on Bread Street. CC x2 LSO BSR	

**THE CITY OF EDINBURGH LICENSING BOARD**  
**LICENSING (SCOTLAND) ACT 2005**  
**NOTICE OF APPLICATIONS - Provisional PREMISES LICENCE APPLICATIONS**

**26 NOVEMBER 2018**

No	Reference	Applicant	Agent Details	Premises	On Sale	Off Sale	On & Off Sale	Last Date for Objection	Remarks	Decision
8.	394162	Loudons Limited	TLT LLP Gf, 80 Hanover Street, Edinburgh, EH2 1EL	5 New Street, Edinburgh	Yes	No	No	8/11/18	The premises are a ground floor restaurant/café CC x2 LSO BSR	
9.	394972	Mrs Paulina Beata Janiec	Macdonald Licensing Bf, 21 Rutland Square, Edinburgh, EH1 2BB	274 Canongate, Edinburgh, EH8 8AA	No	No	Yes	8/11/18	Cafe premises located on ground floor and lower ground floor of a tenement in Canongate Edinburgh CC x2 LSO BSR	

APPLICATION TO EXTEND PERIOD OF PROVISIONAL LICENCE – 20-30  
COCKBURN STREET, EDINBURGH

**ITEM No. 3**

**1. Purpose**

- 1.1 To ask the Board to consider an application ~~to extend the provisional period for a provisional premises licence.~~

**2. Main Report**

- 2.1. In terms of section 45(6) of the Licensing (Scotland) Act 2005, a provisional premises licence is granted for a period of four years from the date of issue of the licence. If it is not confirmed before the end of that period, the licence is revoked. Confirmation is obtained upon receipt by the Licensing Board of clear section 50 certificates (Planning, Building Standards and, if appropriate, Food Hygiene).
- 2.2. In terms of section 45(7) of the Act, a licence holder may apply to the Board before the end of the provisional period, asking for extension by such further period as the Board considers appropriate.
- 2.3. The Board must be satisfied in terms of section 45(8) of the Act that (a) completion of the construction or conversion of the premises to which the licence relates has been delayed and (b) the delay has been caused by factors beyond the licence holders' control.
- 2.5 A request has been made to extend the provisional period for the premises 20-30 Cockburn Street, Edinburgh by one year. The circumstances upon which the request has been made are set out in a letter from the licence holder's agent. The licence was granted by the Board on 26<sup>th</sup> January 2015. The provisional period will expire on 26<sup>th</sup> January 2019.

**3. Recommendation**

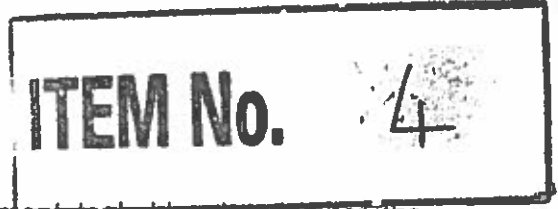
- 3.1 If satisfied with the reasons given, the Board is asked to reach a decision on the request to extend the provisional period, noting that a period of one year has been requested.

**4. Background Papers**

- 4.1 Letter from Macdonald Licensing dated 29<sup>th</sup> October 2018.

**Depute Clerk of the Licensing Board**

PERSONAL LICENCE REVIEW – NEIL YOUNG



**1. Purpose**

- 1.1 To advise the Board of the requirement to hold a hearing for the review of Neil Young's personal licence

**2. Main Report**

2.1. Neil Young holds a Personal Licence issued by the Edinburgh Licensing Board. Where a personal licence holder acquires a conviction for a relevant offence they are required to provide the Licensing Board with notification to that effect. Notice is then sent to the Chief Constable in order for him to provide a notice either confirming the conviction details or otherwise.

2.2. In this instance the notification of conviction details has come directly from the Police: Mr Young has not made a notification of the details to the Board. The Chief Constable has provided the conviction details, but not made any recommendation to the Board about how it should proceed.

2.3. In the absence of a recommendation from the Chief Constable, the Board has a discretion to decide whether or not to proceed with a hearing, or to take no further action. If the Board is satisfied that it is necessary to do so for the purposes of any of the licensing objectives, it may make an order:-

- (a) revoking;
- (b) suspending for such period, not exceeding 6 months, as the Board considers appropriate, or
- (c) endorsing

the licence held by the personal licence holder. If in the course of the hearing the Board considers the licence holder is no longer a fit and proper person to hold the licence, the Board may revoke the licence.

2.5 The Board is required to decide whether to hold a hearing on Mr Young's personal licence and then decide what action, if any, is considered necessary for the purpose of the licensing objectives. Mr Young was invited to attend the Board meeting on 24<sup>th</sup> September. Having not attended, the Board agreed to continue consideration of this matter to the October meeting, when it was established his home address had changed. A further continuation was agreed.

**3. Recommendation**

3.1 The Board is required, having regard to the notification and the Chief Constable's report:-

- (a) to decide whether or not to hold a hearing on the personal licence;
- (b) if proceeding with a hearing, to decide what action to take with regard to the personal licence.

PERSONAL LICENCE REVIEW – NEIL YOUNG

**4. Background Papers**

4.1 Letter from Police Scotland dated 11<sup>th</sup> June 2018

**Depute Clerk of the Licensing Board**

**REPORT – STATEMENT OF LICENSING POLICY (ASSESSMENT OF OVERPROVISION)****1. Purpose**

Having considered the responses received to the Board's formal consultation on proposed localities as required in relation to the Board's Assessment of Overprovision at its meeting on 13<sup>th</sup> November 2018:-

- 1.1 To seek the Board's approval as regards the terms of a draft updated Assessment of Overprovision (attached at Appendix One) which details the localities agreed by the Board at the meeting on 13<sup>th</sup> November 2018 to be included in said draft as localities where the Board considers there to be overprovision of licensed premises within the Board's area; and thereafter
- 1.2 To agree that the terms of the Assessment of Overprovision as approved by the Board be incorporated into the Board's final draft Statement of Licensing Policy ("the policy") at Chapter 8 prior to the Board's consideration of the final draft which is attached as an appendix to a separate report to the Board.

**2. Overprovision – Legislative background**

- 2.1 As previously advised to Board, the Act sets out at section 7 that the Board's policy shall include a statement as to the extent to which the Board considers there to be overprovision of (a) licensed premises, or (b) licensed premises of a particular description, in any locality within the Board's area. This locality may now include the whole of the Board's area.
- 2.2 In considering whether there is overprovision in a locality, the Board:-
  - (a) must have regard to the number and capacity of licensed premises in the locality
  - (b) may have regard to such other matters as it thinks fit, including the licensed hours of premises in the locality
- 2.3 Before the Board designates any particular locality as being an overprovision locality, it will first have to obtain the specific information as set out above at Paragraph 2.2 and also consult with:-
  - the Chief Constable
  - the Health Board
  - such persons as considered to be representative of:-
    - premises licence holders in the locality
    - residents in the locality
  - such other persons as the Board thinks fit

**3. Overprovision – Statutory Guidance**

- 3.1 Under section 142 of the Act, Scottish Ministers may issue guidance to Licensing Boards. The current Guidance was issued in 2007 and includes reference to preparation of Statements of Licensing Policy and the Assessment of Overprovision.-
- 3.2 The Scottish Government are reviewing the terms of the statutory guidance and meantime issued draft revised Chapters in relation to licensing policy statements and



overprovision assessments to Licensing Boards in February 2018 to assist Boards with preparation of policy statements. The Board has previously noted that these draft revised Chapters have not yet received the Parliamentary approval required for guidance referred to in section 142 and were not provided on a statutory basis. The Board also noted the recommendation that the draft revised guidance be considered in conjunction with the statutory guidance given that it reflects the current legislative position which the statutory guidance does not.

#### 4. Overprovision - the Board's current policy

- 4.1 The Board's current policy (pages 20-22) declares the Grassmarket/Cowgate locality to be an area of overprovision in respect of premises of a particular type of description , namely :-

“.....facilities of traditional pubs where consumption of alcohol is the principal attraction and premises offering off sales.....”

- 4.2 The policy also refers to a number of areas of “serious special concern” regarding provision of licensed premises, namely: - Tollcross; Dalry and Fountainbridge; Southside and Canongate; Old Town and Leith Street; South Leith; Leith Docks; and Portobello.

#### 5. The localities determined by the Board for consultation

- 5.1 At its meeting on 13<sup>th</sup> August 2018 the Board determined the localities by way of reference to Intermediate Data Zones (IDZs) which, in addition to the existing area of overprovision, should be the subject of formal consultation on an assessment of overprovision as follows:-

- 1) Hyvots and Gilmerton
- 2) Murrayburn and Wester Hailes North
- 3) South Leith
- 4) Niddrie
- 5) Moredun and Craigour
- 6) The Calders
- 7) Leith(Albert Street)
- 8) Restalrig and Lochend
- 9) North Leith and Newhaven
- 10) Granton South and Wardieburn
- 11) Clovenstone and Wester Hailes
- 12) Muirhouse
- 13) Bingham, Magdalene and The Christians
- 14) Great Junction Street
- 15) West Pilton
- 16) The Shore and Constitution Street
- 17) Dalry and Fountainbridge
- 18) Restalrig (Loganlea) and Craigentiny West
- 19) Easter Road and Hawkhill Avenue
- 20) Gracemount, Southhouse and Burdiehouse
- 21) Tollcross
- 22) Old Town, Princes Street and Leith Street
- 23) Deans Village
- 24) Bonnington

- 25) Broomhouse and Bankhead
- 26) Canongate, Southside & Dumbiedykes
- 27) Colinton Mains & Firrhill
- 28) Cramond
- 29) Fernieside & Moredun South
- 30) Gorgie East
- 31) Granton & Royston Mains
- 32) Leith (Hermitage & Prospect Bank)
- 33) Liberton West & Braid Hills
- 34) Oxfgangs
- 35) Pilrig
- 36) Portobello
- 37) The Inch
- 38) Trinity

- 5.2 The Board also agreed to consult on whether the areas of serious special concern set out in the current policy should be retained and that a short consultation document should be prepared which would set out the process and detail the localities identified. This would also seek views on whether any updated assessment of overprovision should be wholly based on IDZ boundaries rather than street-based, as for the existing Grassmarket/Cowgate locality. The Board also agreed that the consultation would take place in tandem with the Board's consultation on its draft updated policy.

## **6. Responses to the Board's Consultation on proposed localities**

- 6.1 The Board was provided with an update report at its meeting of 29<sup>th</sup> October 2018. This report detailed responses to the consultation with a list of consultees and summary of responses provided as an appendix to the report and a further appendix attaching copies of all the responses received including a late response. The Board agreed to continue consideration of the report to a date to be fixed.
- 6.2 A further meeting of the Board took place on 13<sup>th</sup> November 2018. The Depute Clerk referred to the terms of the report which set out details of the statutory requirements and the terms of the statutory guidance together with draft updated guidance relevant to the Board's assessment of overprovision. She narrated the background to the Board's consultation process and basis on which the Board had identified proposed localities for the purposes of consultation. She referred to the terms of the report providing details of the various consultation responses and invited the Board to consider the consultation responses received.
- 6.3 The Depute Clerk also advised that some responses had referred to data provided by the Board in relation to the number of premises in proposed localities as being historic. The numbers and capacities of premises listed in the proposed localities previously provided to the Board at its meeting on 13<sup>th</sup> August had therefore been reviewed and a number of inaccuracies identified both as regards the number of premises and in some cases capacities detailed in the previous lists. As a result further lists of all 38 localities had been prepared which highlighted where amendments had been made and as previously also included descriptions of premises within each locality. These were circulated to Board members and are attached to this report as Appendix Two. Updated plans of the 15 proposed localities recommended by the EADP and Police Scotland in their responses to the formal consultation were also circulated. These are attached at Appendix Three. The Depute Clerk also clarified that although a number of responses suggested that the IDZ "Leith Docks" listed in the Board's current policy as an area of serious special concern had been included within the consultation, this was not the case.

- 6.4 The Board were advised that the overall list of premises in Edinburgh had also been reviewed and an updated list prepared. This was also circulated to Board members and is attached as Appendix Four. Board members were advised that as at November there were 1797 relevant premises excluding provisional premises licences and members clubs with a total on sales capacity of 423827 persons and off sales capacity of 47582 linear metres. The Depute Clerk advised that the significant fall in off sales was primarily due to an incorrect capacity being recorded for one particular premises which had now been corrected.

## **7. Responses to additional issues included in the consultation**

- 7.1 The Board noted that as regards the existing Areas of Serious Special Concern, the majority view of consultees was these areas had added no value to the existing policy and should be removed.
- 7.2 The Board also noted that Police Scotland, NHS Lothian, EADP and a number of other consultees supported the use of IDZs as localities for the Assessment of Overprovision although responses from residents in the Grassmarket and GRASS were in favour of the current street based approach.

## **8. The Board's consideration of localities**

- 8.1 The Board proceeded to consider if the localities identified by the Board for consultation on its Assessment of Overprovision were overprovided for either in relation to all premises or premises of a particular type. The Board noted that consideration should be carried out having regard to the statutory requirements and guidance previously referred to, and taking into consideration all the evidence available including responses to the Board's consultation.
- 8.2 The Board also acknowledged that, as the Board must have regard to the number and capacities of licensed premises in any locality when assessing overprovision, the information previously provided to the Board regarding the number and capacities of licensed premises in the proposed localities identified for consultation had been reviewed and further information provided as set out at Paragraphs 6.3 and 6.4 above. The Board accordingly had regard to the updated information in relation to the numbers and capacities of premises within the proposed localities together with descriptions of these premises. The Board also had regard to the updated data provided in respect of the total number of premises in Edinburgh along with the total number and capacities of both on and off sales premises.
- 8.3 The Board had regard to the recommendation of EADP and Police Scotland regarding their proposal that areas of overprovision be identified using a formula which considers that any Intermediate Zones which is:-  
a) experiencing high levels of aggregate harm (i.e. those included in the consultation); and which  
b) contains at least one Data Zone centre which is within 800m of 48 outlets or more licensed outlets of any type  
- should be identified as an area of overprovision.

The Board noted this approach did not refer specifically to consideration only of premises located within each of the Board's proposed localities. Whilst acknowledging the detailed information provided to the Board by the EADP and Police Scotland both in relation to the rationale for this proposal and the impact of outlet density, the Board also had regard to the terms of the statutory guidance and did not consider that the

formula recommended should be adopted by the Board when considering overprovision in the specific localities agreed by the Board which had been the subject of consultation.

- 8.4 The Board took account of the recommendations of the EADP, Police Scotland and NHS Lothian as regards consideration of all premises both on and off sales within the proposed localities and also that the Board should consider overprovision on the basis of IDZs, rather than street based localities.
- 8.5. The Board further considered each of the 38 proposed localities previously identified by the Board as showing potential characteristics of overprovision noting that the current area of street based overprovision was included within the proposed localities.
- 8.6 The Board had regard to the updated position of the EADP and Police Scotland that of the 38 localities consulted upon by the Board, the EADP did not recommend the inclusion of the following proposed localities :-
- 1) Hyvots and Gilmerton
  - 2) Murrayburn and Wester Hailes North
  - 3) Moredun and Craighour
  - 4) The Calders
  - 5) Restalrig and Lochend
  - 6) Granton South and Wardieburn
  - 7) Clovenstone and Wester Hailes
  - 8) Muirhouse
  - 9) Bingham, Magdalene and The Christians
  - 10) West Pilton
  - 11) Restalrig (Loganlea) and Craigentenny West
  - 12) Gracemount, Southhouse and Burdiehouse
  - 13) Broomhouse and Bankhead
  - 14) Colinton Mains & Firrhill
  - 15) Cramond
  - 16) Fernieside & Moredun South
  - 17) Granton & Royston Mains
  - 18) Niddrie
  - 19) Liberton West & Braid Hills
  - 20) Oxgangs
  - 21) Portobello
  - 22) The Inch
  - 23) Trinity
- 8.7 The Board also had regard to the consultation responses from NHS Lothian that recommended all 38 proposed localities should be included and the North East Action Group on Alcohol which supported all proposed localities situated within the North East Locality for inclusion as areas of overprovision (14 out of 38) as detailed in the response.
- 8.8 The Board discussed these localities. Following discussion, the Board reached the view that whilst evidence had been provided to the Board highlighting levels of alcohol related harm in these localities, that having regard to the statutory guidance and taking into account all information received, including the numbers, capacities and descriptions of the premises in each of these localities, and the Board's local knowledge, that a dependable causal link could not be made out in relation to licensed premises in those localities and alcohol related harm for the purposes of the Board's Assessment of Overprovision. Accordingly these areas should not be included in the

draft updated Assessment of Overprovision to be provided to a further meeting of the Board when the final draft of the policy was considered.

- 8.9 The Board had regard to the 15 proposed localities recommended by Police Scotland and EADP for inclusion in the Board's Assessment of Overprovision which were also supported by the North East Action Group on Alcohol in relation to those localities situated within the North East Locality. These were:-

- 1) South Leith
- 2) Niddrie
- 3) Leith (Albert Street)
- 4) North Leith and Newhaven
- 5) Great Junction Street
- 6) The Shore and Constitution Street
- 7) Easter Road and Hawkhill Avenue
- 8) Tollcross
- 9) Old Town, Princes Street and Leith Street
- 10) Deans Village
- 11) Bonnington
- 12) Canongate, Southside & Dumbiedykes
- 13) Gorgie East
- 14) Leith (Hermitage & Prospect Bank)
- 15) Pilrig

- 8.10 In relation to the proposed localities of:

- 1) South Leith
- 2) Niddrie
- 3) Leith (Albert Street)
- 4) North Leith and Newhaven
- 5) Great Junction Street
- 6) The Shore and Constitution Street
- 7) Easter Road and Hawkhill Avenue
- 8) Bonnington
- 9) Gorgie East
- 10) Leith (Hermitage & Prospect Bank)
- 11) Pilrig

The Board considered these localities in detail with contrary views expressed during discussion by the Board. Following discussion, the Board again reached the view that, whilst acknowledging the evidence provided to the Board highlighting levels of alcohol related harm in these localities, that having regard to the terms of the statutory guidance, and taking account of all information received, including the numbers, capacities and descriptions of the premises in each of these localities, and the Board's local knowledge, that a dependable causal link could not be made out in relation to the licensed premises in these localities and alcohol related harm for the purpose of the Board's Assessment of Overprovision. Accordingly these areas should not be included in the final draft of the Assessment of Overprovision to be provided to a further meeting of the Board when the final draft of the policy was considered.

- 8.11 In relation to the proposed localities of:-

- 1) Old Town, Princes Street and Leith Street
- 2) Tollcross
- 3) Deans Village

#### 4) Canongate, Southside and Dumbledykes

The Board considered these localities which were recommended by EADP, Police Scotland and NHS Lothian for inclusion in the Assessment of Overprovision. The Board noted that the Board's current street based area of overprovision in respect of Grassmarket/ Cowgate was included within the proposed localities of Old Town, Princes Street and Leith Street; and Tollcross. The Board further noted that the proposed localities referred to some other areas within the City Centre which were included within areas of serious special concern in the current policy. The Board took into account the evidence which had been provided to the Board during the consultation process in respect of localities numbers 1-3 above which highlighted significant levels of alcohol related harm in respect of both health and crime in these localities. The Board also took account of the evidence which had been provided to the Board during the consultation process in respect of locality number 4 above which highlighted levels of alcohol related harm in respect of health in this locality. The Board also had regard to the location of this IDZ and its geographical proximity to the other localities considered above.

- 8.12 The Board considered the number and capacities of all premises in the above four localities together with the descriptions of premises provided to the Board. The Board, acknowledged the City Centre location of these areas, and were of the view, that taking this into consideration, the total numbers and capacities of premises in the localities were significantly high both for on and off sales and of concern to the Board. In this regard, and also taking into account its own local knowledge, the Board were of the view that the numbers and capacities of all premises in these localities required to be considered by the Board having regard to the data provided by EADP, Police Scotland and NHS together with information relevant to these localities provided during the consultation process.
- 8.13 Accordingly ,the Board further considered that having regard to the terms of the statutory guidance and taking into account the evidence provided during the consultation process, in particular from EADP, Police Scotland and NHS Lothian; the numbers, capacities and descriptions of the licensed premises in the above localities; and the Board's own local knowledge, that a dependable causal link could be demonstrated between the number and capacities of licensed premises and alcohol related harm in these localities relevant to the licensing objectives, particularly the crime and health objectives, for the purposes of the Board's Assessment of Overprovision. The Board therefore considered that these localities should be identified as localities overprovided for in respect of all premises. The Board agreed that these localities should be included in the draft updated Assessment of Overprovision to be provided to a further meeting of the Board when the final draft of the policy would also to be considered.
- 8.14 In light of the above the Board agreed that the current area of overprovision should not be included in the draft updated Assessment of Overprovision.
- 8.15 The Board also agreed that the updated draft should include information about the circumstances in which an exception may be allowed to the policy.
- 8.16 The Board also considered the majority view set out in consultation responses supporting the Board's proposal that areas of serious special concern should not be retained in the updated policy. The Board agreed that areas of serious special concern should not be included in the final draft of the updated Assessment of Overprovision.

**9. Next steps**

- 9.1 A draft updated Assessment of Overprovision is provided for the Board's consideration at Appendix One and includes the localities identified by the Board at its meeting on 13<sup>th</sup> November 2018 for inclusion in the draft.
- 9.2 Plans showing the four localities have also been prepared for inclusion in the Board's policy as an appendix and are attached at Appendix Five.
- 9.3 The draft updated Assessment of Overprovision also includes information about the circumstances in which an exception may be allowed to the Board's policy. It also sets out the Board's general approach to consideration of overprovision in relation to determination of individual applications where the Board may be of the view that overprovision is relevant to its consideration. It is suggested to the Board that for the purposes of outlining that approach reference to a locality as generally being an area of 250m from the applicant premises should be detailed in the policy. It is also suggested that this section state that the Board may call for further information when considering such individual applications including plans of the relevant locality and numbers and capacities of premises in that locality.
- 9.4 It is also suggested that the Assessment of Overprovision states that the Board may consider a supplementary Statement of Policy in respect of its Assessment of Overprovision if the Board is of the view that such a supplementary Statement may be required during the period of the policy.

**10. Recommendations**

The Board is asked to:-

- 10.1 Consider the draft updated Assessment of Overprovision (attached at Appendix One) and subject to any amendments, approve the terms thereof; and thereafter
- 10.2 Agree that the terms of the Assessment of Overprovision as approved by the Board be incorporated into the Board's final draft Statement of Licensing Policy ("the policy") at Chapter 8 prior to the Board's consideration of the final draft which is set out in a separate report to the Board.

**11. List of Appendices**

- 11.1 Draft updated Assessment of Overprovision
- 11.2 Updated List of the number of premises and capacities in the 38 proposed localities
- 11.3 Updated plans of the 15 proposed localities referred to in the Consultation responses submitted by Police Scotland and EADP
- 11.4 Updated list of all relevant premises in Edinburgh as at November 2018
- 11.5 Plans of the four localities identified by the Board for inclusion in the draft updated Assessment of Overprovision

## 12. Background

- 12.1 Report to Licensing Board – 25<sup>th</sup> September 2017
- 12.2 Report to the Licensing Board – 29<sup>th</sup> January 2018
- 12.3 Report to the Licensing Board – 30<sup>th</sup> July 2018
- 12.4 Report to the Licensing Board – 13<sup>th</sup> August 2018
- 12.5 Report to the Licensing Board - 29<sup>th</sup> October 2018
- 12.6 Licensing (Scotland) Act 2005 sections 6 and 7 (as amended)

Morag A Leck

**Depute Clerk of the Licensing Board**



## 8. ASSESSMENT OF OVERPROVISION

This section sets out information about how overprovision is determined by the Board. It contains details about:-

- The Board's consultation on overprovision
- The evidence considered by the Board in support of overprovision
- The Board's assessment of overprovision and details of the localities designated as being overprovision localities
- The impact of the Board's overprovision assessment
- General details about the Board's approach to overprovision in all other localities

## **8 ASSESSMENT OF OVERPROVISION**

### **8.1 How overprovision is determined**

Overprovision of licensed premises in a particular locality impacts on the promotion of the licensing objectives.

Under the Act, the Board's policy must include a statement of the extent to which it considers there is overprovision of (a) licensed premises, or (b) licensed premises of a particular description in any locality in the Board's area.

Any consideration of a locality (a) must have regard to the number and capacity of licensed premises in the locality and (b) may have regard to such other matters as it thinks fit, including licensed hours of premises in the locality. Details are set out in [section 7](#) of the Act. The Board also require to have regard to the guidance issued by Scottish Government, and in preparing its assessment of overprovision the Board also considered draft updated guidance provided by Scottish Government. The Board recognised the latter was still to be formally adopted but noted it took account of changes to legislation the earlier guidance did not.

### **8.2 Details of the consultation carried out by the Board**

#### Informal consultation

The Board carried out an initial consultation on its policy between October and December 2017, inviting comment on the overprovision assessment contained in that policy which defined the Grassmarket/Cowgate as being an overprovision locality, and on whether any other localities in the Board's area showed signs of being overprovision localities. The Board conducted hearings on responses received, and hosted a workshop on the general subject of overprovision.

#### Formal consultation

The informal consultation revealed a number of potential overprovision localities highlighted by the Edinburgh Alcohol and Drugs Partnership, Police Scotland and NHS Lothian. The Board obtained information about numbers, capacities and descriptions of premises situated within these localities, as well as for the Grassmarket/Cowgate locality defined in the previous policy.

The Board agreed to formally consult on these localities and on whether the Grassmarket/Cowgate locality should be retained. As part of the consultation, the Board asked for views on whether its assessment of overprovision should be based on IDZ boundaries, or whether the boundaries should be street-based.

The previous policy highlighted 7 localities which were considered to be areas of serious, special concern and the Board also invited comment on whether these should be retained in the new policy statement.

Throughout the consultation process the Board encouraged contributions from as wide a range of consultees as possible and gave detailed consideration to the responses received at all stages of the process.

Details of the Board's consultation on overprovision are set out in detail in reports to the Board, which can be [viewed online](#).

### 8.3 Evidence considered by the Board

During the initial consultation, the Board was asked to consider 23 localities highlighted by the EADP, Police Scotland and NHS Lothian as showing characteristics of overprovision, on the basis of statistical information provided in support of these localities. The localities were defined on the basis of being Intermediate Data Zones (IDZ), with statistical information for each showing alcohol-related health harms and alcohol-related crime to be above the Edinburgh average, by 50% or more.

NHS Lothian also asked the Board to consider a further 15 IDZ localities where alcohol-related hospital admissions were above the Edinburgh average by 20% or more.

The Board's formal consultation proceeded on the basis of the 38 localities as well as the existing Grassmarket/Cowgate overprovision locality, the Board having obtained information about numbers, capacities and modes of operation of premises in each of these localities.

### 8.4 The Board's Assessment of Overprovision

Following a detailed consideration of the responses to the formal consultation, and information provided about the numbers, capacities and modes of operation of premises in the localities consulted upon, the Board considered it was satisfied that a dependable causal link could be demonstrated between alcohol-related health harms and alcohol-related crime and the number and capacity of licensed premises in the following localities, as defined by IDZ boundaries:-

- Old Town, Princes Street and Leith Street
- Tollcross
- Deans Village
- Southside, Canongate and Dumbiedykes

The Board reached this decision having particular regard to the evidence presented by EADP, Police and NHS Lothian about the extent of alcohol-related crime and health harms in these localities, and also made use of its local knowledge about these localities. Layout plans showing the extent of these localities are attached at [Appendix 2](#).

### 8.5 Impact of Overprovision Assessment

The effect of the Board's policy, in terms of the statutory guidance, is to create a rebuttable presumption against the grant of new premises licences, provisional premises licences and major variations to increase capacity of premises in these

localities. This is all in terms of the grounds of refusal as set out in [section 23\(5\)\(e\)](#) and [section 30\(5\)\(d\)](#) of the Act .

Each application still requires to be determined on its own merits and it remains open to applicants and licence holders to present applications for consideration on their merits, providing evidence in support of their applications, to rebut this presumption against grant.

Accordingly the Board recognises that there may be exceptional cases where the Board determines applicants have been able to demonstrate that the grant of the application would not undermine the licensing objectives or that those objectives would not be undermined if the applicant's operating plan were to be modified or the grant of the licence made subject to appropriate conditions.

Relevant factors which may be considered by the Board include applications which fill a gap in existing service provision, or are considered to enhance the quality of life for residents and visitors alike.

#### 8.6 The Board's approach to Overprovision in all other localities

The Board has taken cognisance of information provided in responses to the consultation process, detailing concerns regarding the numbers of licensed premises available in the Board's area. Where applications for new premises and provisional premises licences or variations to increase capacity of existing licences are made, the Board continues to reserve the option to refuse applications where it considers the statutory grounds of refusal are made out. This will include consideration of overprovision as a potential ground for refusal, even if the premises are not situated within one of the localities set out in 8.4 above.

The Board agreed it would no longer designate particular localities as being areas of serious, special concern. If the Board considers there may be overprovision arising from the grant of an application, it will call for reports showing the extent to which there are licensed premises within a locality generally identified as comprising a circle with 250 metre radius centred upon the location of the premises, together with a report providing details of existing licensed premises within that locality.

8.7 The Board continues to acknowledge that public nuisance and overall levels of disturbance arising from the density of licensed premises in a locality are likely to be increased, where particular premises are of a size enabling a very large number of patrons to be inside at one time. The Board continues to have a particular concern about large drinking establishments, which are used primarily for the sale and consumption of alcohol and provide little or no seating for patrons. The Board defines these premises as those with a capacity for 200 or more patrons, whether seated or standing at any particular time.

8.8 The Board would remain concerned if evidence was presented in connection with a large premises of the following matters:

- noise and disturbance on the streets on several nights during the week and particularly at weekends

- high levels of bad behaviour in public places, particularly at night, with much of it being associated with excessive drinking of alcohol
- high numbers of pedestrians on the pavements which spill on to the roads
- high volumes of litter associated with fast food outlets
- fouling of doorways, alleys and private gardens and courts by urination and vomiting
- difficulty in providing and maintaining adequate street cleaning and refuse collection services
- traffic congestion caused by dropping off and picking up people at licensed premises
- long queues and long waiting times at taxi ranks which contribute to nuisance disorder and occasionally crimes of violence
- the views of a significant proportion of the public who avoid areas in the vicinity of large premises because of the fear of crime and disorder.

8.9 The Board also remains concerned at the high number of existing off-sales premises and will continue to examine any applications for more such licences to assure itself that the application will not undermine the licensing objectives having regard to the approach set out above.

8.10 The Board will continued to monitor the effectiveness of its overprovision policy, recognising that it may be necessary to publish a supplementary statement of licensing policy, in the event that there is a need for a further assessment of overprovision in the Board's area

## STATEMENT OF LICENSING POLICY – FINAL PROCEDURE

### 1. Purpose

Having considered the responses received to the Board's formal consultation on the review of the Board's Statement of Licensing Policy ("the policy") at its meetings on 29<sup>th</sup> October and 13<sup>th</sup> November 2018 :-

- 1.1 To seek the Board's approval of the terms of a final draft updated policy attached at Appendix One to include the Board's assessment of overprovision (which is also the subject of a separate report to Board for approval ); and thereafter
- 1.2 To authorise the Clerk and his Deputies to publish the approved policy as required by the Licensing (Scotland) Act 2005.

### 2. Background

- 2.1. The Board initially considered a report detailing responses received to the Board's formal consultation at its meeting on 29<sup>th</sup> October 2018 and further considered these again at its meeting on 13<sup>th</sup> November 2018 when the Board was provided with a draft updated policy to take account of the matters discussed at the previous meeting.
- 2.2. The Board noted at its previous meeting on 29<sup>th</sup> October 2018 that twenty-six consultation responses relating to the general policy were received during the consultation period. A further three responses were received late.
- 2.3. Five specific questions were posed by the Board during the consultation. A number of other comments highlighting other issues in addition to the questions posed by the Board were included in responses received.
- 2.4. Following the Board's consideration as set out above the draft policy has been further updated to take account of the following issues.

### 3. Main Policy Updates

#### 3.1 Children and Young persons' access to licensed premises

The draft policy has been updated to include a specific section in Chapter 11(Licensed Hours) to include a section (11.15) stating an indicative terminal hour for both children and young person's access to licensed premises whilst also highlighting that the Board will consider each application on a case by case basis having regard to the suitability of individual premises for children and young persons.

#### 3.2 Extended use of occasional licences

The draft policy has been updated at Chapter 5 to include an update to Board procedures in relation to consecutive applications received for occasional licences (5.4) and also highlighting the need for applications to be submitted timeously to the Board. (5.6). The updated chapter also includes reference to the new set of pool conditions agreed by the Board which may be attached to occasional licences (5.8).

### 3.3 Extended hours for events in Licensed Premise

The draft policy has been updated to include an expanded section at Chapter 5 on Extended Hours applications. The draft policy now sets out information which the Board expect applicants to provide when submitting applications together with an indicative list of the special events or occasions which the Board consider fall within the terms of the Act (5.11). As with occasional licences the updated Chapter highlights the need for applications to be submitted timeously. (5.13)

### 3.4 Amplified music in Licensed Premises

The draft policy has been updated at Chapter 7 to include a statement that whilst there is no change to the policy at the present time the Board has agreed that an evaluation and review of the policy will be undertaken within the tenure of the current Board (7.4).

### 3.5 Licensed hours

The draft policy has been updated at Chapter 11 to include an expanded section on policy hours (11.5) which highlights that whilst the current policy on hours remains unchanged the Board will continue to monitor the effectiveness of its policy and emphasises that whilst having regard to the indicative hours set out in the Policy, the Board will determine applications on their individual merits.

### 3.6 Toughened glass

The draft policy has been updated to take account of Police Scotland suggestion that the Board may wish to include reference to possible conditions relative to the use of toughened glass which may be attached to individual licences. Chapter 7 now includes reference to possible conditions (7.3)

### 3.7 Board's administrative procedures

The Board's policy has been redrafted into new chapters with summaries of those chapters provided under each heading to reflect comments received during the consultation process regarding layout. The mandatory conditions attaching to premises and occasional licences under the Act are added in full at Appendices 9 and 10. Updated details on how to contact the Board and LSOs is provided and links created to any other documents / legislation referred to in the Board's policy in order to increase access to information.

### 3.8 Local conditions

A list of pool conditions for occasional licence applications has been included in the policy at Appendix 8 as previously referred to above.

The policy has also been updated in relation to Chapter 17 (Takeaways/ Home Deliveries to take account of the Council's updated policy for Late Hours catering licences (17.2) and also to take account of deliveries in relation to online sales of alcohol. The updated policy sets out information which the Board encourages applicants to provide when submitting applications which will include deliveries relating to online sales (17.3).

The policy has also been updated at Chapter 16 in relation to Adult Entertainment to take account of the introduction of a new regime for the licensing of sexual entertainment venues (SEVs) and acknowledges that the Board's guidelines will remain in effect until implementation of the new regime (16.1 and Appendix 3).

#### **4. Further Procedure**

- 4.1 The Board agreed following consideration of the report to its meeting on 29<sup>th</sup> October and further consideration thereof at its meeting on 13<sup>th</sup> November along with the updated draft policy provided to that meeting, that a final draft should be provided to its meeting on 26<sup>th</sup> November.
- 4.2 A final draft is attached at Appendix One. The Board's approval of this Statement is sought (to include the Board's Assessment of Overprovision which is the subject of a separate report) and thereafter authorise its publication.
- 4.3 Once agreed, the Clerk and his Deputies will require to publish the new Statement and publicise it and make copies of it available for public inspection free of charge in accordance with the requirements of the Act.
- 4.4 As the Act now requires Licensing Boards to publish policy statements within 18 months of local government elections then the Board is asked to agree publication of the policy immediately following approval, with an effective date of 27<sup>th</sup> November 2018. The Statement will then remain in effect (including any supplementary policy) until publication of the Board's next Statement following the local government elections in 2022.

#### **5. Equalities**

- 5.1 The Board had agreed that in order to allow the Board to have due regard to its Equalities, Diversity and Rights Policy, the Board's questionnaire previously agreed in terms of said policy should be made available to consultees for submission along with responses. This would assist with the identification of any adverse equality impacts to be considered prior to the Board agreeing the final terms of the updated policy. The Board's questionnaire was published on the Consultation Hub along with the other consultation documents. No completed questionnaires were submitted.
- 5.2 No responses have been received highlighting any adverse impacts upon people with protected characteristics and no adverse impacts in terms of the updated policy have been identified. Accordingly a further assessment making use of an Integrated Impact assessment (IIA) as set out in the Board's Equalities, Diversity and Rights Policy has not been carried out at this time.

#### **6. Recommendations**

- 6.1 The Board is asked to:-
  - 6.1.1 Approve the final draft of the policy for publication (to include the Assessment of Overprovision which is the subject of a separate report) effective from 27<sup>th</sup> November 2018;
  - 6.1.2 Instruct the Clerk and his Deputies to publish the approved policy; and thereafter
  - 6.1.3 Instruct the Clerk and his Deputies to make copies of the policy available for inspection free of charge and to publicise the fact that the revised Statement has been published and the arrangements for making copies available for public inspection.



**7. Appendices**

7.1 Draft Statement of Licensing Policy

**8. Background**

- 8.1 Report to Licensing Board – 25<sup>th</sup> September 2017
- 8.2 Report to the Licensing Board – 29<sup>th</sup> January 2018
- 8.3 Report to the Licensing Board – 30<sup>th</sup> July 2018
- 8.4 Report to the Licensing Board – 13<sup>th</sup> August 2018
- 8.5 Report to the Licensing Board – 29<sup>th</sup> October 2018
- 8.6 Licensing (Scotland) Act 2005 sections 6 and 7 (as amended)

Morag A Leck

**Depute Clerk of the Licensing Board**

# ◆ EDINBURGH ◆

LICENSING BOARD

LICENSING (SCOTLAND) ACT 2005

## STATEMENT OF LICENSING POLICY



**2018**

Approved by the City of Edinburgh Licensing Board  
on 26th November 2018

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# 1.INTRODUCTION

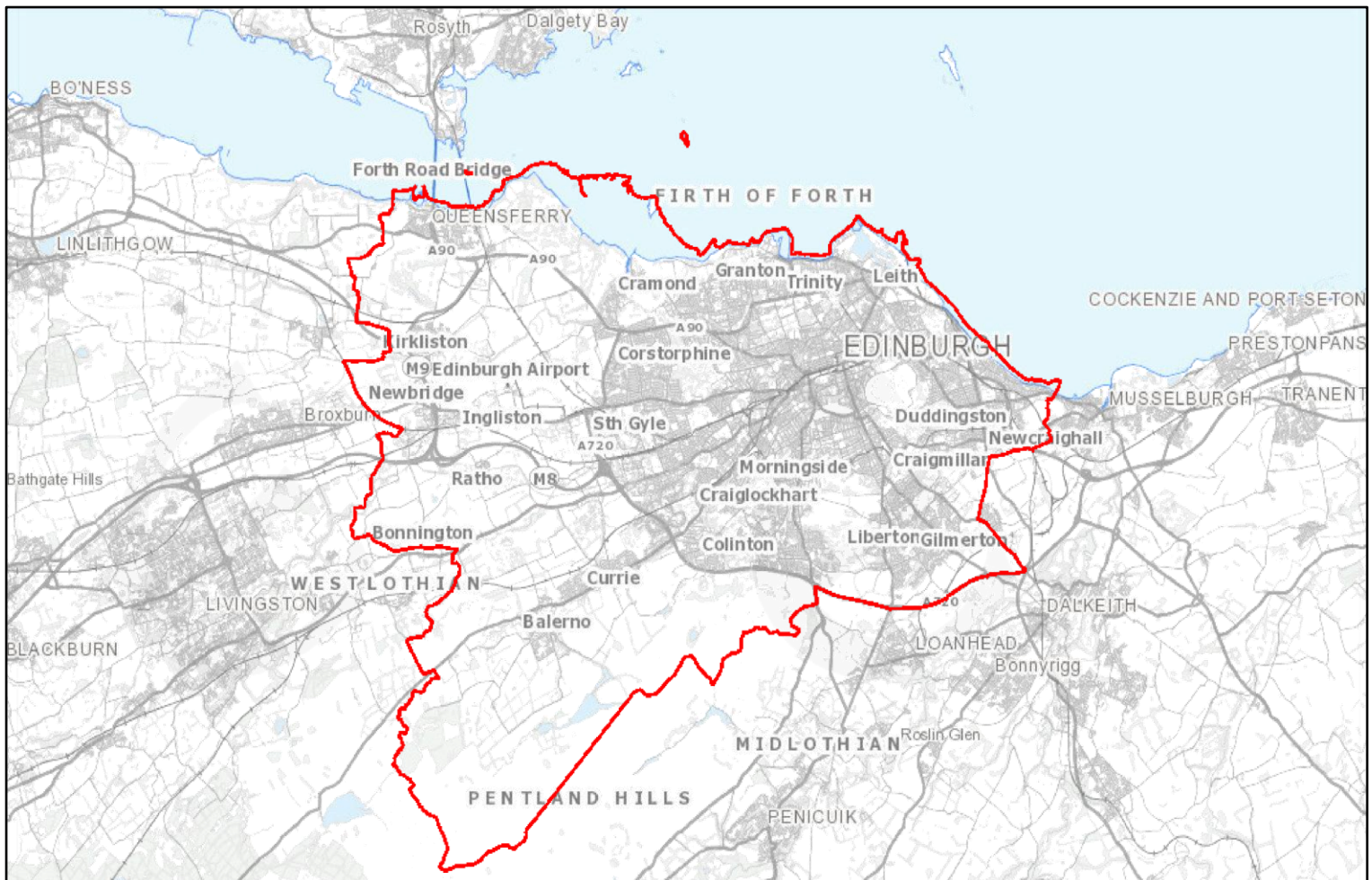
Providing an explanation of the Licensing Board's responsibilities:-

- Geographical area
- Details of licence applications considered by the Board
- Emphasising the need to have due regard to the licensing objectives
- Details of annual reports on the Board's Functions and Finances
- Contact details for the Board


Definitions of terms used throughout the policy can be found in Appendix 6.

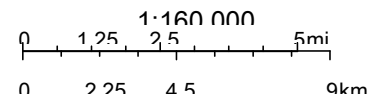
Wherever possible, links to statutory provisions, guidance, etc have been provided throughout the policy

1.1 The Board is the licensing authority for the City of Edinburgh local government area for the purposes of the [Licensing \(Scotland\) Act 2005](#).



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 CEC Council Boundary



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The Act regulates the sale of alcohol and the premises on which alcohol is sold, and connected purposes. The Board is responsible for considering applications for :

- premises licences and provisional premises licences
- occasional licences and extended hours
- personal licences
- variations of licences
- transfers of licences

in the Board's area for:

- the sale of alcohol by retail
- the supply of alcohol in members' clubs.

1.2 Edinburgh, Scotland's inspiring capital is dramatic and historic. The environment of the area has provided the basis for a successful tourist industry which brings cultural benefits to the city and is a vital part of the economy.

The population of Edinburgh in 2017 was estimated at 508,102 and its total number of households was 241,359.

The city boundaries cover 264 square kilometres and the local government area is split into 17 wards. The number of councillors is 63. Ten Councillors sit as members of the Licensing Board.

The city accommodates a wide variety of licensed establishments, which contribute to the leisure and employment opportunities in the area. Within the Board's area there were a total of 1,917 licensed premises as at 31 March 2018 comprising 439 on-sales, 513 off-sales and 965 premises offering both on-sales and off-sales.

1.3 The Act requires the Board to carry out its various licensing functions so as to promote the five licensing objectives,:

- preventing crime and disorder
- securing public safety
- preventing public nuisance
- protecting and improving public health and
- protecting children and young persons from harm

The objectives have an important role in the Board's decision making, for example:-

- attaching conditions to the grant of a premises licence or occasional licence
- refusal of an application for the grant of a premises licence or of an occasional licence;
- their breach may lead to the imposition of sanctions on a personal licenceholder or provide grounds for the review of a premises licence.

1.4 The Act further requires that the Board's published statement of licensing policy sets out the policies the Board will generally apply to promote the licensing objectives when making decisions on applications. [More detail](#) on the Board's consideration of each of the licensing objectives is set out in Chapters 21– 26

The Act also requires that prior to publication of its policy that the Board should have regard to [Scottish Government guidance](#) and [consult](#) as set out in the Act.

The Board carried out extensive consultation on its policy including a pre consultation exercise, an evening workshop on overprovision and oral evidence sessions in order to inform the terms of its updated draft policy prior to undertaking wide-ranging formal consultation on the updated draft policy which took place between 27<sup>th</sup> August and 5<sup>th</sup> October 2018. A list of consultees responding to the formal consultation is attached at [Appendix 4](#)

1.5 Following completion of the consultation process and detailed consideration by the Board of all responses received, this updated statement has been prepared in accordance with the provisions of the Act and adopted by the Board with effect from 26<sup>th</sup> November 2018, and subject to review will remain in force until 18 months after the next Scottish local authority elections. The Board will prepare and publish supplementary statements of licensing policy when necessary. The Board will continue to have regard to legislative changes introduced by the Scottish Government and to any updated guidance issued.

1.6 The Board is required to publish an annual Functions Report, setting out how it exercises its functions in terms of the Act. Details of Functions reports are published on the Board's [website](#)

- 1.7 The Board is required to publish an annual Finance Report, setting out the details of income received from licence application fees and annual premises licence fees, and the expenditure incurred by the Board in the financial year. Details of Finance Reports are published on the Board's [website](#). The Board can set fees for applications for premises licences and variations (non minor) up to a maximum fee prescribed by Scottish Government. All other fees are set by Scottish Government.
- 1.8 As set out in the [guidance](#) to the Act, in exercising its licensing function the Board will have due regard to the role and responsibilities of other authorities within the local government area, including those with responsibility for:
- planning controls
  - positive measures to create a safe and clean city environment, in partnership with local businesses and transport operators
  - a positive and robust approach to binge drinking and underage drinking
  - the provision of close circuit television (CCTV) surveillance, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols
  - designating parts of the local authority area as places where alcohol may not be consumed publicly;
  - enforcement of the law concerning disorder and anti-social behaviour
  - greater use of the powers to deal with those who commit offences, such as prosecution of persons selling alcohol to persons who are drunk or under-age, as well as of adults who purchase alcohol for consumption by persons under age and of those under age persons who purchase for self supply.
- 1.9 This policy does not seek to undermine the right of any individual to apply under the terms of the Act and in the light of policies adopted by the Board and to have such an application considered on its individual merits. If there are no grounds for refusal the Board must grant the application. The policy does not seek to override the right of any person to make representations on an application or to seek a review of a licence where provision has been made for this in the Act.

## Contacting the Board

The City of Edinburgh Council provides administrative support for the Board and you can contact the Council's Licensing Section, Directorate of Place:

by email to: [licensing@edinburgh.gov.uk](mailto:licensing@edinburgh.gov.uk)

in writing to: Licensing Section, City Chambers Business Centre G3,  
249, High Street, Edinburgh EH1 1YJ

by telephone to : 0131 529 4208

If assistance is required please discuss this with any member of staff who will be glad to help.

You can access this document on the Board's website at:

[www.edinburgh.gov.uk/info/20023/licences\\_and\\_permits/960/edinburghs\\_licensing\\_board](http://www.edinburgh.gov.uk/info/20023/licences_and_permits/960/edinburghs_licensing_board)

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## 2. THE WIDER CONTEXT

Explaining the Board's relationships with other public bodies, including:-

- City of Edinburgh Council
- Edinburgh Alcohol and Drugs Partnership
- Scottish Government

Emphasising importance of Equality Act 2010:-

- Board's Equalities Diversity and Rights Policy
- Board's Equalities Outcomes

Explaining the relationship between Planning and Licensing, and that the two are separate regulatory regimes



- 2.1 Having regard to the Council's cultural strategies, a diverse provision is welcomed for the benefit of the local communities. The Board will seek to ensure that cultural events are not discouraged through the imposition of unreasonable restrictions. However, a balance will be struck between the desirability for such entertainment and the wider cultural benefits arising against the need to protect children and young persons from harm and the natural concern to prevent public nuisance and disturbance from premises and in neighbourhoods.
- 2.2 In administering its responsibilities in respect of licensing the Board believes that it is important that it does not operate in isolation. Due regard will be given to the policies and decisions of the Council and of neighbouring local authorities.
- 2.3 The [Equality Act 2010](#) replaces previous anti-discrimination legislation. It sets out the ways in which it is unlawful to treat a person. It introduces the Public Sector Equality Duty which requires that public authorities (as defined in the 2010 Act and which includes the Board) have due regard to:
- the need to eliminate discrimination
  - advance equality of opportunity
  - foster good relations between different people when carrying out their activities
- [The Equality Act 2010 \(Specific Duties\) \(Scotland\) Regulations 2012](#) requires that the Board take various steps to enable better performance of the general equality duty. This includes reporting on the mainstreaming of the general equality duty, publishing equality outcomes and reporting progress on meeting the outcomes and impact assessing both new and existing policies. The Board's Equalities Diversity and Rights Policy and Equalities Outcomes are published on the Board's [website](#)
- 2.4 The Board continues to work closely with the Edinburgh Alcohol and Drug Partnership (EADP), a significant consultee in considering the content of this Statement of Policy. The importance of such closer working is recognised as part of the wider alcohol agenda, especially in relation to the public health and child protection licensing objectives. The EADP continues to supply the Board with data relevant to its consideration of the licensing objective of protecting and improving of public health.
- 2.5 The Board will have regard to any strategy of the Scottish Government designed to address the social, health and crime and disorder issues raised by the misuse of alcohol.
- 2.6 The Board will avoid duplication with other regulatory regimes and will not use its powers under the [Licensing \(Scotland\) Act 2005](#) to arrive at outcomes that can be achieved under other legislation or by other enforcement agencies.
- 2.7 In particular, the Board's licensing functions will be discharged separately from the Council's functions as the local planning authority. The Board recognises that planning and licensing regimes are separate and that the processing of licensing applications should be an exercise distinct from the processing of planning applications. Notwithstanding that, consultations with the Council's Planning service are carried out on all licensing applications to underpin the common approach referred to below. The Board as the licensing authority will not be bound by decisions made by the Council as the local planning authority. Applicants for licences will be reminded that planning permission may be required for certain uses and that planning consents may carry conditions.
- 2.8 It is essential that planning permission is obtained prior to an application for a premises

licence, or alternatively that a certificate of lawful use or development has been obtained in terms of the proposed activities and trading hours.

- 2.9 In general, planning permissions authorise a broad type of use of premises, whereas licences are granted for a particular type of activity. A planning permission may cover a number of activities that can have a wide range of different impacts in the locality.
- 2.10 There is a presumption of a common approach in the reasoning behind planning and licensing decisions and conditions attached to planning permissions may relate to one or more of the five licensing objectives. Where this is the case, operating plans should make reference to those planning conditions.
- 2.11 All premises for which a licence is being sought will be expected to comply so far as is reasonably practicable with the building standards requirements in force at the time of their construction, or at the time of any alteration. This is particularly relevant in respect of the licensing objectives relating to public health and public safety. Where construction work is proposed or completed, the applicant should be able to produce appropriate certificates issued by the local authority.
- 2.12 Other statutory requirements may apply to the provision of any activities at a premises and the responsibility for compliance lies with the licenceholder. For example if the activity involves the preparation and/or sale of food then it is the responsibility of the applicant to ensure that all appropriate food safety legal requirements are met. It is not appropriate for the decision on a licence application to address these matters. A responsible licenceholder will conform to all relevant legislation.
- 2.13 There is considerable overlap between the licensing regime and the wider health and safety regulatory regimes. Many specific licensing requirements relate to matters potentially affecting public health and public safety, two of the licensing objectives. Applicants should keep this in mind when drawing up their operating plan.

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### 3. HOW THE BOARD WORKS

Applications for premises licences – what the Board expects applicants to do:-

- provide statement to show support of licensing objectives
- disabled access and facilities statements
- detailed layout plans – in electronic format
- incomplete applications not accepted

Details of Board meetings:-

- where and when they are held
- information about how they are conducted

- 3.1 When assessing applications for premises licences, the Board must be satisfied that the measures proposed in the applicant's operating plan aim to achieve the [five licensing objectives](#).
- 3.2 The Board will expect individual applicants to address the five licensing objectives in their operating plan (statutory template – [here](#)). It will expect the plan to have regard to the nature of the area where the premises are situated, the type of premises, the activities to be provided, the arrangements made in respect of children and young persons on the premises, operational procedures and the concerns of the local community. The Board will expect the plan to demonstrate how it is intended that the premises will be good neighbours to residents and to other venues and businesses. To supplement the information given in the plan the Board will ask applicants to supply a statement in writing detailing how the applicant will promote the objectives. The Board will expect premises licence holders to ensure that the statement of licensing objectives attached to their licence remains relevant to the operation of the premises, particularly in the event of significant changes to their operation.
- 3.3 In respect of each of the five licensing objectives, the Board will expect applicants to provide evidence that suitable and sufficient measures, as detailed in their operating plan, will be implemented and maintained, relevant to the individual style and characteristics of their premises and activities. Reference will require to be made to additional measures to be taken on an occasional or specific basis, such as when a special event or promotion is planned, which is likely to attract larger audiences.

Following amendment of the Act to require new premises licence applications to include a disabled access and facilities statement (links below), the Board agreed that the Council's LSOs would consider the terms of statements provided by applicants to ensure they contained all of the necessary information. The Board agreed that LSOs would highlight concerns about the content of particular statements to the Board, when applications were being considered.

Regulations - [http://www.legislation.gov.uk/ssi/2018/49/pdfs/ssi\\_20180049\\_en.pdf](http://www.legislation.gov.uk/ssi/2018/49/pdfs/ssi_20180049_en.pdf)  
Guidance - <https://www.gov.scot/publications/licensing-scotland-act-2005-guidance-completing-disabled-access-facilities-statement/>

- 3.4 The Council will itself make applications for premises and occasional licences. When this is the case, the Board will consider the matter from an entirely neutral standpoint. If relevant representations are made, they will be given full and equitable consideration by the Board. It is permissible under the Act for the Council to seek premises licences in its own name, and it may seek to do this for public open spaces, which are used for a variety of cultural and community events. This approach may facilitate the use of such areas for licensable activities and may alleviate the need for organisations, performers and entertainers to seek individual licences, for 'one off' events. Any such premises licences would be subject to appropriate conditions to ensure that the use of these spaces does not adversely impact upon any of the licensing objectives and subject to any separate licensing requirements.
- 3.5 The Board will not accept any premises licence application which fails to satisfy statutory requirements as to matters to be included in or to accompany an application. Any such application will be returned to the applicant. The Board intends eventually to hold plans of premises electronically and will expect all applications to be accompanied by an electronic copy of any plans to be submitted.

- 3.6 The Board will dispose of its business in an open, fair and transparent manner. Hearings will be conducted in as informal a manner as possible. Guidance will be made available to those persons who wish to apply for a licence, to make representations or to lodge objections (referred to in 3.7 below).
- 3.7 The Board will remain at all times mindful of the need to be accessible to all and assistance will be available on request to those who require any special arrangements to be made. This is reflected in the Board's [Equality and Rights Policy](#) and [Equality Outcomes](#). The Board will normally hold its meetings in the Dean of Guild Room in the City Chambers, High Street, Edinburgh. Timescales are laid down for applications to the Board and these are publicised on the Board's [website](#). Agendas are published on the Council's [Agendas and Minutes website](#). An appropriate number of staff are employed to ensure an efficient disposal of business. The Board meets on a regular basis as laid down in the Rules as adopted from time to time and the meeting dates together with the Agendas for meetings are published on the [website](#).
- Information about how Board meetings are conducted, the procedures followed when applications are being considered and the order in which people attending the Board would normally be invited to speak are all set out in information as provided on the [website](#) (details in the document "What to expect when you attend a Licensing Board meeting").
- 3.8 In accordance with the Act, all members appointed to the Board have been trained in accordance with the [Licensing \(Training\)\(Scotland\) Regulations 2007](#) which require members within three months of being elected or re-elected as a member of the Board to undertake an accredited course of training .
- 3.9 The Board is committed to the use of e-government technology and to applying the benefits of this to ensure continuous improvement in the Board's operation Applications for premises licences, variations and transfers, occasional licences and appropriate fees can now be submitted on-line. Details are available on the "Alcohol Licences" section of the [website](#).
- 3.10 Applications are advertised for the statutory periods on the "Alcohol Licence Registers" section of the [website](#). The Board is committed to ongoing improvements to the website and encouraging wider use of the internet to inform the public of public notices.

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## 4. NOTIFICATION OF APPLICATIONS, AND RESPONSES TO THEM

Explaining:-

- Who receives notice of applications for premises licences and major variations
- Site Notice requirements
- Police involvement in the licensing process
- How the Board considers objections/representations to applications
- How late objections/representations will be dealt with
- Council's Building Standards involvement in licensing process

- 4.1 The Board will give notice of each premises licence and relevant variation application it receives to those persons specified in the Act, namely:
- each person with a notifiable interest in neighbouring land
  - any community council within whose area the premises are situated
  - the Council
  - the relevant health board, being NHS Lothian
  - the Chief Constable
  - Scottish Fire and Rescue Service as enforcing authority in terms of section 61 of the [Fire \(Scotland\) Act 2005](#).

In providing notice, the Board is committed to ensuring that application details are provided in a clear, concise and understandable way, both by means of Site Notices (template [here](#) – Schedule 1 of [Licensing \(Procedure\) \(Scotland\) Regulations 2007](#)), provided to applicants for display, and also by means of notification to those detailed above, and by online notification.

- 4.2 The Board expects the Chief Constable to consider all applications and to provide one of the statutory notices as appropriate. Where the Chief Constable considers that it is necessary for the purposes of any of the licensing objectives that the application be refused, a recommendation to that effect may be included in the notice. The Board recognises the benefit of antisocial behaviour reports in connection with the consideration of applications, and will continue to call for these from the Chief Constable from time to time, recognising his entitlement to provide such reports where he considers them necessary.
- 4.3 The Board will consider all relevant representations or objections from any person. Objections or representations which are regarded as frivolous or vexatious may not be considered and in the case of an application for the review of a licence may be rejected by the Board if it does not disclose any matter relevant to any ground for review.
- 4.4 Where an objection or representation in respect of a premise licence application or a variation application is received late, after the specified date for receipt, the Board will normally treat the objection as not made unless the objector has provided an explanation for late receipt. If the Board decides there are good reasons to treat the objection as made, consideration will be given in the interests of justice to a continuation of the hearing into the application, objections and representations to a future meeting of the Board.
- 4.5 The Board expects the Council's Place Directorate (Building Standards Section) to advise the Board in relation to applications for provisional premises licences regarding suitability. This will enable a pro-active approach to be adopted permitting applicants sufficient notice of any issues that may require to be addressed within premises prior to completing construction or renovation when it would be likely to be too late to incorporate changes into the design at the stage of confirmation.

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## 5. TEMPORARY LICENSING – OCCASIONALS AND EXTENDED HOURS

### Occasional Licence applications:-

- Who may apply
- How Board makes decisions on applications
- Policy on longer-term use of Occasional Licences – pop-up bars, Provisional Premises licences
- Applicants to allow enough time, when making applications
- Information required from applicants:-
  - Details of event
  - Layout plans
  - Sufficient consideration of licensing objectives
- Use of “pool” conditions
- Shortened notice procedure

### Extended Hours applications:-

- When applications may be made
- Policy on extended hours during Festival and festive times of year
- Information required from applicants:-
  - Description of event
  - Activities proposed
  - Reason for extended hours
- Examples of events where extended hours may be considered
- Applicants to allow enough time, when making applications
- Shortened notice procedure



## Occasional Licence applications – [part 4 of 2005 Act](#)

- 5.1 An occasional licence authorises the temporary sale of alcohol on premises other than licensed premises. It may be applied for by:
- the holder of a premises licence
  - the holder of a personal licence
  - a representative of any voluntary organisation
- To cover a period of up to 14 days.
- 5.2 The Board recognises the right of any person to object to an application for an occasional licence in terms of [section 58](#) of the Act. The Board's Scheme of Delegation ([Appendix 1](#)) sets out the basis upon which the Board will consider applications for Occasional Licences. The Board recognises that there are particular applications which, whether or not the subject of objections, require detailed consideration at a Board meeting, for example applications which are considered to be contentious or may have particular complications requiring further attention. Individual Board members or the Clerk may refer such applications to the Convener for further consideration and a final decision on whether or not to refer the application to the Board for a [section 59](#) hearing.
- 5.3 The Board is concerned to ensure that the availability of Occasional Licences as a short-term means of licensing premises is not abused. Where premises are intended for long term use for the sale of alcohol, the Board expects applications to be submitted for provisional or premises licences. Where an operator obtains a provisional premises licence the Board recognises the availability of occasional licences as a means of providing short term cover for the sale of alcohol from premises which have been practically completed and give rise to no public safety concerns. This will allow the licence holder to secure appropriate section 50 certificates and obtain confirmation of the provisional premises licence. The Board expects licence holders to take all reasonable steps to secure confirmation as soon as possible and reserves the option to refuse applications for repeated occasional licences where there are concerns about the suitability of the premises, having regard to any of the licensing objectives and also having regard to the Board's general position on consecutive applications as set out below.
- 5.4 Prior to adopting its current policy, the Board consulted specifically on the use of Occasional Licences and the possibility of placing a limit on the number of applications which would be considered by the Board under the scheme of delegation. Following consideration of responses to the consultation, the Board has agreed that where applications for Occasional Licences are received for a continuous trading period of more than two months or alternatively more than four consecutive applications, then such further applications will generally be referred to a meeting of the Board for determination.
- 5.5 Event organisers are encouraged to provide as much notice as possible of their event to the Board. The minimum period for consideration to be given to an application is 28 days. This is to allow publication of details of the application on the Board's website for a continuous period of 7 days and notification of the application to the Chief Constable and LSOs. The Chief Constable has 7 days to respond and LSOs have 21 days to decide if they wish to submit a notice or report. The Board expects

applicants to provide layout plans for outdoor areas in support of their applications and in any other case where there is likely to be any doubt over the extent of the premises for which the licence is sought.

- 5.6 The Board recognises that the Act allows for applications to be dealt with on a shortened timescale, where the Board is satisfied that the application requires to be dealt with quickly. Where applicants wish to apply on this basis, the Board would expect applicants to provide a written submission as to why the shortened timescale should be agreed. The Board expects that applicants seeking the relaxation of the timescale requirement would be able to demonstrate that there are exceptional reasons for doing so. Consideration of reasons will be dealt with in terms of the Scheme of Delegation at [Appendix 1](#).

The Board has noted comments provided during consultation about the shortened notice procedure for applications, and has expressed its own concerns about the use of this facility by applicants. The Board agrees that requests will only be considered where applicants have provided detailed written submissions relevant to the notice period along with the application and in the absence of such information, normal notice procedures will be applied.

- 5.7 The grant of an occasional licence will be subject to the [Mandatory Conditions set out in Schedule 4 of the Act](#). These are detailed in [Appendix 9](#) to the policy.

- 5.8 An applicant for an occasional licence must demonstrate that they have made adequate provision to fulfil the requirements of the licensing objectives and in particular the objectives relating to securing public safety and the protection of children and young persons. This might include supervisors at entrance and exit points, public notices regarding the rules relating to the entry of children and young persons to an event and adequate delineation of the area for the sale and consumption of alcohol by means of a barrier. Appropriate conditions in terms of [section 60](#) of the Act will be attached by the Board to any occasional licence issued and the Board will take a very serious view of any breaches of conditions attached.

Following on from the above and as part of the consultation process, Police Scotland and Council's LSOs provided a set of "pool" conditions to be attached to occasional licences, covering the conditions regularly requested by police and LSOs. The Board was of the view that the benefit of agreeing a set of "pool" conditions is that applicants and all other interested parties have a better understanding of the conditions which are likely to be requested by statutory consultees. After consideration of consultation responses the Board agreed the conditions set out at [Appendix 8](#) as appropriate local conditions which may be attached to Occasional Licences in terms of [section 60](#) of the Act as the Board consider necessary or expedient for the purposes of any of the licensing objectives. In addition to these the Board may attach other conditions to occasional licences as also considered necessary or expedient for the purposes of the licensing objectives.

- 5.9 In order to ensure that the objective of securing public safety is addressed the Board will circulate relevant applications for occasional licences to the Council's Place Directorate (Building Standards Section) and request reports highlighting matters which the Board may need to take into account in its consideration of the application.

- 5.10 [Extended Hours applications – Part 5 of 2005 Act](#)

Extended hours applications allow for an extension of licensed hours and operate only for a period of up to one month. If the Board receives a number of applications to extend licensed hours it will expect the applicant to consider whether an application should be made to vary the premises licence and operating plan.

The Board received representations during its pre consultation exercise about the use of extended hours applications by licence holders. The Board's extended hours policy for festive and festival periods (referred to in more detail at [Chapter 11](#) Hours Of Trading below) was highlighted by police in particular, as an example of generous licensing hours during those periods.

Consultees were generally in agreement that a consistent approach to consideration of extended hours applications would be preferable. Trade representatives highlighted the potential for grant of applications where there is no inconsistency with the licensing objectives.

It was also suggested during consultation that the Board considers what constitutes an event of national or local significance and/or what information the Board would expect applicants to provide in support of events hosted on premises where extended hours are applied for.

5.11 Accordingly the Board has now updated this Chapter in the following terms:-

Applications for Extended Hours can be considered by the Board in respect of (i) a special event or occasion to be catered for on the premises and (ii) a special event of local or national significance.

Whilst Festival/Festive extensions detailed in [Chapter 11](#) allow for an additional two hours of trading, the Board will consider on a case by case basis whether any other application should be granted for similar extended hours for one hour only.

Having regard to the above, the applicant will be required to satisfy the Board that the hours sought are appropriate in the circumstances of the application. Accordingly in order to assist the Board in making a decision, applicants will require to provide the Board with sufficient information including a description of the special event or occasion, the activities and times proposed, and the reason for the event or occasion requiring extended hours.

In addition to the above, when considering applications made in connection with special events or occasions to be catered for on the premises and special events of national or local significance the Board provides the following as indicative of the type of events which are generally considered by the Board to be examples of such events:-

i) Special Events or occasions to be catered for on the premises :-

- weddings and other celebratory occasions

ii) Special events of local or national significance:-

- Burns Night
- St Andrew's, St Patrick's
- Edinburgh Pride
- Televised Major Sporting Events where coverage is provided outwith normal

licensed hours, such as Football and Rugby World Cups, Olympics, Superbowl

The above list is indicative only and the Board will continue to consider individual applications for Extended Hours on their merits.

5.12 The Board may make a determination under [section 67](#) of the Act to extend licensed hours to enable premises to remain open longer for certain special occasions or large public events. In addition to consulting the Forum the Board will give notice to the LSOs and to the Chief Constable and will request observations on the issues of crime prevention, public safety and the protection of children and young persons in particular. It will notify its determination to the Chief Constable, to holders of licences and other relevant parties and will take appropriate steps to publicise the determination as widely as necessary.

5.13 Applicants are encouraged to provide as much notice as possible and similar to Occasional Licences, the Board would expect submission of applications at least 28 days in advance. As with applications for occasional licences as set out above, the Board recognises that the Act allows for applications for extended hours to be dealt with on a shortened timescale, where the Board is satisfied that the application requires to be dealt with quickly. Where applicants wish to apply on this basis, the Board would expect applicants to provide a written submission as to why the shortened timescale should be agreed. The Board expects that applicants seeking the relaxation of the timescale requirement would be able to demonstrate that there are exceptional reasons for doing so. Consideration of reasons will be dealt with in terms of the Scheme of Delegation at [Appendix 1](#).

As with the comments set out in connection with shortened notice period for occasional licence applications above, the Board agrees that requests will only be considered where applicants have provided detailed written submissions relevant to the notice period along with the application and in the absence of such information, normal notice procedures will be applied.

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## 6. HOW THE BOARD CONSIDERS APPLICATIONS

Importance of the licensing objectives in the applications process.

Details of the potential impacts Board will assess, when considering applications.

Use of antisocial behaviour reports.

Decision-making process.

- 6.1 In assessing the following matters, the Board will have regard to the licensing objectives and will expect applicants to pay similar regard to their terms as set out in [Chapters 21 – 26](#) below. The Board will also have regard to any reports on whether an applicant is a fit and proper person to hold a licence.
- 6.2 When considering whether any licence should be granted, the Board will assess the likelihood of the grant having an adverse impact. The Board will take into account relevant matters including :
- the nature of the premises, activities to be carried on and whether amplified music will be played
  - the potential number and profile of the customers likely to attend the premises
  - the proposed hours of operation
  - whether children and young persons are to be admitted to the premises and the arrangements made for them
  - the means of access to the premises including the location and adequacy of customer entrances and exits
  - the level of public transport accessibility for customers either arriving or leaving the premises and the likely means of public or private transport that will be used by them
  - the likely level of car parking demand on principal roads and surrounding residential streets in comparison with the existing situation, its effect on local residents and on residential parking and emergency access
  - the provision of toilet facilities and ventilation of the premises
- 6.3 Where it is possible to take steps to mitigate or prevent any potential impact the Board may still be able to grant a licence subject to conditions; each case will be considered on its merits.
- 6.4 When considering any application for premises, which have been previously licensed, or in any review of an existing licence, the Board will take into account the impact on local residents as borne out by any history of complaints and investigations into these and the antisocial behaviour report made available by the Chief Constable. The Board will also consider measures put into effect by the applicant to mitigate any adverse impact.

- 6.5 It is the Board's intention to provide a speedy, efficient and cost effective service to all parties involved in the licensing process.
- 6.6 Decisions on licensing matters will be taken in a transparent manner and in accordance with an approved scheme of delegation, aimed at underlining the principles of timely, efficient and effective decision making.
- 6.7 Delegations will be made by the Board in accordance with the Act. A table setting out how the Board intends to delegate its various licensing functions comprises [Appendix 1](#) to this statement.
- 6.8 The Board will be required to publish annual functions reports. The exercise of delegated functions may be considered for inclusion in these reports.
- 6.9 The Board will normally meet in public session, although members may retire into private session to consider their decision. All decisions will be delivered by the Convener in public.

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## 7. ATTACHING CONDITIONS

Details of mandatory conditions for premises licences.

Use of local conditions:-

- amplified music and vocals
- ATM machines
- Toughened glassware



- 7.1 The mandatory conditions attached to all premises licences are referred to in [Appendix 10](#). The Board expects premises licence holders to ensure that sufficient arrangements are put in place to ensure adherence to the Mandatory Conditions, and, in relation to premises operating later hours beyond 1.00am, the Late Night Conditions set out in the schedule to the [Licensing Conditions \(Late Opening Premises\) \(Scotland\) Regulations 2007](#) (also referred to in [Appendix 10](#)).
- 7.2 Where relevant representations are made, the Board will make an objective judgement as to whether other conditions may need to be attached to a licence to secure achievement of the licensing objectives. Any such conditions will be consistent with [section 27](#) of the Act. Any conditions arising as a result of representations will primarily focus on the impact of the activities taking place at the licensed premises, on those attending the premises and members of the public living, working or engaged in normal activity in the vicinity of the premises, and will cover matters that are within the control of the licenceholder. In particular where the operating plan indicates that music is to be played in premises, the Board will always consider the imposition of a condition requiring amplified music from those premises shall not be an audible nuisance in neighbouring residential premises. In addition, where an ATM is made available for use on licensed premises the Board will always consider the imposition of a condition that the ATM should not be located in any part of the premises where alcohol is available for purchase and consumption so that a customer wishing to use the ATM must cease drinking in order to do so.
- 7.3 During consultation the Board received representations from Police Scotland as regards the use of toughened glass and other recognised safety products particularly in late opening premises (nightclubs).

The Board acknowledges that the use of toughened glass or other recognised safety products can play a vital part in reducing the number of glass related injuries. Therefore the Board will always consider the possibility of the imposition of a condition in relation to the use of toughened glass particularly in late opening premises operating after 01.00 hours where the Board is of the view that such a condition is necessary or expedient for the purposes of the licensing objectives.

Such a condition may include reference to:-

- i) all drinks should be served in toughened glass or other recognised safety products, and
- ii) no conventional glass bottles whether open or sealed, should be given to customers, whether at the bar or by staff service to any area away from the bar.

- 7.4 The Board is aware that an amended policy in relation to amplified music in licensed premises has been in place since September 2016. The Board sought the views of consultees as to whether the Board should commence the ingathering of information on the effectiveness of its policy since the change in 2016 and whether an evaluation and specific review of this aspect of the Board's policy should be undertaken. Following consideration of consultation responses, the Board has agreed that whilst the current policy remains unchanged, an evaluation and review of the policy will be undertaken within the tenure of the current Board.
- 7.5 The Board recognises that all applications should be considered on their own merits. Any condition attached to a licence will be derived either from the licenceholder's operating plan or a representation and will be tailored to each individual premises.

- 7.6 The Board understands applicants may suggest conditions which they consider are necessary to achieve the five licensing objectives.
- 7.7 If an applicant volunteers a prohibition or restriction in their operating plan because their assessment has determined such prohibition or restriction to be appropriate, such prohibition or restriction if adopted by the Board will be attached as a condition of the licence and will be enforceable as such.

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## 8. ASSESSMENT OF OVERPROVISION

This section sets out information about how overprovision is determined by the Board. It contains details about:-

- The Board's consultation on overprovision
- The evidence considered by the Board in support of overprovision
- The Board's assessment of overprovision and details of the localities designated as being overprovision localities
- The impact of the Board's overprovision assessment
- General details about the Board's approach to overprovision in all other localities

## **8 ASSESSMENT OF OVERPROVISION**

### **8.1 How overprovision is determined**

Overprovision of licensed premises in a particular locality impacts on the promotion of the licensing objectives.

Under the Act, the Board's policy must include a statement of the extent to which it considers there is overprovision of (a) licensed premises, or (b) licensed premises of a particular description in any locality in the Board's area.

Any consideration of a locality (a) must have regard to the number and capacity of licensed premises in the locality and (b) may have regard to such other matters as it thinks fit, including licensed hours of premises in the locality. Details are set out in [section 7](#) of the Act. The Board also require to have regard to the guidance issued by Scottish Government, and in preparing its assessment of overprovision the Board also considered draft updated guidance provided by Scottish Government. The Board recognised the latter was still to be formally adopted but noted it took account of changes to legislation the earlier guidance did not.

### **8.2 Details of the consultation carried out by the Board**

#### Informal consultation

The Board carried out an initial consultation on its policy between October and December 2017, inviting comment on the overprovision assessment contained in that policy which defined the Grassmarket/Cowgate as being an overprovision locality, and on whether any other localities in the Board's area showed signs of being overprovision localities. The Board conducted hearings on responses received, and hosted a workshop on the general subject of overprovision.

#### Formal consultation

The informal consultation revealed a number of potential overprovision localities highlighted by the Edinburgh Alcohol and Drugs Partnership, Police Scotland and NHS Lothian. The Board obtained information about numbers, capacities and descriptions of premises situated within these localities, as well as for the Grassmarket/Cowgate locality defined in the previous policy.

The Board agreed to formally consult on these localities and on whether the Grassmarket/Cowgate locality should be retained. As part of the consultation, the Board asked for views on whether its assessment of overprovision should be based on IDZ boundaries, or whether the boundaries should be street-based.

The previous policy highlighted 7 localities which were considered to be areas of serious, special concern and the Board also invited comment on whether these should be retained in the new policy statement.

Throughout the consultation process the Board encouraged contributions from as wide a range of consultees as possible and gave detailed consideration to the responses received at all stages of the process.

Details of the Board's consultation on overprovision are set out in detail in reports to the Board, which can be [viewed online](#).

### 8.3 Evidence considered by the Board

During the initial consultation, the Board was asked to consider 23 localities highlighted by the EADP, Police Scotland and NHS Lothian as showing characteristics of overprovision, on the basis of statistical information provided in support of these localities. The localities were defined on the basis of being Intermediate Data Zones (IDZ), with statistical information for each showing alcohol-related health harms and alcohol-related crime to be above the Edinburgh average, by 50% or more.

NHS Lothian also asked the Board to consider a further 15 IDZ localities where alcohol-related hospital admissions were above the Edinburgh average by 20% or more.

The Board's formal consultation proceeded on the basis of the 38 localities as well as the existing Grassmarket/Cowgate overprovision locality, the Board having obtained information about numbers, capacities and modes of operation of premises in each of these localities.

### 8.4 The Board's Assessment of Overprovision

Following a detailed consideration of the responses to the formal consultation, and information provided about the numbers, capacities and modes of operation of premises in the localities consulted upon, the Board considered it was satisfied that a dependable causal link could be demonstrated between alcohol-related health harms and alcohol-related crime and the number and capacity of licensed premises in the following localities, as defined by IDZ boundaries:-

- Old Town, Princes Street and Leith Street
- Tollcross
- Deans Village
- Southside, Canongate and Dumbiedykes

The Board reached this decision having particular regard to the evidence presented by EADP, Police and NHS Lothian about the extent of alcohol-related crime and health harms in these localities, and also made use of its local knowledge about these localities. Layout plans showing the extent of these localities are attached at [Appendix 2](#).

### 8.5 Impact of Overprovision Assessment

The effect of the Board's policy, in terms of the statutory guidance, is to create a rebuttable presumption against the grant of new premises licences, provisional premises licences and major variations to increase capacity of premises in these localities. This is all in terms of the grounds of refusal as set out in [section 23\(5\)\(e\)](#) and [section 30\(5\)\(d\)](#) of the Act .

Each application still requires to be determined on its own merits and it remains open to applicants and licence holders to present applications for consideration on their merits, providing evidence in support of their applications, to rebut this presumption against grant.

Accordingly the Board recognises that there may be exceptional cases where the Board determines applicants have been able to demonstrate that the grant of the application would not undermine the licensing objectives or that those objectives would not be undermined if the applicant's operating plan were to be modified or the grant of the licence made subject to appropriate conditions.

Relevant factors which may be considered by the Board include applications which fill a gap in existing service provision, or are considered to enhance the quality of life for residents and visitors alike.

#### 8.6 The Board's approach to Overprovision in all other localities

The Board has taken cognisance of information provided in responses to the consultation process, detailing concerns regarding the numbers of licensed premises available in the Board's area. Where applications for new premises and provisional premises licences or variations to increase capacity of existing licences are made, the Board continues to reserve the option to refuse applications where it considers the statutory grounds of refusal are made out. This will include consideration of overprovision as a potential ground for refusal, even if the premises are not situated within one of the localities set out in 8.4 above.

The Board agreed it would no longer designate particular localities as being areas of serious, special concern. If the Board considers there may be overprovision arising from the grant of an application, it will call for reports showing the extent to which there are licensed premises within a locality generally identified as comprising a circle with 250 metre radius centred upon the location of the premises, together with a report providing details of existing licensed premises within that locality.

8.7 The Board continues to acknowledge that public nuisance and overall levels of disturbance arising from the density of licensed premises in a locality are likely to be increased, where particular premises are of a size enabling a very large number of patrons to be inside at one time. The Board continues to have a particular concern about large drinking establishments, which are used primarily for the sale and consumption of alcohol and provide little or no seating for patrons. The Board defines these premises as those with a capacity for 200 or more patrons, whether seated or standing at any particular time.

8.8 The Board would remain concerned if evidence was presented in connection with a large premises of the following matters:

- noise and disturbance on the streets on several nights during the week and particularly at weekends
- high levels of bad behaviour in public places, particularly at night, with much of it being associated with excessive drinking of alcohol
- high numbers of pedestrians on the pavements which spill on to the roads
- high volumes of litter associated with fast food outlets
- fouling of doorways, alleys and private gardens and courts by urination and vomiting
- difficulty in providing and maintaining adequate street cleaning and refuse collection services
- traffic congestion caused by dropping off and picking up people at licensed

premises

- long queues and long waiting times at taxi ranks which contribute to nuisance disorder and occasionally crimes of violence
- the views of a significant proportion of the public who avoid areas in the vicinity of large premises because of the fear of crime and disorder.

8.9 The Board also remains concerned at the high number of existing off-sales premises and will continue to examine any applications for more such licences to assure itself that the application will not undermine the licensing objectives having regard to the approach set out above.

8.10 The Board will continued to monitor the effectiveness of its overprovision policy, recognising that it may be necessary to publish a supplementary statement of licensing policy, in the event that there is a need for a further assessment of overprovision in the Board's area

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## 9. CAPACITY OF PREMISES

How capacities are set – Council’s Building Standards involvement:–

- on sales – numbers of persons
- off sales – linear metres of display shelving

Details of what Board expects applicants to consider, when setting capacities

Control measures, for on sales premises

Details required by the Board, for layout plans



- 9.1 The Board has maximum occupancy limits set by building standards officers from the City of Edinburgh Council's Place Directorate for the purposes of assessing overprovision. In most circumstances the Board would expect this capacity to represent a practical occupancy capacity acceptable to applicants so as 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 Board may consider setting a lower maximum occupancy limit than that recommended by officers.
- 9.2 The 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 entrances and exits, including particularly emergency exits
  - the nature of the premises or event
  - the nature of the activities being provided, including the noise in the neighbourhood
  - 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, or whose first language is not English
  - the availability of suitable and sufficient sanitary accommodation
  - the nature and provision of facilities for ventilation.
- 9.3 The Board will expect the operating plan of premises with a capacity of 200 or more patrons, whether seated or standing, to designate all parts of the premises as either seated or standing areas, as part of their description of the activities engaged in at their premises.
- 9.4 The determination of a capacity for premises or events should be interpreted as a requirement to ensure an adequate supervision of the premises at all times. There should be constant arrangements to verify the number of persons present, such as door staff or attendance clickers. The Board requires large capacity premises to ensure that door supervisors are particularly vigilant about numbers entering or leaving the premises, denying entry to those who are drunk or disorderly on arrival. Where the capacity is likely to be reached, such as on known busy evenings and particularly where a special event or promotion is planned, licenceholders will be expected to have additional arrangements in place to ensure that the capacity of the premises is not exceeded.

The Board considers that the most appropriate means of assessing off-sales capacity is by means of reference to measurement of shelving space in linear metres, as provided in the [Scottish Government guidance](#). The Board continues to expect licence holders and applicants seeking licences providing off-sales to specify the capacity in the operating plan, in linear metres.

- 9.5 Each case will be considered on its merits but the Board will consider very carefully the type, size and capacity of licensed premises in the particular locality in respect of which the application is made.

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# 10. HOW PREMISES OPERATE

What the Board expects of premises managers

What management arrangements should be in place in premises

Policy on “duty to trade”

Requirement for premises to operate in accordance with operating plan

Policy on transfer applications

- 10.1 Within the operating plan for premises on which alcohol will be sold, a premises manager must be specified. The Board will expect the premises manager to have the day to day responsibility for running the premises and to be present at the licensed premises on a regular basis when alcohol is being sold. The Board expects that there will be in place appropriate arrangements for monitoring by the premises manager and details of these arrangements should be recorded in the operating plan. The premises licenceholder is expected to ensure that the premises manager has experience commensurate with the size, capacity, nature and style of the premises.
- 10.2 The premises manager must hold a personal licence, to ensure compliance with the [mandatory conditions](#) of premises licences, and the prohibition on the sale of alcohol at any time when there is no premises manager in respect of the premises. The Board will hold a hearing to consider a review application or proposal whenever such non-compliance comes to its attention.
- 10.3 Within all licensed premises, whether or not alcohol is to be sold, the Board will expect there to be proper management arrangements in place which will ensure that there is an appropriate number of responsible, trained persons on the premises and will also ensure compliance with all statutory responsibilities and the terms and conditions of the premises licence.
- 10.4 The Board acknowledges that need, in the sense of the commercial demand for further licensed premises, is not a licensing policy matter. Licensing decisions will not therefore be based upon this issue. The issue of overprovision of licensed premises is dealt with elsewhere in this policy.
- 10.5 The Board has considered the issue of whether a licence holder is under a duty to trade. It has also considered the terms of [section 28](#) of the Act stating that a premises licence ceases to have effect where the premises cease to be used for the sale of alcohol. It is aware that on one interpretation this could be read as requiring an application for a new premises licence in the situation where premises have ceased to trade and are being actively marketed for sale. The Board has determined in the absence of a definitive legal interpretation that it will require an application for a new premises licence where the premises have not been used for the sale of alcohol for a period exceeding one year and the circumstances suggest that there is no active marketing of the premises for sale or lease. The Board will ask the LSOs to ascertain where possible, the reason for closure of the premises, with a view to then deciding whether or not to review the premises licence. Where the premises are situated in a locality where the Board is assessing overprovision these factors will also be relevant.
- 10.6 Where it comes to the attention of the Board that the activities in any licensed premises are not in accordance with the operating plan, the premises licence holder should be asked to explain why not and, if appropriate, make an application to vary their premises licence. Failing this the Board may advise the premises licence holder that the Board intends to review or revoke the licence by means of a review proposal. Where the licenceholder determines to abandon activities specified in the operating plan or otherwise changes the nature of the business conducted in premises, the Board considers that a variation of licence is essential to ensure compliance with the Mandatory Conditions.
- 10.7 The Board expects those involved in arranging the transfer of a premises licence to adhere to the timescales laid down by the Act. In particular, with regard to transfer applications made by a person other than the premises licence holder in terms of [section 34](#) of the Act, the Board expects applicants to ensure that their applications are lodged within the 28 day

period specified in terms of section 34(1). Where the application is made on the basis of the business carried on in the licensed premises having transferred (in terms of section 34(3) (d)) the Board expects applicants to be able to demonstrate to the Board the basis upon which the business transfer has been effected. Where the statutory timescale within which a section 34 transfer application may be made has expired and the premises licence has ceased to have effect or ceased to be capable of transfer, the Board will consider taking steps to have the premises licence reviewed.

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# 11. HOURS OF TRADING

Policy on trading hours, for sale of alcohol

Factors the Board will consider, when deciding on appropriate licensed trading hours

Policy sets out indicative trading hours for different types of premises

Policy on seasonal variations, during:-

- Edinburgh Festival period
- Christmas/New Year period

Factors to be considered by licence holders, for the operation of premises around closing time

Policy on access by children and young persons to licensed premises

- 11.1 This section primarily relates to premises where alcohol is sold with or without any other licensable activity. Reference is made to Chapter 12 of this statement of policy which relates to licensed hours for sales of alcohol for consumption off the premises. The Board expects that all applicants for all types of licensed premises will consider hours of trading to be an important issue when preparing their operating plans.
- 11.2 In determining its approach to the hours of trading, the Board has given full consideration to what is stated in the Guidance. In particular, the Board has noted the Guidance that 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.
- 11.3 The Board recognises the importance of taking into account all the statutory licensing objectives laid down in the Act in its assessment of any application for a licence, including consideration of the hours of trading. In addition, the Board is aware that there is a strong view in some areas against allowing later opening of licensed premises. This view is particularly strong in mixed residential and commercial areas. The Board recognises that when considering appropriate licensed hours for applications then consideration will require to be given to the specific location of the applicant premises on a case by case basis.
- 11.4 The Board will consider a restriction on opening hours as one mechanism of combating antisocial behaviour, if appropriate.
- 11.5 The Board recognises the value and necessity of a level playing field when determining hours of trading. In its experience the granting of extended hours in recognition of a particular style of trading merely leads to trade competitors adopting the same arguments in seeking similar hours and a process ensues which leads to the extended hours becoming the norm. The Board is anxious that this should not happen in Edinburgh.

The Board sought views during consultation on this policy as to whether the Board's previous approach to licensed hours including the application of the same hours city wide remained appropriate or should be reviewed.

Mixed responses were received to this aspect of the consultation with trade representatives generally in favour of the current position and some community and other consultees including Police Scotland favouring the application of different licensed hours across the city. The Board took cognisance of all views received including the view expressed by the Licensing Forum which was that the current policy should remain unchanged. After due consideration the Board remains of the view that the following hours are reasonable and balance the differing expectations of the trade and public

The Board is also aware that for most premises there could be up to 16 trading hours. However taking cognisance of the position set out in the Board's previous policy, the Board continues to feel that for historic reasons it should depart from the Guidance. Moreover although on balance the Board is satisfied that it should adhere to the current licensed hours, set out below, the Board are mindful of the licensing objectives which underpin this policy and the Board's decision making. Accordingly the Board will continue to monitor the effectiveness of the current policy and would emphasise that whilst having regard to the indicative hours set out in its policy when considering applications, each

application will be determined on its individual merits.

11.6 Opening hour - every day

off sales premises 10am

all other premises 9am (except Sundays when the opening hour will be 11.00am)

Terminal hour – every day

10pm : off sales premises

1 am : licensed premises

3 am : licensed premises offering restaurant facilities, and those offering entertainment (except adult entertainment - 1am and casinos - 6am) and members' clubs

6am: premises licensed for casino operation

11.7 The Board recognises that during certain periods further extensions of the terminal hour would be appropriate. Accordingly, during the period of the Edinburgh Festival and Fringe as set from year to year, and during the Christmas and New Year period (18 December to 3 January in each year) a 2 hour extension to the usual terminal hour of the premises concerned is regarded as acceptable in the normal course of events. However this will only apply where the operating plan for particular premises contains a statement of intention by the licenceholder to take advantage of extended trading in these periods. Where the operating plan for premises does not indicate an intention to take advantage of extended trading an application for those premises seeking extended hours for the period will have to be made and this will have to set out the specific days and hours when trading is intended. This period may include days when there are preliminary performances preceding the commencement of the full Fringe programmes.

11.8 Applicants will be expected to give due consideration to the impact their patrons may have after leaving their premises, taking into account the likely exits of patrons from the nearby licensed establishments.

11.9 The following issues should be considered:

- the effect of the grant of a licence for later or earlier hours on crime and disorder, public safety, public nuisance, public health and children and young persons
- the proposed hours when any music, including incidental music, will be played
- the hours when customers will be allowed to take food or drink outside the premises or be within open areas which form part of the premises
- the existing hours of licensable activities and the past operation of the premises if any and hours of licensable premises in the vicinity
- whether customers and staff have adequate access to public transport when arriving at and leaving the premises, especially at night
- the capacity of the premises
- the type of use, recognising that premises which sell alcohol, play music for dancing, provide late night refreshment or takeaway food, are more likely to be associated with crime and disorder and public nuisance than restaurants, theatres, cinemas or other performance venues
- The hours at which noise may occur and the disturbance of nearby residents' rest, relaxation and sleep.

- 11.10 When preparing operating plans applicants should give consideration to the principle of winding down periods at the end of the night. By gradually increasing the lighting and winding down entertainment such as loud music before the end of the permitted hours, thereby creating a calmer ambience, patrons leaving the premises may be inclined to behave less boisterously after they have left licensed premises. In addition patrons may be inclined to leave the premises spasmodically in small groups on a gradual basis rather than simultaneously.
- 11.11 Restricted licensing hours may be appropriate in cases where licensed premises are situated in the vicinity of residential property or where the trading hours of the premises and competing businesses are likely to lead to undue pressure on public transport systems or additional public nuisance, disorder or anti social behaviour and where licensed premises include external areas. Where the whole circumstances of particular premises dictate, including promotion of the licensing objectives, the Board will consider restricting the opening hours so that an earlier terminal hour will apply. The Board may impose different restrictions on hours for different licensable activities and for different days of the week.
- 11.12 Consideration will always be given to an applicant's individual case and the Board will take into account any proposals the applicant has to minimise the risk of nuisance or disorder being caused or exacerbated by customers departing from the premises.
- 11.13 Where no relevant representations are received from either a responsible body or any interested party and there is no departure from the Board's adopted policies, the Board will consider granting an application in accordance with the terms of the operating plan,
- 11.14 The Board believes that by adopting an approach which is sufficiently flexible, it is possible to ensure that:
- all areas of the city, its businesses and residents will be treated equitably and arbitrary restrictions will be avoided
  - restrictions on the hours of trading will only be applied where this is necessary in order to promote the Board's policy and the licensing objectives
  - restrictions are not placed on hours of trading which may contribute to rapid binge drinking near closing time.
- 11.15 Access by Children and Young Persons to Licensed Premises

As part of the Board's consultation process the Board sought views as to whether the Board should consider stating a terminal hour for children and young persons' access to licensed premises having regard to the licensing objective of protecting children and young persons from harm.

The Board has already set out clear expectations to premise licence holders of the ways in which the Board considers licence holders may demonstrate that their premises promote the protection of children and young persons from harm as further referred to below.

The Board regularly visits premises where applicants are seeking access or increased access for children and young persons to assess their suitability prior to considering applications on a case by case basis. Further details in this regard and the other suggested control measures agreed by the Board are set out at chapter 26 of this policy.

The Board has taken into account the responses to the consultation which, although generally favouring the Board's continuing approach to applications being determined on



a case by case basis, also support the view that the Board should agree an indicative terminal hour for children and young persons' access to licensed premises.

Accordingly the Board, taking account of its previous approach to hours, and that each application will be considered on its individual merits, agrees that an indicative terminal hours for children and young persons' access to licensed premises will be as follows :-

Children –

- 2300
- 0100 when attending a private function on the premises and accompanied by an adult

Young Persons –

- 0100

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## 12. OFF-SALES

Requirement for applicants to consider licensing objectives

Display of alcohol in premises – mandatory conditions, layout plan requirements

Policy on licensing hours

Circumstances when CCTV system may be required in premises

- 12.1 Applicants for licences for premises which are to be used for the sale of alcohol for consumption off the premises will be expected to address the five licensing objectives in their operating plan.
- 12.2 The Board is concerned to ensure that all possible steps are taken in this area to promote the licensing objectives. It will ensure that the regulations concerning display of alcohol for consumption off the premises are observed in the layout of premises. The Board will monitor developments in the area of test purchasing and will take appropriate action as part of its wider alcohol agenda.
- 12.3 With regard to the licensed hours for the sale of alcohol for consumption off the premises, they are as laid down in the Act between 10 am and 10pm each day. There is no discretion to permit licensed hours outwith these times. The Board may take the view in particular circumstances that the permitted terminal hour of 10pm should be restricted. Reference is made in this connection to Chapter 11, which refers to the policy on opening hours of licensed premises and also to the provisions of the Act at section 65. Each case will be taken on its merits, considering all the licensing objectives, in particular those relating to crime, children and young persons, public health and public nuisance. The Board is concerned to promote best practice in this area and will consider most carefully whether late opening hours are justified. Reference is made also to Chapter 24 of this policy relating to public nuisance.
- 12.4 The Board will insist on certain premises licensed to sell alcohol for consumption off the premises installing an effective CCTV system covering both the interior and exterior of the premises complying with current legislative requirements. Reference is made to the Chapter of this policy relating to the prevention of crime and disorder objective.

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## 13. OUTSIDE AREAS

Use of areas outside licensed premises:-

- policy on terminal hour for outdoor drinking
- use of tables and chairs – Council Tables and Chairs Permits
- Council Protocol on the use of public open space areas
- Licence holders to ensure clearly marked out layout plans

- 13.1 The Board recognises the growing trend for outside seating areas in licensed premises. It will expect any licenceholder who intends to provide outside seating, tables and chairs or other such facilities to hold a premises licence which includes the outside area. These areas should be shown on the required plan of the premises and will be taken into account in the overall assessment of capacity, particularly in relation to exits and sanitary facilities.
- 13.2 When applicants propose to provide outside seating, tables or other facilities in any outdoor area, whether covered or not, they will be expected to ensure that the use of such areas will not cause disturbance or nuisance to the occupiers of other premises in the vicinity. The Board is of the view that 10pm is the appropriate terminal hour for the operation of outside areas. This is also the terminal hour for sales for consumption off licensed premises. In non-residential areas during festive and Festival periods the Board recognises that premises licence holders may wish to operate outside areas to a later time.
- 13.3 The Board will give consideration to a later terminal hour in appropriate circumstances, having regard to the locality of premises, their proximity to residential areas, and subject to the licence holder obtaining the necessary tables and chairs permit from the Council. The Board will consider a degree of flexibility for certain days of the week and times of year after careful consideration of the circumstances.
- 13.4 The Council operates a scheme whereby a permit may be obtained under the [Roads \(Scotland\) Act 1984](#) allowing an applicant to occupy the footway with tables and chairs. The Board expects that licenceholders will not only comply with any conditions of such a permit in respect of the tables and chairs but will also put into 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 commencement and terminal hours of operation granted by the Board will normally reflect the times set out in the permit issued by the Council.

The Council has adopted a Protocol for the use of outdoor areas, agreed by the Council's Transport and Environment Committee on 9 March 2018 and the Board will have regard to this. Details of the Protocol are provided on the Council's [website](#).

- 13.5 Given that the regulatory authority for tables and chairs permits is the Council, the Board's ability to deal with complaints is limited. Where specific difficulties arise as a result of complaints with regards the use of tables and chairs, the board will consider referral of the complaint to the Council's Environmental Wardens for consideration of restriction or removal of the permit.
- 13.6 The Board may decide to visit premises which apply to offer outside seating areas and will monitor all such operations carefully. The Board recognises that the proliferation of outside areas is a matter of public concern and will take a robust line with any licenceholder in breach of a condition of a premises licence relating to the external area.
- 13.7 The Board encourages licence holders and applicants to ensure that layout plans attached to premises licences provide a clear delineation of outside areas intended for use with the premises, whether licensed for the sale of alcohol or not.
- 13.8 Reference is made to the Chapter of this policy relating to the public nuisance objective.

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## 14. USE OF SMOKING AREAS, DISPOSAL OF WASTE

Responsibilities of licence holder to control the use of smoking areas

Possible restrictions on use of outside smoking areas

Responsibilities of licence holder to dispose of waste, remove litter

- 14.1 The Board acknowledges that control of smoking is not a matter within the responsibilities of licensing Boards. The LSOs will monitor the control of smoking in particular premises closely and will liaise appropriately with other Council officers. It is anticipated that they will take a robust line in any situation where complaints are received from nearby residents about nuisance, including noise.
- 14.2 The health risks associated with smoking and with passive smoking continue to be well publicised; licenceholders will require to be aware of their own statutory responsibilities, public opinion generally, the expectations of their patrons and the legislation concerning smoking in public places.
- 14.3 The Board expects that licenceholders will have regard to good practice. It is their responsibility to ensure that patrons do not create a nuisance or disturbance for residents living nearby. This includes noise arising as a result of patrons smoking outside the premises and any associated littering of the area. Where appropriate the Board may impose conditions requiring effective monitoring of the smoking area and restricting patrons from taking drink into the smoking area. Where no effective solution is achieved the Board may consider restricting the hours of operation of the premises.
- 14.4 Every business has a duty to ensure that waste is disposed of securely and to keep their premises clear of all litter generated by staff and customers; the Board expects licenceholders to be aware of their responsibilities and of the possibility of statutory street litter control notices being served in the case of non compliance. Where appropriate, a condition requiring licenceholder to provide litter bins in the vicinity of the premises may be imposed.

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## 15. PUBLIC ENTERTAINMENT

Confirming when Public Entertainment licences require to be obtained from Council:-

- Entertainments taking place in unlicensed areas
- Entertainments provided in premises where an Occasional Licence will be in place



- 15.1 The [Civic Government \(Scotland\) Act 1982](#) provides at section 41 that a public entertainment licence shall not be required in respect of licensed premises within the meaning of the Licensing (Scotland) Act 2005 in which public entertainment is being provided during the licensed hours within the meaning of the Act.

The 1982 Act was amended by the [Air Weapons and Licensing Act 2015](#) to the effect that the exemption from Public Entertainment licensing would not apply to premises licensed by means of occasional licences. Organisers of events or persons otherwise seeking to licence temporary use of premises where public entertainment is to be provided, as per the Council's [Public Entertainment Resolution](#) will be required to ensure that they obtain a public entertainment licence from the Council, and do so in sufficient time to permit the Board to consider the application for occasional licence.

As referred to in Chapter 13 on the use of outdoor areas, the Board will have regard to the Council's Protocol for the use of outdoor areas, agreed by the Council's Transport and Environment Committee in March 2018, for the use of outdoor areas where public entertainment is provided.

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## 16. ADULT ENTERTAINMENT

This part of the policy will be updated, once section 45A of the Civic Government (Scotland) Act 1982 has commenced.

Currently sets out what Board expects of premises which provide adult entertainment as part of their operation.

- 16.1 The Board intends to continue to encourage improved standards in licensed premises offering adult entertainment. Until the implementation of the updated provisions of the Civic Government (Scotland) Act 1982 detailed at 16.5 below when separate licences may require to be obtained if falling within the ambit of that Act. Meantime the Board encourages those premises licence holders who offer adult dance entertainment to have regard to the terms of the Board's Guidance on Dance Entertainment as attached at Appendix 3. Licence holders are encouraged to comply with the terms of this guidance. The LSOs will monitor the operation of this guidance. The Guidance will remain in effect until the implementation of the new sexual entertainment venue regime.
- 16.2 The Board will expect licence applicants and licence holders offering adult entertainment to show evidence of having given consideration to the promotion of all the licensing objectives, in particular those relating to the protection of children and young persons, the prevention of crime and disorder and the prevention of public nuisance.
- 16.3 Where the operating plan for a premises licence application identifies that adult entertainment will take place in the premises, the Board will have particular regard to the location of the premises in relation to places of religious worship, schools, youth clubs or other premises where significant numbers of children and young persons are likely to congregate.
- 16.4 All applications involving adult entertainment will be considered on their own merits.
- 16.5 The Civic Government (Scotland) Act 1982 having been amended, licensed premises which provide adult entertainment which falls within the definition of "sexual entertainment" as set out in [section 45A](#) of the 1982 Act will require to obtain a separate sexual entertainment venue licence from the Council.

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## 17. TAKE-AWAYS / HOME DELIVERIES

Confirming that where take-aways are to be offered by premises outwith licensed hours, a separate Late Hours Catering licence will be required from the Council.

Board policy on take-away operations within licensed hours – supports Council policy.

Board's policy on Home Deliveries which include online purchases of alcohol

- 17.1 Premises which supply hot food and hot drink for consumption off the premises (take-aways) and which are open after 11pm can attract large groups of customers and act as a focus of noise and disturbance. The Board considers that having regard to the terms of section 42(4)(a) of the [Civic Government \(Scotland\) Act 1982](#) ("the 1982 Act"), premises selling alcohol require an additional late hours catering licence to permit the facility of take-away food and refreshment between the hours of 11pm and 5am. The 1982 Act refers to a late hours catering licence not being required in respect of the use as such of (alcohol) licensed premises. The Board considers that where takeaway food is being provided beyond licensed hours, a late hours catering licence should be obtained from the Council, since the Board's role and the licence issued by it is limited to the sale of alcohol from the premises.
- 17.2 In September 2016 the Council's Regulatory Committee adopted a new policy on hours of operation for Late Hours Catering premises. In view of the Board's position as above for the previous Council policy on late hours catering, the Board has adopted a similar approach to the new policy. The details of the new policy are attached as [appendix 5](#) to the Board's statement of licensing policy, replacing the previous version.

The Board acknowledges the significance of this policy and will expect applicants to accept that similar hours of operation should apply to take-away operations falling within its area of licensing responsibility. This will both ensure a level playing field within the city and promote the licensing objectives, particularly preventing public nuisance and preventing crime and disorder.

17.3 Home Deliveries which include online purchases of alcohol

The Board has acknowledged concerns raised during consultation as regards the increased levels of online sales of alcohol and has updated its policy to take account of this.

In particular the Board encourages applicants for premises licences which will include online sales to provide the Board with details of how the deliveries will operate and in particular :--

- 1) the hours, of delivery;
- 2) the steps which will be taken to verify the age of the person ordering and accepting delivery of the alcohol ; and
- 3) the use of age verification policies such as Challenge 25 or a similar verification scheme for all deliveries

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## 18. MEMBERS' CLUBS

Setting out Board policy on premises run by, and solely for the benefit of, club members.

Confirming specific licensing conditions attached to premises licences for members clubs, controlling the signing in of non-members, etc.

- 18.1 Members' clubs will require to meet the criteria prescribed in the [Licensing \(Clubs\) \(Scotland\) Regulations 2007](#). The Board expects that members' clubs will take positive steps to address discrimination on the grounds of age, sex, race, disability, gender identity, sexual orientation, marital status, religion or belief.
- 18.2 When members' clubs apply to the Licensing Board they will be asked to certify whether or not they comply with the criteria referred to in the Regulations in order to benefit from the exemptions. If they do the members' clubs will have to submit to the Board a copy of their written constitution and rules. They will be subject to inspections by LSOs, who will check clubs for compliance.
- 18.3 Members' clubs are subject to the same provisions regarding access by children and young persons as other licensed premises. They require to specify in their operating plans whether or not it is proposed that children and young persons are to be allowed entry to the premises and, if so, to specify the terms, to include the times, the ages of such children and young persons and the parts of the premises to which they would be permitted access. Appropriate conditions relating to access by children and young persons may be attached by the Licensing Board.
- 18.4 The Board has decided that premises licences granted to member's clubs will be subject to additional conditions:-
- The club shall, in conducting the business of the club carried on in the premises, take all reasonable steps to ensure compliance at all times with the terms of the club's written constitution and rules as exhibited to the Board. Any alteration to this written constitution and rules made by the club from time to time shall be notified to the Board within one month of any alteration taking effect.
  - No member of the club may invite more than 10 other persons on to the premises to be supplied with alcohol at any one time.
  - Where a person referred to in Regulation 2(2)(d)(iii) of the Licensing (Clubs) (Scotland) Regulation 2007 is admitted to the premises, there is to be entered in a book kept for the purpose:- the date of admission; the name and address of the person; and the name and address of their club

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# 19. REVIEW OF PREMISES LICENCES

Board can be asked by anyone to review a premises licence, or it may initiate the review of a premises licence.

Sets out the options available to the Board in dealing with a premises licence review.

Procedure for review applications:-

- Whether application sets out matters relevant to grounds for review
- Whether application is vexatious or frivolous, and how Board deals with that
- LSO reports



- 19.1 A licence may be reviewed on the application of any person on the grounds specified in section 36 of the Act. The Board will not commence a review hearing in terms of section 38 of the Act until it is satisfied that grounds have been established which necessitate proceeding with a hearing. The Board may continue consideration of a review application at an initial stage, in order to allow investigations or other appropriate steps to be carried out. A review will include consideration being given to the suspension, revocation or variation of a licence or alternatively to the issue of a written warning. Where there are issues identified in the course of a review hearing which highlight concerns about personal licence holders, the Board will also give consideration to holding separate hearings on their licences.
- 19.2 The Board may reject a premises licence review application if it does not disclose any matter relevant to any ground for review or if it is vexatious or frivolous. This preliminary decision will be delegated to the Convener for consideration in terms of the scheme of delegation provided at Appendix 2
- 19.3 Where grounds have been established which merit a review hearing, the Board will expect to receive a report from the Council's LSOs (other than when the review application is LSO-led) on the terms of the review, and any other matters relevant to the affected premises. The Board encourages premises licence holders to work with the Council's LSOs and, where appropriate, Police Scotland when there are concerns about the operation of premises, identified during the review hearing.
- 19.4 With regard to premises licence review proposals, the Board may make a review proposal in respect of particular premises within its area. It will do so when circumstances are brought to its attention suggesting conduct which is inconsistent with the licensing objectives.
- 19.5 In respect of the requirement to make a review proposal, triggered by a premises licence holder's conviction for a relevant offence, the Board will have regard to the nature of the offence and the relevance or otherwise to the operation of affected premises within the Board's area, in deciding the course of action to be taken in relation to the premises licences. The Board reserves the option to issue a nominal written warning where the conviction is considered to be of minimal relevance.

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## 20. PERSONAL LICENCES

Personal licence application procedures:-

- Criteria to be met for applications being made.
- Board to provide notice of applications to Police and LSOs

Policy on:-

- Refresher training requirement
- Renewal procedures

- 20.1 Any individual may seek a personal licence whether or not they have current employment or business interests associated with the use of the licence.
- 20.2 The Board will grant a personal licence if it is satisfied that the applicant:
- is over 18 years of age
  - possesses a relevant licensing qualification
  - has not had a personal licence revoked in the previous five years, ending with the day on which the application was received,
  - has not been convicted of any relevant offence or foreign offence
- 20.3 The Board will give notice of any personal licence application to the Chief Constable and Licensing Standards Officers, who must give notice to the Board in one of the forms laid out in section 73 of the Act. Where such notice is received, the Board will hold a hearing at which it will consider carefully whether it is satisfied that the grant of a licence would not breach the objectives of the Act. The Board will also consider the fit and proper status of applicants, where this has been highlighted by statutory consultees. It will consider the seriousness and relevance of any conviction, the period that has elapsed since the offences were committed and any mitigating circumstances. If not so satisfied the Board will refuse the application.
- 20.4 The Board expects that personal licence holders will ensure that they comply with the requirements of mandatory refresher training every five years, beginning with the expiry of the five year period from their licence being issued. The Board expects personal licence holders to provide an appropriate certificate confirming that they have completed the mandatory training together with their existing personal licence, in order that an amended version of their licence can be issued to them. Where a personal licence holder fails to comply with these requirements, the Board will revoke their licence in terms of section 87(3) of the Act.

The Board is aware that Personal Licence holders are now able to commence the renewal application process in respect of their licences and encourages licence holders to have regard to the approach set out in the guidance provided by Scottish Government as regards personal licence holders both renewing their licence and providing evidence of the mandatory five year refresher training at the same time.

[Scottish Government guidance on personal licence renewal process](#)

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## THE FIVE LICENSING OBJECTIVES

- preventing crime and disorder
- securing public safety
- preventing public nuisance
- protecting and improving public health
- protecting children and young persons from harm

## 21 OVERVIEW

- 21.1 The following sub-sections set out the Board's policy relating specifically to the five licensing objectives:
- preventing crime and disorder
  - securing public safety
  - preventing public nuisance
  - protecting and improving public health
  - protecting children and young persons from harm
- 21.2 In each section relating to the objectives, the Board has defined its intended outcome. Each section lists the influencing factors on the achievement of that objective but, because of the wide variety of premises and activities to which this policy applies, the lists provided are not exhaustive. Applicants will know their own premises best and will be expected to address all aspects relevant to the individual style and characteristics of their premises and the licensable activities for which they are seeking authorisation.
- 21.3 In each sub-section, a list of possible control measures is provided. This is intended to be of assistance to applicants, but again, is not intended to be an exhaustive list. Many control measures achieve more than one objective but have not necessarily been listed under each objective.
- 21.4 The selection of control measures should be based upon a risk assessment of the premises, the proposed activities and the type of customers expected to attend, for example their age range and numbers. Risk assessment is considered to be good practice and a useful tool in the instruction and training of staff, as well as a sound basis for review by the licenceholder, in the event of requiring to make application for a variation or in response to changing circumstances or conditions at the premises.
- 21.5 Additional measures may be necessary on an occasional or specific basis such as when a special event is planned which is intended to, or likely to, attract larger audiences or audiences of a different nature; this can have a significant impact on the achievement of the licensing objectives.
- 21.6 The Board encourages applicants and licenceholders to ensure that they have adequate arrangements in place for the effective and responsible management of the premises and for instruction, training and supervision of staff. This is considered to be an essential control measure for the achievement of all the licensing objectives.

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## 22 PREVENTING CRIME AND DISORDER

- 22.1 The City of Edinburgh Council together with other agencies supports a strategy aimed at making the city a safe place to live in and visit. The Board is committed to further improving the quality of life for the people of the city by continuing to adopt policies and to introduce measures designed to increase community safety and to reduce crime, the fear of crime and disorder.
- 22.2 There are already in existence a wide range of measures for preventing and reducing crime and disorder. The Act reinforces the duty of the Board to make this a top priority.
- 22.3 The promotion of the licensing objective to prevent crime and disorder, places a responsibility on licence holders to become key partners in achieving this objective. Applicants will be expected to demonstrate in their operating plan that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and the activities at those premises.
- 22.4 The applicant should be able to demonstrate that all those factors, which impact on crime and disorder, have been considered. These include:
- underage drinking
  - drunkenness on premises
  - public drunkenness
  - illegal possession and/or use of drugs
  - violent behaviour
  - anti-social behaviour
  - litter
  - unauthorised advertising
- 22.5 The following examples of control measures are given to assist applicants who may need to take account of them in their operating plan, having regard to their particular type of premises and/or licensable activities:
- effective and responsible management of premises
  - training and supervision of staff
  - adoption of best practice guidance where available, including those relating to drinks promotions and safe drinking/units guidance.
  - acceptance of accredited proof of age cards for instance PASS or locally approved cards
  - provision of effective CCTV in and around the premises, which complies with all current legislative provisions and provision of external lighting and other security measures
  - employment of Security Industry Authority licensed door supervisors
  - provision of litterbins outside premises
  - membership of local pubwatch schemes or similar organisations
  - responsible advertising
  - distribution of promotional leaflets and posters.
- 22.6 Close circuit television makes a significant contribution to addressing antisocial behaviour

across the city of Edinburgh. In recent years extensive investment in public space CCTV across the city has assisted in the identification and prosecution of criminals and provided reassurance to residents. With an extensive network of cameras, CCTV cameras are a vital part of the City of Edinburgh Council's strategy to tackle antisocial behaviour as well as contributing to the development of safer communities. These cameras are designed both to prevent and to detect anti social behaviour. Where CCTV is installed the Board will expect cameras to be left on for a minimum of thirty minutes after the terminal hour and that the licensing section of the Council is immediately informed of any fault in the operation.

- 22.7 The Board is aware of the condition relating to the installation of CCTV in late opening premises, which is contained in regulations made by Scottish Ministers. In order to ensure the greatest possible degree of protection for the public this Board intends to consider conditions which go beyond those published by Scottish Ministers where circumstances dictate. In particular the Board will expect to see CCTV installed in and around certain off sales premises. Reference is made to Chapter 12 of this policy in this connection.
- 22.8 In 2006 the Council made byelaws prohibiting the consumption of alcohol in designated public places. These were adopted as part of the overall strategy to make safe all the public areas within the city. The text of the byelaws is available on the Council's [website](#).

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## 23 SECURING PUBLIC SAFETY

- 23.1 The Board is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised. To this end, applicants will be expected to demonstrate in their operating plan that suitable and sufficient measures have been identified and will be implemented and maintained to ensure public safety, relevant to the individual style and characteristics of their premises and the licensable activities for which the licence is being sought.
- 23.2 When addressing the issue of public safety, an applicant must demonstrate that those factors which impact on standards of public safety have been considered. These include:
- the occupancy capacity of the premises
  - the standard of maintenance of the building having regard to its age and the design and layout of the premises, including the means of escape in the event of fire
  - the structural stability of the premises
  - the adequacy of vehicular access to the premises by the fire and rescue service
  - the safety of gas and electrical installations
  - the nature of the activities to be provided, in particular the sale or supply of alcohol and the provision of music and dancing, including whether those activities are of a temporary or permanent nature
  - the hours of operation differentiating the hours of opening from the hours when alcohol is sold, if different
  - customer profile for instance age, disability
  - the use of special effects such as lasers, pyrotechnics, smoke machines and foam machines
- 23.3 The following examples of control measures are given to assist applicants who may need to take account of them in their operating plan, having regard to their particular type of premises and/or activities :
- suitable and sufficient risk assessments, including compliance with the requirements of the Fire (Scotland) Act 2005
  - effective and responsible management of premises, including installation of a CCTV system which complies with current legislative requirements in and around premises
  - provision of a sufficient number of people employed or engaged to secure the safety of the premises and patrons
  - appropriate instruction, training and supervision of those employed or engaged to secure the safety of the premises and patrons
  - adoption of best practice guidance
  - implementation of crowd management measures
  - proof of regular testing and certification where appropriate of procedures, appliances and safety systems.
- 23.4 In order to ensure that the objective of securing public safety is addressed the Board will circulate relevant applications for occasional licences and all applications for variations of license to the Council's department of city development and request



reports highlighting matters which the Board need to take into account in its consideration of the application.

Police Scotland and NHS Scotland have highlighted the potential use of toughened glass in certain circumstances and in certain premises, as detailed in [Chapter 7](#) of the policy, connected particularly with promotion of the securing public safety and preventing crime and disorder licensing objectives, but also relevant to the protecting and improving public health licensing objective.

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## 24 PREVENTING PUBLIC NUISANCE

- 24.1 The Board believes that licensed premises may have a significantly adverse impact on communities, through public nuisances which arise from their operation. It wishes to maintain and protect the amenity of residents and occupiers of other businesses from the potential consequence of the operation of licensed premises, whilst recognising the valuable cultural, social and business importance that such premises provide.
- 24.2 The Board will interpret public nuisance in its widest sense and will take it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.
- 24.3 The Board acknowledges the provisions of [section 65](#) of the Act in relation to off-sales by shops, stores, supermarkets and other premises selling alcohol for consumption off the premises. The Board may permit the hours during which alcohol is sold to match the normal trading hours during which other sales take place, unless there are reasons for not doing so, such as disturbance or disorder attributable to the location and / or the premises. Reference is made in this connection to [Chapter 12](#) of this policy, relating to off-sales and to [Chapter 11](#) relating to hours of trading.
- 24.4 However, applicants need to be aware that the Board may apply stricter conditions, including controls on licensed hours, where premises are in residential areas; where their activities may impact on residents or other business premises; and where relevant representations have been received.
- 24.5 The Board believes that the impact licensed premises can have on a neighbourhood is significantly influenced by the times when those licensed premises are open. The Board may stipulate shorter hours when considering a premises licence application, if it considers this to be appropriate depending on where the premises are situated or the likelihood of their becoming a source of antisocial behaviour. The Board will consider each case on its merits but may be inclined to stipulate a terminal hour as early as 6pm for the sale of alcohol in appropriate circumstances.
- 24.6 Applicants will be expected to demonstrate in their operating plan that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance, relevant to the individual style and character of their premises and events.
- 24.7 When addressing the issue of prevention of public nuisance, the following facts are relevant:
- the location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices, care homes and places of worship
  - the hours of opening, particularly between 23.00 and 07.00
  - the nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises
  - the design and layout of premises and in particular the presence of noise limiting features and a CCTV system, which complies with current legislative requirements

- the occupancy capacity of the premises
- the availability of public transport
- the wind down period between the end of the licensable activities and the closure of the premises
- the last admission time

24.8

The following examples of control measures are given to assist applicants who may need to take account of them in their operating plan, having regard to their particular type of premises and/or activities:

- effective and responsible management of premises
- appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance, for instance to ensure that customers leave quietly
- control of operating hours for all or parts of the premises, for instance garden areas, including deliveries and disposal of glass
- adoption of best practice guidance
- installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices
- management of people, including staff and vehicular traffic and resulting queues, arriving and leaving premises
- liaison with public transport providers
- siting of external lighting, including security lighting and installation of an effective CCTV system which complies with current legislative requirements
- management arrangements for collection and disposal of waste and empty bottles
- effective ventilation systems to prevent nuisance from odour and noise from air conditioning units.

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## 25 PROTECTING AND IMPROVING PUBLIC HEALTH

- 25.1 The Board recognise the main strategic aim of the Scottish Government's Alcohol Strategy is to reduce per capita consumption of alcohol. The Board wishes to see premises thriving in the city but this cannot be at the expense of public health and wellbeing. The Board will have particular regard to the views of the relevant bodies responsible for, and interested in, the protection and improvement of public health in the City of Edinburgh. It will continue its representation on the Edinburgh Alcohol and Drugs Partnership and take advice from appropriate bodies, including those represented on the Forum. The critical importance of such close liaison is recognised as part of the wider alcohol agenda, particularly in relation to the public health and child protection licensing objectives.
- 25.2 Applicants will be expected to demonstrate in their operating plan that suitable and sufficient measures have been identified and will be implemented and maintained to protect patrons' health. This will include such measures as making available information with regard to sensible drinking, the effects of excessive alcohol consumption and contact points where assistance is available to address problem drinking.
- 25.3 A major concern about excessive alcohol consumption is its impact on people's health. There is ignorance of the advisable daily and weekly units of alcohol which may be consumed. There is also ignorance of the number of units in commonly consumed drinks, although some manufacturers are taking an initiative in this regard and publishing information on the labels of their products. The Board considers that greater awareness of this issue would be achieved by more overt displaying of information. It wishes to impress upon licence holders the importance of this issue and will expect prominent informative signage to be displayed in appropriate places within their premises. If necessary, and as the result of a relevant representation, such a requirement may be imposed by way of a condition on a premises licence.
- 25.4 The measures identified by an applicant may depend on the individual characteristics of the premises for which the licence is sought. The Board will be receptive to conditions which are proposed by individual applicants in respect of the promotion of this licensing objective. This might include the use of drink mats with sensible drinking messages and the use of posters on areas of circulation and in the toilet areas.
- 25.5 The Board is very aware of the risk of harm to children and young persons' health and this will be of paramount consideration when determining applications. Children and young persons may be adequately protected from harm by the action taken to protect adults but they also may need special consideration. It is recognised that no policy can anticipate every situation but applicants will be expected to demonstrate that they have given particular care to introduce measures designed to protect children and young persons' health while in or around their premises.
- 25.6 Licence applicants, door supervisors where employed and premises managers, as well as other staff employed in the premises, must remain vigilant at all times to the risks of excessive consumption; there should be established practice within the premises to ensure that a standard approach is taken where patrons' demeanour

demonstrates an excessive consumption of alcohol. There should also be a clear understanding of the offences committed in connection with the service of alcohol to children and young persons or persons who are drunk.

- 25.7 In terms of the [mandatory conditions](#) set out in schedule 3 of the Act applicants must provide a wide selection of reasonably priced non alcoholic beverages during the whole period the premises are open. They are also encouraged to provide food on the premises, so that patrons may eat at the same time as consuming alcoholic beverages if they wish.
- 25.8 Adequate ventilation and sanitary provision must be provided by the applicant to the satisfaction of the Board.

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## 26 PROTECTING CHILDREN AND YOUNG PERSONS FROM HARM

- 26.1 The Board will seek advice from and have particular regard for the views of the most relevant body in the city of Edinburgh. This is currently the Edinburgh Child Protection Committee. The City of Edinburgh Licensing Forum will be another body from whom the Board will seek advice on achieving this objective.
- 26.2 The Board wishes to see family friendly premises thriving in the city; it will welcome applications from those who wish to operate a licensed premises which accommodates children and young persons. In determining any such application the risk of harm to children and young persons will be a paramount consideration for the Board. Following a recommendation from the Forum, the Board has agreed that where licence holders and applicants make applications seeking access or increased access to premises for children and young persons, where the Board considers it appropriate to do so it will carry out site visits of the premises to assess their suitability prior to considering applications.
- 26.3 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. Applicants will be expected to demonstrate that suitable and sufficient measures have been identified and will be implemented and maintained to protect children and young persons from harm
- 26.4 Applicants will be expected to demonstrate in their operating plan that suitable and sufficient measures have been identified and will be implemented and maintained to protect children and young persons from harm, relevant to the individual style and character of their premises and the licensable activities for which a licence is being sought.
- 26.5 When addressing the issue of protecting children and young persons from harm, the applicant must demonstrate that those factors, which may particularly impact on harm to children and young persons, have been considered. These factors include whether:
- entertainment or services of an adult or sexual nature are commonly or regularly provided
  - members of the current staff at the premises have been convicted for serving alcohol to children and young persons or offences against children and young persons
  - there has been a known association with drug taking, drug dealing or other criminal activity on the premises, and
  - the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided there
- 26.6 The following examples of control measures are given to assist applicants who may adopt them in any combination, taking into account the individual style and character of their premises:
- effective and responsible premises management which may include the

requirement for a policy on child protection

- appropriate instruction, training and supervision of those employed
- consideration of imposing a requirement for a Disclosure Scotland check
- consideration of imposing a limitation on the hours when children and young persons may be present
- consideration of imposing a limitation of the parts of the premises where children and young persons may be present
- consideration of imposing a requirement for children and young persons to be accompanied by an adult
- acceptance of only accredited proof of age cards e.g. passport, photographic driving licence or PASS scheme cards
- through enforcement and revocation based on complaints, police reports or related enforcement activity, measures to ensure children and young persons are not exposed to incidences of violence or disorder

26.7

The Board is aware of, and will apply, the relevant conditions included in the regulations issued by the Scottish Government and will have regard to the Guidance. The Board also expects that holders of a premises licence which allows children and young persons entry to the premises will seek to ensure that:

- accompanying adults are able to take responsibility for and supervise the children at all times
- children's food and drinks must be served in suitable and safe containers
- any stairs on the premises are risk assessed and where necessary shall be adequately guarded by a gate or other suitable means
- all heating appliances are risk assessed and where necessary shall be adequately guarded
- all electrical plug sockets in areas accessible to children shall be adequately protected
- all furniture and fittings shall be of safe design having regard to their use by children
- there is an accessible wash-hand basin with piped supplies of hot and cold water. Hot water shall be thermostatically controlled to 43°C
- the floor covering in the public toilets shall be a non-slip and easily cleaned material
- a menu shall be available at all times that children are allowed on the premises with either a children's section or indicating that half portions are available for children
- no gaming machines may be situated in the part of the premises accessible to children and young persons except in accordance with the provisions of the [Gambling Act 2005](#)

26.8

In addition, the Board expects that holders of a premises licence which caters for children under 5 years seek to ensure that :

- paper or plastic cups are available for children under 5 years
- a minimum of two high chairs that allow stable seating and have suitable safety restraints are provided
- adequate, clean and safe baby changing facilities will be provided that are accessible to both genders.
- a lidded, leak proof bin marked 'for the disposal of nappies' shall be provided
- the premises comply with the law on breast-feeding in public areas

26.9

The Board have imposed in most premises licences and occasional licences where children and young persons are admitted a condition creating an area adjacent to any bar of the premises where children and young persons are not allowed to stand or sit. The Board is aware that the terms of this condition are not identical in all licences and wishes to emphasise it expects that licenceholders subject to a condition in these general terms operate and manage their premises to ensure that children and young persons are not encouraged to stand or be seated adjacent to bars.

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**DELEGATION OF LICENSING FUNCTIONS**

Licensing (Scotland) Act 2005 Schedule 1 paragraph 10 and named sections of the Act

	<b>Subject Matter</b>	<b>Licensing Board</b>	<b>Convener or Member of the Board</b>	<b>Clerk of the Board and Deputes</b>
1	Determination of the Board's policy for the purposes of the licensing policy statement or supplementary licensing policy statement	✓		
2	Determination, for the purposes of the licensing policy statement or supplementary statement, whether there is over provision of licensed premises or overprovision of licensed premises of any particular description, in any locality	✓		
3	Determination of a premises licence application	✓		
4	Determination of a premises licence variation application other than a minor variation	✓		
5	Determination of a premises licence variation application where the variation sought is minor (section 30(2))		✓	✓
6	Determination of an application for the transfer of a premises licence where the applicant has been convicted of a relevant offence or foreign offence and notice received under section 33(6)(b)	✓		
7	Determination of an application for the transfer of a premises licence where notice received under section 33(6)(a)		✓	✓
8	Determination of a personal licence application or a	✓		

	<b>personal licence renewal application where the Board has received a notice from the Chief Constable under section 73(3)(b)</b>			
9	<b>Determination of a personal licence application or a personal licence renewal application where the conditions of section 74 are met and the Board has received a notice from the Chief Constable under section 73(3)(a)</b>		✓	✓
10	<b>Making a premises licence review proposal (section 37 or section 44)</b>	✓		
11	<b>Conducting a hearing under the Licensing (Scotland) Act 2005 and taking any of the following steps following hearing: issuing a written warning to a premises licenceholder; revoking or suspending a premises licence; making a variation of the premises licence; revoking, suspending or endorsing a personal licence</b>	✓		
12	<b>Making a closure order (section 97)</b>	✓		
13	<b>Application for provisional premises licence (section 45)</b>	✓		
14	<b>Refusing an application for confirmation of a provisional premises licence</b>	✓		
15	<b>Granting an application for confirmation of a provisional premises licence</b>		✓	✓
16	<b>Application for temporary premises licence (section 47)</b>		✓	✓
17	<b>Determination of requests for shortened notice period for occasional licences (section 57(5))</b>		✓	✓
18	<b>Determination on referral of contentious or complex applications for occasional</b>		✓ (Convener only)	

	<b>licence to the Board (including where appropriate, applications for “pop up “ bars)</b>			
19	<b>Determination of an application for an occasional licence where there is notice of objection or representations in relation to it or notice from the Chief Constable recommending refusal of the application (section 56)</b>		✓	
20	<b>Granting an occasional licence application where there is no notice of objection nor representations in relation to the application or no notice from the Chief Constable recommending refusal of the application (section 56)</b>		✓	✓
21	<b>Determination extending licensed hours (section 67)</b>	✓		
22	<b>Determination of an application for extended hours where there is notice of objection from the Chief Constable or report from the LSOs (section 70)</b>		✓	✓
23	<b>Determination of requests for shortened notice period for extended hours applications (section 69(5))</b>		✓	✓
24	<b>Determination of an application for extended hours where there is notice of objection from the Chief Constable or report from the LSOs, for major events which may be considered contentious or complex</b>		✓ Convener only	
25	<b>Determination of whether applications for review of premises licence are vexatious or frivolous</b>		✓ Convener only	

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## APPENDIX 2

PLANS SHOWING THE LOCALITIES DESIGNATED BY THE BOARD AS BEING OVERPROVISION  
LOCALITIES – SPECIFIED IN [CHAPTER 8](#)

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CITY OF EDINBURGH LICENSING BOARD  
GUIDANCE ON DANCE ENTERTAINMENT  
IN LICENSED PREMISES

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This guidance was adopted by the City of Edinburgh Licensing Board in order to promote the licensing objectives in licensed premises where any form of dance entertainment is provided. Once section 45A of the Civic Government (Scotland) Act 1982 has been commenced, as with [Chapter 16](#) of the policy, this guidance will be updated. For the meantime the guidance sets out what the Board expects the operating plans of premises offering dance entertainment to indicate: that due regard has been taken to the terms of this guidance. Failure to do so may be taken into account in a review of the premises licence. This guidance has not been drafted in the manner of a legal document with interpretation clauses. Words and expressions used should therefore be given their usual and normally accepted meaning. Licence holders should seek further guidance from the Licensing Board if in doubt as to the requirements of the following guidance or if they wish to seek exemption from any of the stated requirements either generally or in respect of a particular occasion or event.

1. **Code of Conduct**

The licence holder shall have in place a code of conduct for behaviour of staff and customers, copies of which shall be available to staff and customers. The code will deal with matters such as information for the dancers on distance to be maintained from customers during a dance, prohibitions on sexual behaviour and propositioning, and what to do if a customer breaches the rules.

2. **The Dancers**

The licence holder should maintain a register of dancers engaged to perform in the licensed premises. The register should show the name, age and current address of the dancer. The licence holder should require photographic proof of identity which should be via the production of the dancer's passport if available. Foreign Nationals must be asked for their passport and the licence holder should take appropriate steps to ensure that there are no restrictions on the dancer's entitlement to stay and work in the United Kingdom. No dancer, below the age of 18, should be engaged.

2. **Changing Facilities**

The licence holder should provide suitable changing facilities for the dancers to comply with the following basic standards:-

- a) the facilities should have a minimum floor area of 1.86m<sup>2</sup> per dancer engaged to perform at any one time;
- b) the facilities should be secure, private and for single sex use only and should not be accessible by patrons;
- c) the facilities should be located near to, but not within, sanitary conveniences;
- d) the facilities should include private and lockable storage units for each dancer for the safe-keeping of valuables and clothing;

- e) the facilities should include a plentiful supply of wholesome chilled drinking water for all dancers;
- f) a strict no smoking policy should be enforced.

### 3. **Performances**

Dancers should generally only perform in the open public areas of the licensed premises which should at all times be appropriately stewarded and covered by CCTV cameras. There shall be no private booths. Dancers' genitalia should be covered with clothing at all times. There should be no touching between dancers and patrons at any time during a performance, the only contact allowed being the hand to hand payment of money at the conclusion of the performance. Any advertising of performances outwith the licensed premises whether by way of newspaper advertisements or notices at the premises may only depict dancers clothed as aforesaid. Performances involving the removal of clothes should not be visible from outwith the premises.

### 4. **Supervision**

The licensed premises should be appropriately stewarded by personnel licensed by the Security Industry Authority. Stewards should be provided in all public dance areas in addition to at least one steward positioned at each entrance to and / or exit from the premises. All public dance areas and entrances and exits should be monitored constantly while the premises are open to the public via the use of CCTV. CCTV should be provided of a high quality to ensure that individuals may be clearly identified whilst in any part of the premises. Licence holders should ensure that the CCTV cameras operate properly whenever dancers are performing on the premises. CCTV recordings should be retained for a period of at least 2 months and made available to the Licensing Standards Officers when required.

### 5. **General Health and Safety Issues**

#### **A. Risk Assessment**

A risk assessment should be undertaken and appropriate control measures should be implemented in respect of

- the precise work activities required of dancers
- the personal safety of dancers
- the use of chemicals which may come into contact with dancers' skin.

This is not an exhaustive list and licence holders should ensure that all hazards are assessed.

In addition, the premises should be subject to a fire risk assessment to the standard of the Fire Precautions (Workplace) Regulations 1997 as amended. This assessment should be recorded and kept available for inspection by a duly authorised fire safety officer of the Scottish Fire and Rescue Service.

#### **B. Ventilation**

All dance areas and the changing facilities provided for dancers should be mechanically ventilated with fresh or purified air. There should be at least ten air changes per hour.

#### **C. Temperature**

All dance areas and the changing facilities provided for dancers should be maintained with a minimum temperature of 25 Celsius / 72 Fahrenheit. A thermometer should be provided in all

rooms used by dancers. Portable LPG heaters are not an acceptable form of permanent heating.

#### **D. Lighting**

All dance areas, changing facilities provided for dancers and sanitary conveniences should have lighting of a sufficient standard to enable dancers and others to move around safely.

#### **E. Cleanliness**

All dance areas, changing facilities provided for dancers and any furniture, fittings etc. should be kept clean. The surfaces of floors, walls and ceilings of all dance areas, changing facilities and other parts of the licensed premises to which dancers have access should be capable of being kept clean.

#### **F. Sanitary Conveniences**

Sanitary conveniences should be provided in accordance with the requirements of the Workplace (Health Safety & Welfare) Regulations 1992. The facilities should be for the exclusive use of dancers and should provide privacy and security from intrusion by members of the opposite sex and from patrons.

#### **G. Washing Facilities**

Wash hand basins and showers should be provided in accordance with the requirements of the Workplace (Health Safety & Welfare) Regulations 1992 and the currently approved Code of Practice made thereunder. Such facilities should be for the exclusive use of staff and should have a supply of warm, or hot and cold water and provide privacy and security from intrusion by members of the opposite sex and from patrons. Washing facilities should be provided in the immediate vicinity of the sanitary conveniences and the changing facilities.

#### **H. Condition of Floors**

Every floor used for dancing or for access to the dancing areas should be of a construction suitable for the intended uses and should be kept free from obstruction and from any substance that may cause a dancer to trip or slip.

#### **I. Facilities to Eat Meals**

Eating facilities to include a table, chairs, kettle and sink with hot and cold water should be provided. Good hygiene standards should be maintained in the facility

### **6. Public Order Issues**

In the interests of providing for and maintaining public order and safety in the premises during the hours when they are open to the public, the licence holder should ensure that empty glasses and bottles are regularly cleared from areas to which the public have access. Any receptacles provided on the premises for the collection, or disposal by patrons, of empty bottles should be of solid construction, emptied regularly by staff and designed so that bottles already deposited therein cannot be retrieved by patrons. No glasses or bottles should be permitted in cloakrooms, sanitary conveniences or dance floors located on the premises. Sufficient shelves, ledges, tables and counters should be provided on the premises to accommodate glasses and bottles before collection.

## 7. **Compliance**

Licence holders should seek their own professional advice if they are in any doubt as to whether their premises comply with the requirements of the guidance. Advice on health and safety issues may be sought from the City of Edinburgh Council's Environmental Health Services. The council's licensing standards officers will visit the premises from time to time to check for compliance with all aspects of this guidance.

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## **LIST OF CONSULTEES RESPONDING TO CONSULTATION ON DRAFT STATEMENT OF LICENSING POLICY**

In developing this statement, the Board has consulted widely and given due consideration to the views of those who responded to that consultation process. There are many organisations and people who have a stake in the leisure industry, including providers, customers, residents, law enforcers and the emergency services, all of whom have views and concerns that require consideration in the promotion of the licensing objectives. Details the consultation responses received and considered by the Board are set out below.

The Board is required to have regard to the Guidance and to consult with:

- the Forum
- such other person or persons who appear to the Board to be representative of:
  - holders of premises and personal licences
  - persons having functions relating to health, education or social work
  - young people
  - persons resident within the licensing forum's area
  - such other persons as the Board thinks appropriate, and
- the relevant health board for the Board area.

***[DETAILS OF CONSULTEES WILL BE ADDED IN AT CONCLUSION OF THE CONSULTATION PROCESS]***

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## LATE HOURS CATERING – COUNCIL POLICY ON HOURS OF OPERATION

Details of the Council's Late Hours Catering policy, for take-away premises, etc are set out on the Council's website – [link here](#)

### CITY OF EDINBURGH COUNCIL – LATE HOURS CATERING POLICY Policy on Hours of Operation

#### **Petrol Stations, Supermarkets and Retail Shops**

Provided the premises are not being used primarily as a fast food takeaway premises and there are no environmental issues to address there will normally be a recommendation to grant the licence from 11pm to 5am.

#### **Takeaway premises**

All premises are categorised by location and in order to prevent crowd migration from clubs to takeaway premises, no Late Hours Catering licences will be granted with a closing hour beyond 3am.

#### **City Centre**

Where a premises is located within Ward 11 (Edinburgh city centre) the licence will not generally be granted beyond:

2am (Sundays to Thursdays)

3am (Fridays and Saturdays)

Hours may be restricted in areas which are significantly residential or where previous complaints or compliance issues have been identified.

#### **Premises situated on arterial and main bus routes but out with City Centre Ward 11**

Where premises are situated on arterial routes giving access and egress from the city the licence will not generally be granted beyond:

1am (Sundays to Thursdays)

2am (Fridays and Saturdays)

This may be restricted in areas which are significantly residential or where previous complaints or compliance issues have been identified.

#### **Outwith City Centre**

Where premises are located outwith City Centre (Ward 11) the licence will not generally be granted beyond:-

12pm (Sundays to Thursdays)

1am (Fridays to Saturdays)

#### **Tenement style property**

Where premises are located in tenement style property, the licence will not generally be granted beyond:

12 Midnight.

In this regard consideration will be given to additional hours provided the applicant can evidence the consent of neighbours having been obtained in respect of the hours applied for.

Tenement style property is defined as property when residential accommodation is located above the applicant premises (e.g. a takeaway shop located below flats).

### **Residential Streets**

When premises are located in residential locations or situated in areas where there is a history of complaints the licence will not generally be granted beyond:

12 midnight (Fridays and Saturdays only)

Residential streets areas are defined areas where there are no other businesses operating.

### **Premises falling into more than one category**

Where premises fall within more than one of the categories the category that allows the least number of trading hours would apply. In these circumstances it would open to an applicant to make an application to be considered as an exception to the policy.

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## APPENDIX 6

Definitions: - In this statement the following words shall have the meaning set out:-

“Act” means the [Licensing \(Scotland\) Act 2005](#) as amended from time to time

“Board” means the City of Edinburgh Licensing Board constituted in terms of section 5 and schedule 1 of the Act

“Chief Constable” means the Chief Constable of Police Scotland

“Council” means the City of Edinburgh Council constituted in terms of the Local Government etc. (Scotland) Act 1994 and subsequent legislation

“Forum” means the City of Edinburgh Licensing Forum established by the Council in terms of section 10 and schedule 2 of the Act

“Guidance” means the Guidance for Licensing Boards and Local Authorities issued by the Scottish Ministers in terms of section 142 of the Act on 4 April 2007

“Late Night Conditions” means the conditions of licence specified in the [Licensing Conditions \(Late Opening Premises\) \(Scotland\) Regulations 2007](#) and set out in Appendix 10 below

“LSOs” means the Licensing Standards Officers appointed by the Council in terms of section 13 of the Act, details in Appendix 7 below

“Mandatory Conditions” means the conditions of licence specified in Schedules 3 and 4 to the Act and in Regulations all as amended from time to time – Appendices 9 and 10 below

“Rules” means the rules and procedures set down and agreed by the Board from time to time, in terms of Schedule 1 to the Act

“Website” means the Board’s website at [http://www.edinburgh.gov.uk/info/20023/licences\\_and\\_permits/960/edinburghs\\_licensing\\_board](http://www.edinburgh.gov.uk/info/20023/licences_and_permits/960/edinburghs_licensing_board)

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## LICENSING STANDARDS OFFICERS

LSOs are an integral part of the monitoring and compliance regime under the Act. Their role is :

- providing information and guidance concerning the operation of the Act to licenceholders, members of the public and other interested persons
- supervising compliance with licence conditions, Board policies and other requirements under the Act by premises licenceholders and holders of occasional licences.
- providing mediation services in order to avoid or resolve disputes or disagreements between the holders of premises or occasional licences and other persons concerning issues of compliance.

There is a firm commitment to ensuring that the LSOs are enabled to carry out their functions efficiently. This will include LSOs participating in licensed trade schemes such as Pubwatch and UNIGHT, as well as the Forum. LSOs will work alongside the trade, and are available for the most part during the licensed hours enjoyed by the trade in Edinburgh.

The Board recognises the interests of both citizens and businesses and will work closely with its partners, to assist licenceholders to comply with the law and the five licensing objectives it seeks to promote. Proportionate but firm action will be taken against those who commit offences. The Board expects enforcement agencies to adopt a similar approach and will seek to work actively with them to enforce the licensing legislation. In particular the Board intends to work closely with the police, sharing information where appropriate in order to enhance the promotion of the five licensing objectives.

LSO Contact details:-

The Council's Licensing Standards Officers may be contacted :

- by email : [licensing.standards@edinburgh.gov.uk](mailto:licensing.standards@edinburgh.gov.uk)
- in writing : C.07 Courtyard Level, Waverley Court, 4 East Market Street, Edinburgh, EH8 8BG
- by telephone : 0131 469 3871 or 0131 529 3030

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## POOL CONDITIONS – OCCASIONAL LICENCES

**Edinburgh Licensing Pool Conditions**

V1.1 January 2018

**Management / Supervision**

1. The applicant or another suitably trained person with managerial responsibility is present throughout the event and when alcohol is served. A contact phone number will be readily available at all times.
2. The applicant will ensure that their contact details including a contact phone number, or those of a personal licence holder if application is made in their name, will be readily available at all times for Police, Licensing Standards Officers or other Authorised Officers

**Inspection**

3. The occasional licence and / or public entertainment licence (delete as appropriate) is to be kept on the premises and made available for inspection when requested by a Licensing Standards Officer, Police Officer or other Authorised Officer, and any reasonable request by them is complied with.

**Children & Young People**

4. Children **and/or (delete as appropriate)** Young Persons will be prevented from gaining immediate access to any bar area.
5. Children will not be permitted access to the premises after **(insert Time)** hours. Young persons will not be permitted access to the premises after **(insert Time)** hours.
6. Children and / or Young Persons **(delete as appropriate)** permitted within the venue must be accompanied by a responsible adult at all times.
7. If not already provided, baby-changing facilities will be made available for children under the age of 5 years, in accordance Licensing Board's Policy concerning the Protecting Children and Young Persons from Harm objective.

**Training**

8. All staff employed in a position involving the sale or service of alcohol to undergo a minimum of two hours training prior to commencing duty (as defined in the Licensing (Training of Staff)(Scotland) Regulations 2007) with a record of this training being kept at the location and available for inspection by Police or Licensing Standards Officers.
9. The serving of alcohol by all staff must be undertaken in a responsible and safe manner

**Signage**

10. A notice advising that children and young persons **are/are not (delete as appropriate)** admitted is displayed at the point of entry.

11. Signage must be displayed at the entrance to each designated area listing the conditions of entry.
12. Appropriate signage must be clearly displayed, at every point of sale of alcohol, relative to age restrictions, alcohol provision and the relevant conditions of the licence. Signage should clearly identify:
  - No under 18s served alcohol
  - A Challenge 25 policy
  - The closing time of individual bars
  - Responsible drinking message
  - Be clearly legible

### **Stewards**

13. Appropriate stewarding to be provided to supervise admission, monitor occupant capacity and ensuring **supervision / control of patrons (delete as appropriate) using the facility / attending the event (delete as appropriate)**. All those persons engaged in such duties to be registered as door stewards with the Security Industry Authority, and authorisation must be clearly displayed.
  - Appropriate steps are taken to supervise admissions to the event and to objectively monitor the occupant capacity.
  - There is a written policy in respect of the management of dispersal.

### **Noise**

14. All amplified music and vocals to be controlled to the satisfaction of the Director of Place - Updated
15. All amplified music and vocals shall be so controlled as to be inaudible in the nearest neighbouring residential premises /or noise sensitive premises / after **(insert time – Normally 23:00hrs) (delete as appropriate)**.
16. Music and vocals performances are not permitted.
17. Amplified Music and vocals are not permitted.

### **Outside areas**

18. The licensed area complies with the area permitted by the relevant tables and chairs permit and it is clearly defined and enclosed by suitable barriers and controlled so that no drinks are allowed to be taken from it
19. At least one designated member of staff to be present within the area at all times to supervise admissions and to objectively monitor the occupant capacity, and to have an effective means of communication with the premises.
20. The use of the tables and chairs area shall cease **(insert time)** hours each evening
21. All street furniture including tables and chair, barriers, etc. must be off the street and in storage by **(insert time)** hours

22. The designated area will be regularly serviced and must be kept clear of empty receptacles, unattended glassware and all refuse removed.
23. The licensed area is fully monitored and recorded by CCTV.
24. All drinks / Alcoholic drinks will be supplied or decanted into plastic or paper containers. to (delete as appropriate)
25. All drinks being consumed in the external licensed area will be supplied or decanted into plastic or paper containers.
26. Supply of alcohol will only be permitted to persons seated at tables / and as an ancillary to a substantial meal. (delete as appropriate)
27. No alcohol should be removed from the delineated licensed area / or taken between two licensed areas. (delete as appropriate)
28. Staff to be trained in conflict resolution in order to deal with drunks, under-age sales, beggars and problematic customers attempting to use tables, beg or steal from customers or alternatively appropriate SIA registered stewards to be employed.
29. All Tables and Chairs are removed from the street in accordance with the relevant Tables and Chairs Permit's approved hours of operation.
30. All patrons must be seated.

### **Events**

31. A site plan (specific to name of event) showing the proposed licensed area is provided to the City of Edinburgh Council Licensing Board and there are no changes to this prior to, or during, the event.
32. Appropriate steps must be taken to ensure that the number of patrons within the public area does not exceed the agreed capacity of the premises.
33. The Alcohol Management Plan, Drug Awareness Policy, Medical Plan, Event Plan, Stewarding Plan (delete as appropriate) submitted prior to the event will be adhered to for the duration of the event
34. Appropriate stewarding will be in place to provide adequate control of the premises and is to be in accordance with the Stewarding Plan submitted to the EPOG for the event. The said Stewarding Plan will be adhered to for the duration of the event.
35. Appropriate provision is to be made in order to care for persons refused entry to the event due to intoxication or being under the influence of other substances – such persons are not to be left unattended
36. All persons shall be subject to a 'Challenge 25' assessment and where any doubt exists they will be required to show proof that they are 18 years of age or over.
37. The applicant will comply with all reasonable / lawful requests made by authorised officers of the Council and/or Police Officers



38. All reasonable requests, which do not have an operational impact, made by the Police or other council official should be complied with. All requests of an operational nature must be directed through the MACC.
39. A daily written record to be maintained by security staff/ bar staff, to detail refusals and incidents and state circumstances.

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Details of mandatory conditions – Occasional Licences – Schedule 4 of 2005 Act

- 1** In this schedule, “*the premises*” means, in relation to any occasional licence, the premises specified in the licence.
- 2** (1) Alcohol may be sold on the premises only in accordance with the terms of the licence.  
(2) Nothing in sub-paragraph (1) is to be read as preventing or restricting the doing of anything referred to in section 63(2)
- 3** Any other activity to be carried on in the premises may be carried on only in accordance with the description of the activity contained in the licence.
- 4** (1) The condition specified in sub-paragraph (2) applies only to an occasional licence issued to the holder of a premises licence or personal licence.  
(2) Every sale of alcohol made on the premises to which the licence relates must be authorised (whether generally or specifically) by the holder of a personal licence.
- 5** (1) The condition specified in sub-paragraph (2) applies only to an occasional licence issued to a representative of a voluntary organisation.  
(2) Alcohol may be sold on the premises only at an event taking place on the premises in connection with the voluntary organisation's activities.
- 5A** (1) Alcohol must not be sold on the premises at a price below its minimum price.  
(2) Where alcohol is supplied together with other products or services for a single price, sub-paragraph (1) applies as if the alcohol were supplied on its own for that price.  
(3) The minimum price of alcohol is to be calculated according to the following formula—

$$\text{MPU} \times \text{S} \times \text{V} \times 100$$

Where—

MPU is the minimum price per unit,

S is the strength of the alcohol, and

V is the volume of the alcohol in litres.

(4) The Scottish Ministers are to specify by order the minimum price per unit for the purposes of sub-paragraph (3).

(5) For the purposes of sub-paragraph (3), where—

(a) the alcohol is contained in a bottle or other container, and

(b) the bottle or other container is marked or labelled in accordance with relevant labelling provisions,

the strength is taken to be the alcoholic strength by volume as indicated by the mark or label.

(6) The Scottish Ministers are to specify by order the enactments which are relevant labelling provisions for the purposes of sub-paragraph (5).

- 5B** (1) A package containing two or more alcoholic products (whether of the same or different kinds) may only be sold on the premises at a price equal to or greater than the sum of the prices at which each alcoholic product is for sale.
- (2) Sub-paragraph (1) applies—
- (a) only where each of the alcoholic products is for sale on the premises separately, and
- (b) regardless of whether or not the package also contains any item which is not an alcoholic product.
- (3) In this paragraph, “*alcoholic product*” means a product containing alcohol and includes the container in which alcohol is for sale.
- 6** Where the price at which any alcohol sold on the premises for consumption on the premises is varied—
- (a) the variation (referred to in this paragraph as “*the earlier price variation*”) may be brought into effect only at the beginning of a period of licensed hours, and
- (b) no further variation of the price at which that or any other alcohol is sold on the premises for consumption on the premises may be brought into effect before the expiry of the period of 72 hours beginning with the coming into effect of the earlier price variation.
- 6A** Where the price at which any alcohol sold on the premises for consumption off the premises is varied—
- (a) the variation (referred to in this paragraph as “*the earlier price variation*”) may be brought into effect only at the beginning of a period of licensed hours, and
- (b) no further variation in the price at which that alcohol is sold on the premises may be brought into effect before the expiry of the period of 72 hours beginning with the coming into effect of the earlier price variation.
- 7** (1) An irresponsible drinks promotion must not be carried on in or in connection with the premises.
- (2) Subject to sub-paragraph (3), a drinks promotion is irresponsible if it—
- (a) relates specifically to an alcoholic drink likely to appeal largely to persons under the age of 18,
- (b) involves the supply of an alcoholic drink free of charge or at a reduced price on the purchase of one or more drinks (whether or not alcoholic drinks),
- (c) involves the supply free of charge or at a reduced price of one or more extra measures of an alcoholic drink on the purchase of one or more measures of the drink,
- (d) involves the supply of unlimited amounts of alcohol for a fixed charge (including any charge for entry to the premises),
- (e) encourages, or seeks to encourage, a person to buy or consume a larger measure of alcohol than the person had otherwise intended to buy or consume,
- (f) is based on the strength of any alcohol,
- (g) rewards or encourages, or seeks to reward or encourage, drinking alcohol quickly, or
- (h) offers alcohol as a reward or prize, unless the alcohol is in a sealed container and consumed off the premises.

(3) Paragraphs (c) to (e) of sub-paragraph (2) apply only to a drinks promotion carried on in relation to alcohol sold for consumption on the premises.

(4) The Scottish Ministers may by regulations modify sub-paragraph (2) or (3) so as to—

(a) add further descriptions of drinks promotions,

(b) modify any of the descriptions of drinks promotions for the time being listed in it, or

(c) extend or restrict the application of any of those descriptions of drinks promotions.

(5) In this paragraph, “*drinks promotion*” means, in relation to any premises, any activity which promotes, or seeks to promote, the buying or consumption of any alcohol on the premises.

**8** (1) The conditions specified in this paragraph apply only to the extent that the occasional licence authorises the sale of alcohol for consumption on the premises.

(2) Tap water fit for drinking must be provided free of charge on request.

(3) Other non-alcoholic drinks must be available for purchase at a reasonable price.

**9** (1) There must be an age verification policy in relation to the sale of alcohol on the premises.

(2) An “*age verification policy*” is a policy that steps are to be taken to establish the age of a person attempting to buy alcohol on the premises (“the customer”) 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).

(3) The condition specified in this paragraph does not apply in relation to any sale of alcohol which takes place on the premises merely by virtue of being treated, by section 139, as taking place on the premises.

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Mandatory Conditions – Premises Licences – Schedule 3 of 2005 Act

**1** In this schedule, “*the premises*” means, in relation to any premises licence, the premises specified in the licence.

**2** (1) Alcohol is to be sold on the premises only in accordance with the operating plan contained in the licence.

(2) Nothing in sub-paragraph (1) is to be read as preventing or restricting the doing of anything referred to in section 63(2).

**3** Any other activity to be carried on in the premises is to be carried on only in accordance with the operating plan contained in the licence.

**4** (1) Alcohol is not to be sold on the premises at any time when—

(a) there is no premises manager in respect of the premises,

(b) the premises manager does not hold a personal licence,

(c) the personal licence held by the premises manager is suspended, or

(d) the licensing qualification held by the premises manager is not the appropriate licensing qualification in relation to the premises.

(2) In sub-paragraph (1), “*appropriate licensing qualification*” in relation to any licensed premises means any licensing qualification prescribed as such in relation to licensed premises of that description in regulations under section 91(2)(d).

(3) Nothing in sub-paragraph (1) or paragraph 5 is to be read as requiring the premises manager to be present on the premises at the time any sale of alcohol is made.

**5** Every sale of alcohol made on the premises must be authorised (whether generally or specifically) by—

(a) the premises manager, or

(b) another person who holds a personal licence.

**6** (1) No person (other than a person who holds a personal licence) is to work in the premises in the capacity mentioned in sub-paragraph (2) unless that person has complied with such requirements as to the training of staff as may be prescribed for the purposes of this paragraph.

(2) That is a capacity (whether paid or unpaid) which involves the person—

(a) making sales of alcohol, or

(b) where alcohol is sold on the premises for consumption on the premises, serving such alcohol to any person.

(2A) At any time when a person (other than a person who holds a personal licence) is working in the premises in a capacity mentioned in sub paragraph (2), there must be kept on the premises a training record which relates to that person and is in the form set out in the Schedule to the Licensing (Mandatory Conditions No. 2) (Scotland) Regulations 2007.

(2B) A record kept on the premises under sub paragraph (2A) must be produced to a Licensing

Standards Officer on request.

(3) Regulations under sub-paragraph (1) prescribing training requirements may, in particular—

(a) provide for the accreditation by the Scottish Ministers of—

- (i) courses of training, and
- (ii) persons providing such courses,

for the purposes of the regulations,

(b) prescribe different training requirements in relation to different descriptions of persons,

(c) require that any person providing training or any particular description of training in accordance with the regulations hold a personal licence or such other qualification as may be prescribed in the regulations, and

(d) require training to be undergone again at such intervals as may be prescribed in the regulations.

**6A** (1) Alcohol must not be sold on the premises at a price below its minimum price.

(2) Where alcohol is supplied together with other products or services for a single price, sub-paragraph (1) applies as if the alcohol were supplied on its own for that price.

(3) The minimum price of alcohol is to be calculated according to the following formula—

$$\text{MPU} \times \text{S} \times \text{V} \times 100$$

Where—

MPU is the minimum price per unit,

S is the strength of the alcohol, and

V is the volume of the alcohol in litres.

(4) The Scottish Ministers are to specify by order the minimum price per unit for the purposes of sub-paragraph (3).

(5) For the purposes of sub-paragraph (3), where—

- (a) the alcohol is contained in a bottle or other container, and
- (b) the bottle or other container is marked or labelled in accordance with relevant labelling provisions,

the strength is taken to be the alcoholic strength by volume as indicated by the mark or label.

(6) The Scottish Ministers are to specify by order the enactments which are relevant labelling provisions for the purposes of sub-paragraph (5).

**6B** (1) A package containing two or more alcoholic products (whether of the same or different kinds) may only be sold on the premises at a price equal to or greater than the sum of the prices at which each alcoholic product is for sale on the premises.

(2) Sub-paragraph (1) applies—

- (a) only where each of the alcoholic products is for sale on the premises separately, and

(b) regardless of whether or not the package also contains any item which is not an alcoholic product.

(3) In this paragraph, “*alcoholic product*” means a product containing alcohol and includes the container in which alcohol is for sale.

**7** Where the price at which any alcohol sold on the premises for consumption on the premises is varied—

(a) the variation (referred to in this paragraph as “*the earlier price variation*”) may be brought into effect only at the beginning of a period of licensed hours, and

(b) no further variation of the price at which that or any other alcohol is sold on the premises for consumption on the premises may be brought into effect before the expiry of the period of 72 hours beginning with the coming into effect of the earlier price variation.

**7A** Where the price at which any alcohol sold on the premises for consumption off the premises is varied—

(a) the variation (referred to in this paragraph as “*the earlier price variation*”) may be brought into effect only at the beginning of a period of licensed hours, and

(b) no further variation in the price at which that alcohol is sold on the premises may be brought into effect before the expiry of the period of 72 hours beginning with the coming into effect of the earlier price variation.

**8** (1) An irresponsible drinks promotion must not be carried on in or in connection with the premises.

(2) Subject to sub-paragraph (3), a drinks promotion is irresponsible if it—

(a) relates specifically to an alcoholic drink likely to appeal largely to persons under the age of 18,

(b) involves the supply of an alcoholic drink free of charge or at a reduced price on the purchase of one or more drinks (whether or not alcoholic drinks),

(c) involves the supply free of charge or at a reduced price of one or more extra measures of an alcoholic drink on the purchase of one or more measures of the drink,

(d) involves the supply of unlimited amounts of alcohol for a fixed charge (including any charge for entry to the premises),

(e) encourages, or seeks to encourage, a person to buy or consume a larger measure of alcohol than the person had otherwise intended to buy or consume,

(f) is based on the strength of any alcohol,

(g) rewards or encourages, or seeks to reward or encourage, drinking alcohol quickly, or

(h) offers alcohol as a reward or prize, unless the alcohol is in a sealed container and consumed off the premises.

(3) Paragraphs [(c) to (e)] <sup>1</sup> of sub-paragraph (2) apply only to a drinks promotion carried on in relation to alcohol sold for consumption on the premises.

(4) The Scottish Ministers may by regulations modify sub-paragraph (2) or (3) so as to—

(a) add further descriptions of drinks promotions,

(b) modify any of the descriptions of drinks promotions for the time being listed in it, or

(c) extend or restrict the application of any of those descriptions of drinks promotions.

(5) In this paragraph, “*drinks promotion*” means, in relation to any premises, any activity which promotes, or seeks to promote, the buying or consumption of any alcohol on the premises.

**9** (1) The conditions specified in this paragraph apply only to the extent that the premises licence authorises the sale of alcohol for consumption on the premises.

(2) Tap water fit for drinking must be provided free of charge on request.

(3) Other non-alcoholic drinks must be available for purchase at a reasonable price.

**9A** (1) There must be an age verification policy in relation to the sale of alcohol on the premises.

(2) An “*age verification policy*” is a policy that steps are to be taken to establish the age of a person attempting to buy alcohol on the premises (“the customer”) 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).

(3) The condition specified in this paragraph does not apply in relation to any sale of alcohol which takes place on the premises merely by virtue of being treated, by section 139, as taking place on the premises.

**10** (1) The condition specified in sub-paragraph (2) applies only in relation to a premises licence in respect of which an annual or other recurring fee is to be paid by virtue of regulations under section 136(1).

(2) The fee must be paid as required by the regulations.

**11.** (1) The condition specified in this paragraph applies only in the case of premises on which alcohol is sold for consumption on the premises.

(2) There is to be displayed so that it is reasonably visible to customers entering the premises a sign of at least A4 size which—

(a) states that persons under the age of 18 are not permitted on the premises; or

(b) states that such persons are permitted on the premises or on such parts of the premises as are specified on the sign.

**12.** (1) The condition specified in this paragraph applies only in the case of premises—

(a) which are not—

(i) a vehicle;

(ii) a vessel;

(iii) a moveable structure; or

(iv) used wholly or mainly for the purposes referred to in section 125(1);

(b) on which alcohol is sold for consumption on the premises; and

(c) to which children under the age of 5 are to be admitted.

(2) There are to be on the premises facilities for baby changing which are to be accessible to persons of either gender.

**13.**(1) Subject to sub-paragraph (3), alcohol which is for sale only for consumption off the premises may be



displayed only in one or both of the following—

(a) a single area of the premises agreed between the Licensing Board and the holder of the licence; or

(b) a single area of the premises which is inaccessible to the public.

(1A) Sub-paragraphs (1B) to (1D) apply where the premises, in so far as they are used for the sale of alcohol, are so used only or primarily for the sale of alcohol for consumption off the premises.

(1B) Any drinks promotion on the premises may take place only in any one or more of the following—

(a) an area referred to in sub-paragraph (1)(a) and (b),

(b) a room on the premises which is used for offering the tasting of any alcohol sold on the premises (for consumption off the premises) and the resulting tasting and is separate from those areas.

(1C) A drinks promotion in connection with the premises may not take place in the vicinity of the premises.

(1D) For the purposes of sub-paragraph (1C), the “*vicinity*” means the area extending 200 metres from the boundary of the premises (as shown on the layout plan).

(2) In an area agreed in terms of sub-paragraph (1)(a), a product other than alcohol may be displayed only if it is—

(a) a non-alcoholic drink

(b) packaged with, and may be purchased only along with, alcohol

(c) a branded non-alcoholic product, or

(d) a newspaper, magazine or other publication.

(2A) Sub-paragraph (2) is without prejudice to sub-paragraph (1B).

(3) This paragraph does not apply in respect of premises—

(a) whose main function is to provide a visitor attraction, and

(b) where—

(i) the premises form part of a larger site which is used principally for the production of alcoholic drinks, or

(ii) the visitor attraction is used principally to provide information about and promote the history and attributes of a particular alcoholic drink or a particular category of alcoholic drink.

(4) In this paragraph—

“*branded non-alcoholic product*” means a product which does not consist of or contain alcohol and which—

(a) bears a name or image of, or

(b) is an image of,

an alcoholic product (namely, a product consisting of or containing alcohol),

*“drinks promotion”* means any activity which promotes, or seeks to promote, the buying of any alcohol sold on the premises for consumption off the premises but does not include the display of any product which is—

- (a) a branded non-alcoholic product for sale on the premises, or
- (b) a newspaper, magazine or other publication—
  - (i) for sale on the premises, or
  - (ii) if not for sale on the premises, which does not relate only or primarily to alcohol.

### Mandatory Conditions – Late Night Premises

All premises operating after 1:00am:-

1. A person trained to the satisfaction of the Licensing Board in administering first aid must be present on the premises from 1:00 am (on any day when the premises are open at that time) until whichever is the earlier of—
  - (a) the time at which the premises next close; and
  - (b) 5:00 am.

All premises operating after 1:00am and with a capacity of which is at least 250 people and which—

- (a) will regularly provide at any time in the period between 1:00 am and 5:00 am—
    - (i) live or recorded music with a decibel level exceeding 85dB;
    - (ii) facilities for dancing; or
    - (iii) adult entertainment; or
  - (b) when fully occupied, are likely to have more customers standing than seated.
2. A designated person who is the holder of a personal licence must be present on the premises from 1:00 am (on any day when the premises are open at that time) until whichever is the earlier of—
    - (a) the time at which the premises next close; and
    - (b) 5:00 am or such other time as the Licensing Board may specify.
  3. There must be written policies in existence concerning—
    - (a) the evacuation of the premises; and
    - (b) the prevention of the misuse of drugs on the premises.
  4. A CCTV system must be installed on the premises to the satisfaction of the appropriate chief constable and must be kept in good working order.
  5. There must be persons responsible for checking on the safety and wellbeing of persons using any toilet facilities on the premises.

6. A person who holds a licence granted under section 8 of the Private Security Industry Act 2001 must be

positioned at every entrance to the premises from 1:00 am (on any day when the premises are open at that time) until whichever is the earlier of–

- (a) the time at which the premises next close; and
- (b) 5:00 am or such other time as the Licensing Board may specify.

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ANNUAL FUNCTIONS REPORT – 2017/18 - LICENSING (SCOTLAND) ACT 2005  
SECTION 9A

ITEM No.

6

**1. Purpose**

- 1.1 To meet the Board's statutory duty to prepare and publish an annual functions report in terms of section 9A of the Licensing (Scotland) Act 2005 (the 2005 Act).

**2. Main Report**

- 2.1 Edinburgh Licensing Board is the licensing authority responsible for regulating the sale of alcohol in the area of City of Edinburgh Council for the purposes of the 2005 Act. The current Board was formed in May 2017 and is made up of ten elected members from City of Edinburgh Council.
- 2.2 The Edinburgh Licensing Board area had 7,962 personal licence holders and 1,917 premises licences (439 on sale, 513 off sale and 965 on and off sale) in force as at 31<sup>st</sup> March 2018.
- 2.3 The Board is responsible for considering applications for premises licences including applications for provisional and temporary premises, transfer, variation and confirmation of provisional premises. The Board is also responsible for considering applications for occasional licences, extended hours and personal licences.

**3. Licensing Objectives**

- 3.1 The 2005 Act sets out the following five licensing objectives -
- preventing crime and disorder
  - securing public safety
  - preventing public nuisance
  - protecting and improving public health
  - protecting children and young persons from harm
- 3.2 The Licensing Board must have regard to the licensing objectives when considering all applications. A breach of one or more of the licensing objectives is one of the statutory grounds for refusal of an application. Breach of one or more of the licensing objectives may also provide grounds for reviewing a premises licence.
- 3.3 There is a presumption of grant of an application if none of the licensing objectives have been breached and no other statutory grounds for refusal apply. The Board recognises that decisions to refuse applications must be evidence based and contain reasons as to why a statutory ground of refusal has been found to exist.
- 3.4 The Board may attach conditions to a licence where it considers it necessary or expedient to do so, for the purposes of any of the licensing objectives.

ANNUAL FUNCTIONS REPORT – 2017/18 - LICENSING (SCOTLAND) ACT 2005  
SECTION 9A

- 3.5 The Board requires all applicants for new premises and provisional premises licences to provide with their application details as to how they will ensure the operation of their premises complies with the requirements of the licensing objectives, and the Board's statement of licensing policy sets out examples of control measures for consideration by applicants and operators, in relation to each of the objectives.
- 3.6 The Board continues to carry out site visits to premises to assess suitability with regard to the objectives, particularly relating to protection of children and young persons from harm. The Board has made use of licensing conditions to address the public nuisance licensing objective (particularly in relation to amplified music and vocals in premises). In connection with the public health objective, the Board has used a condition to control off sales supply of alcohol to be with provision of food only, in certain circumstances.

**4. Board Business**

- 4.1 In the year 1 April 2017 to 31 March 2018, the Board met on a monthly basis to determine applications that could not be dealt with under delegated authority. Applications were dealt with by the Board in an open and transparent manner, in accordance with the 2005 Act, statutory guidance and the Board's statement of licensing policy. Details of applications considered and to be considered are regularly published online –

[http://www.edinburgh.gov.uk/meetings/committee/1029/licensing\\_board](http://www.edinburgh.gov.uk/meetings/committee/1029/licensing_board)

[http://www.edinburgh.gov.uk/downloads/download/825/alcohol\\_licence\\_registers](http://www.edinburgh.gov.uk/downloads/download/825/alcohol_licence_registers)

- 4.2 Copies of applications and responses to them are circulated to Board members during the week in advance of the board meeting. Applicants are provided with copies of representations made to their applications in advance of Board meetings, to ensure fair notice of what the Board will be considering when assessing applications.
- 4.3 The Board is aware of the need to ensure access for all to the licensing process and provides information and assistance where requested. Information about the applications process is published online:-  
[http://www.edinburgh.gov.uk/downloads/download/2519/attending\\_a\\_licensing\\_board\\_meeting](http://www.edinburgh.gov.uk/downloads/download/2519/attending_a_licensing_board_meeting). Every application made to the Licensing Board is decided on its own individual merits and the Board seeks to be transparent, consistent and proportionate when considering and determining applications.
- 4.3 The Board's statement of licensing policy gives applicants an indication of how the Board is likely to view certain applications and how they are likely to be dealt with. The Board is likely to follow the statement of licensing policy unless an applicant can demonstrate good reasons to the Board as to why the policy should not be followed in a particular case.

**ANNUAL FUNCTIONS REPORT – 2017/18 - LICENSING (SCOTLAND) ACT 2005  
SECTION 9A****5. Decisions of the Board**

5.1 In the year 1 April 2017 to 31 March 2018 the Board considered the following:-

- 58 applications for provisional premises licences and 2 for premises licences. 56 of the provisional premises licence applications were granted and 2 refused. Both of the premises licence applications were granted.
- 38 applications for confirmation of provisional premises licence were granted.
- 125 applications for variations (other than minor variations) to premises licences. 120 were granted, 3 were partially granted and 2 were refused.
- 620 applications for minor variation were received and granted by the Board.
- 133 transfer applications were received and all were granted.
- 3,171 occasional licence applications; 3,153 were granted and 18 refused.
- 337 extended hours applications, of which 267 were granted and 70 were refused. The applications that were refused related to the granting of additional hours that were outwith those normally permitted and were contrary to the licensing policy statement.
- 829 applications for personal licences; 826 licences were granted and 3 applications were refused.

**6. Licensing Forum**

6.1 There is a properly constituted Licensing Forum operating in Edinburgh. Members consist of representatives from the on and off trade, health, police, Licensing Standards Officers and community representatives. It is currently chaired by Rosaleen Harley. The Board invites the Forum to comment on matters of policy and in particular as a statutory consultee in preparation of the Board's statement of licensing policy.

6.2 Edinburgh Licensing Forum meets around four times a year. The Licensing Board is formally required to meet with the Licensing Forum at least once in a calendar year, and a meeting between Board and Forum members took place on 18<sup>th</sup> October 2018. It is anticipated that a further meeting will be held between the two, once the Board's new statement of licensing policy has been agreed and published.

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SECTION 9A

**7. Reviews**

- 7.1 In the period 1 April 2017 to 31 March 2018, there were 3 personal licence reviews, all relating to notifications of convictions for relevant offences.
- 7.2 In the same period, 52 premises licence reviews were considered by the Board. Of these, 46 related to non-payment of annual fees, 5 related to notifications by premises licence holders of convictions for relevant offences. One was for an LSO-led review application for premises. The LSO-led review resulted in a written warning to the licence holder and variation of premises licence. The conviction notifications resulted in no action being taken. 15 of the premises licence holders with outstanding annual fees had their licences suspended, with 31 licences revoked. In the case of the latter, information provided by LSOs revealed that the premises were no longer operating.

**8. Conclusion**

- 8.1 From the information provided it is clear that, generally speaking, licence holders comply with legislation and the Board's statement of licensing policy. The Board may wish to congratulate members of the licensed trade in Edinburgh for their efforts in promoting and upholding the licensing objectives.
- 8.2 The Board may wish to recognise the efforts of those who have an input into the operation of the Licensing Board and will continue to work with partner agencies to ensure continuing good practice.

**9. Recommendation**

- 9.1 The Board is asked to –
- (a) approve the report; and
  - (b) publish the report.

**Depute Clerk of the Licensing Board**

**GAMBLING ACT 2005 – CONSULTATION ON POLICY STATEMENT****1. Purpose**

The Licensing Board, as the relevant licensing authority in terms of the Gambling Act 2005, requires to publish a Statement of Policy every three years which sets out how the Board will carry out its functions in terms of that Act. The current policy is due to be reviewed, accordingly this report:-

- 1.1 Advises the Board of the requirement to review and carry out a consultation on its Statement of Policy, in terms of the Gambling Act 2005;
- 1.2 Suggests commencement of a short, targeted consultation with responses to be reported to a later meeting of the Board.

**2. Main Report**

2.1. As the relevant licensing authority in terms of the Gambling Act 2005 the Licensing Board is required to publish a Statement of Policy which sets out the principles the Board will apply, in exercising its functions in terms of that Act. The policy forms the backdrop of all decisions taken by the Board on grant and variation of premises licences and permits in terms of the Act.

2.2. Details of the extent of the Board's policy-making duty are set out in section 349 of the Act and associated regulations, in line with Gambling Commission guidance. The Board must:-

- review its policy from time to time,
- revise the terms of the policy where the Board considers it necessary, and
- consult on any revisions

As the current policy is nearing the end of its three year duration, the Board must now review and consult. The Board's existing Statement of Policy is provided at Appendix 1 to this report, and may be viewed online here –

[http://www.edinburgh.gov.uk/downloads/file/7568/gambling\\_policy\\_statement\\_2016-2019](http://www.edinburgh.gov.uk/downloads/file/7568/gambling_policy_statement_2016-2019).

2.3 The Board must consult with, at minimum:-

- the Chief Constable
- one or more persons who appear to the Board to represent the interests of persons carrying on gambling businesses in the Board's area; and
- one or more persons who appear to the Board to represent the interests of persons likely to be affected by the exercise of the Board's functions in terms of the Act



## GAMBLING ACT 2005 – CONSULTATION ON POLICY STATEMENT

During the lifetime of the existing policy there have been relatively few applications for new premises licences and variation of existing premises licences. There have been no applications made to the Board for review of premises licences within the Board's area. There have been no significant issues highlighted with the existing policy. The timescale for publication of a new Statement of Policy is relatively short and it is therefore proposed to carry out a targeted consultation, with the outcome reported to the Board at its next meeting, in order that the Board can revise the terms of its policy and publish the version to take effect for the period 2019-2022.

- 2.4 The draft policy has been updated to take account of changes to the Gambling Commission's Guidance. It remains open to the Board to conduct interim reviews of the policy during its lifetime, particularly if significant matters are raised during consultation, and the Board may wish to consider this option and set a timescale for review at a later date.
- 2.5 The Gambling Commission recommends that licensing boards prepare Local Area Profiles, mapping out the extent of potential areas of concern within board areas, having regard to potential impacts upon the licensing objectives:-
- preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
  - ensuring that gambling is conducted in a fair and open way;
  - protecting children and other vulnerable persons from being harmed or exploited by gambling

It is suggested that by having such information available, this assists premises operators and the Board in assessing and mitigating risk. Operators are required to carry out locally-relevant risk assessments for their premises when making applications.

- 2.6 As there is limited time before the policy must be published, it is suggested that further work on Local Area Profiles can be carried out following publication. This would likely entail working with Police Scotland, the Council and others with an interest in public health, mental health, community safety, housing and education, all with a view to assessing potential impacts upon the licensing objectives as set out in 2.5 above, and particularly relating to the protection of children and vulnerable persons. The outcome of that work would form part of an interim review, upon which the Board could further consult, to agree an updated policy statement at a later date.
- 2.7 In the meantime, details of the consultation will be published on the Council's online Consultation Hub. There will also be direct communications with consultees.

**GAMBLING ACT 2005 – CONSULTATION ON POLICY STATEMENT****3. Recommendation**

- 3.1 The Board is asked to agree:-
- a. to review the terms of the current policy;
  - b. to instruct the depute clerks to carry out a consultation, on the basis of any revisions made to the existing policy;
  - c. to await the results of consultation, being reported to the Board meeting in January 2019
  - d. to agree that further work on preparation of a Local Area Profile is carried out within the next year, to form part of a further review of policy

**4. Background Papers**

- 4.1 Statement of Policy – 2016-19
- 4.2 section 349 Gambling Act 2005
- 4.3 The Gambling Act 2005 (Licensing Authority Policy Statement) (Scotland) Regulations 2006
- 4.4 Chapter 6 – Gambling Commission Guidance to Licensing Authorities

**Depute Clerk of the Licensing Board**

# ◆ EDINBURGH ◆

LICENSING BOARD

## POLICY STATEMENT – GAMBLING ACT 2005

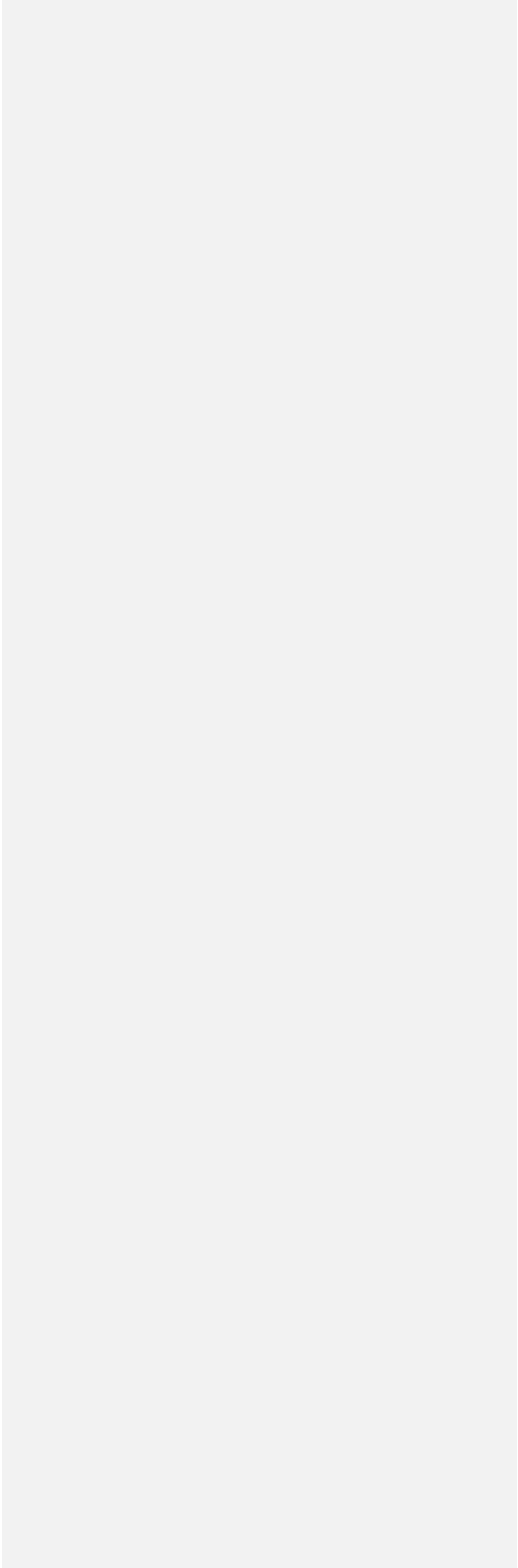
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*This Policy Statement was approved by The City of Edinburgh Licensing Board on DATE TO BE AGREED to take effect on 31 January 2019*

*All references to the Guidance refer to the Gambling Commission's Guidance to Licensing Authorities, 5th Edition, published September 2015, as updated.*

Foreword



## **PART A**

### **1. The Licensing Objectives**

In exercising most of their functions under the [Gambling Act 2005](#) ('the Act'), licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
- Ensuring that gambling is conducted in a fair and open way
- Protecting children and other vulnerable persons from being harmed or exploited by gambling

It should be noted that the Gambling Commission has stated: "The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling".

The City of Edinburgh Licensing Board ('the Board') is aware that, in terms of Section 153 of the Act, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it:

- in accordance with any relevant code of practice issued by the Gambling Commission
- in accordance with any relevant guidance issued by the Gambling Commission
- reasonably consistent with the licensing objectives and
- in accordance with the Board's statement of licensing policy

### **2. Introduction**

The Board is the licensing authority in terms of the Act for the local government area of the City of Edinburgh, Scotland's inspiring capital. A plan showing the extent of the local government area is attached as Appendix 1. The environment of the area continues to provide the basis for a successful tourist industry which brings cultural benefits to the city and is a vital part of its economy.

The Council area has a population of DETAILS TO BE UPDATED. The local government area covers 264 square kilometres and is divided into 17 multi-member wards.

Licensing authorities are required in terms of section 349 of the Act to publish a statement of the principles which they propose to apply when exercising their functions. This policy statement must be published at least every three years. The statement must also be reviewed from "time to time" and any amended parts re-consulted upon. The statement must be then re-published.

This policy statement was presented for adoption by the Board on DATE TO BE ADDED and was published on 31 January 2019 on its website at:

[www.edinburgh.gov.uk/licensingboard](http://www.edinburgh.gov.uk/licensingboard)

The Board consulted upon this statement before finalising and publishing. A list of those persons consulted is attached at [Appendix 3](#). The consultation took place between DETAILS TO BE ADDED

[Link to contents](#)

The Act requires that the following parties are consulted by licensing authorities:

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

Should you have any comments as regards this policy statement please send them in writing by any of the contact options listed below:

Post: The Clerk of the Licensing Board, City of Edinburgh Council, Waverley Court, 4 East Market Street, Edinburgh EH8 8BG  
Tel: 0131 529 4424 or 0131 529 4304

E-mail: [licensing@edinburgh.gov.uk](mailto:licensing@edinburgh.gov.uk)

It should be noted that this policy statement will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Act.

### 3. Declaration

In producing this policy statement, the Board declares that it has had regard to the licensing objectives of the Act, the [Guidance to licensing authorities](#) (5<sup>th</sup> edition issued September 2015, as updated in September 2016) issued by the Gambling Commission in terms of section 25 of the Act ('the Guidance'), the [consolidated Gambling Codes of Practice](#) issued by the Gambling Commission in May 2015 and any responses from those consulted on the statement.

### 4. Responsible Authorities

The Act specifies details of the "responsible authorities" to whom the Board must have regard, when considering applications in connection with gambling premises licences. The responsible authorities include:-

- The Gambling Commission
- The Chief Constable, Police Scotland
- The Chief Officer, Scottish Fire and Rescue Service
- Planning, Directorate of Place, The City of Edinburgh Council
- The City of Edinburgh Council
- Environmental Health, Directorate of Place, The City of Edinburgh Council
- HM Revenue & Customs

In addition to the above, the Board is required under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. In doing so, the principles it must consider are:

- the need for the body to be responsible for an area covering the whole of the licensing

- authority's area; and
- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.

The Board has designated the Edinburgh Child Protection Committee, an inter-agency body representing the statutory, private and voluntary sectors for this purpose. This is on the basis that it operates throughout the whole of the area covered by the Board and because it has the specialist knowledge and expertise to fulfil this role.

The contact details of all the Responsible Authorities under the Act are available via the Board's website at: [www.edinburgh.gov.uk/licensingboard](http://www.edinburgh.gov.uk/licensingboard)

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## 5. Interested parties

Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Act as follows:

"For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the applications is made, the person

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- b) has business interests that might be affected by the authorised activities, or
- c) represents persons who satisfy paragraph (a) or (b)"

The Board is required by regulations to state the principles it will apply in exercising its powers under the Act to determine whether a person is an interested party.

Each case will be decided upon its merits. The Board will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Guidance at paragraphs 8.9 to 8.17. It will also consider the Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

Interested parties can be persons who are democratically elected such as councillors and MPs. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represents the ward likely to be affected. Likewise, community councils likely to be affected will be considered to be interested parties. Other than these however, this authority will generally require written evidence that a person/body (e.g. an advocate / relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not Board members. If there are any doubts then please contact the Clerk of the Licensing Board as below :-

Address: Clerk of the Licensing Board, City of Edinburgh Council, Waverley Court, 4 East Market Street, Edinburgh EH8 8BG  
Tel: 0131 529 4424 or 0131 529 4304

E-mail: [licensing@edinburgh.gov.uk](mailto:licensing@edinburgh.gov.uk)

## 6. Exchange of Information

The Board is required to include in its statement the principles to be applied in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

The principle that the Board applies is that it will act in accordance with the provisions of the Act in its exchange of information. The Board will also have regard to Part 13 of the Guidance and any further guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State or Scottish Ministers under the powers provided in the Act.

Should any protocols be established as regards information exchange with other bodies then they will be made available.

## 7. Enforcement

The Board is required by regulation under the Act to state the principles to be applied in exercising its functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.

This licensing authority's principles are that it will be guided by the Guidance and will endeavour to be:

- Proportionate: regulators should only intervene when necessary, remedies should be appropriate to the risk posed, and costs identified and minimised;
- Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
- Consistent: rules and standards must be joined up and implemented fairly;
- Transparent: regulators should be open, and keep regulations simple and user friendly; and
- Targeted: regulation should be focused on the problem, and minimise side effects.

In accordance with the Guidance the Board will endeavour to avoid duplication with other regulatory regimes so far as possible.

The main enforcement and compliance role for the Board in terms of the Act is to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission is the enforcement body for the operating and personal licences. Concerns about manufacture, supply or repair of gaming machines are not dealt with by the Board but should be notified to the Gambling Commission.

The Board has noted the terms of the advice note issued by the Commission "[The Role of Authorised Persons in Scotland](#)" regarding the regulatory and enforcement functions of local authorities. It notes that the City of Edinburgh Council's Licensing Standards Officers are not, simply by virtue of their role, authorised persons for the purposes of section 304 of the Act. The Board notes that the advice note suggests the means by which Council officers can be



authorised persons, on the basis of their other statutory functions.

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## 8. The Board's functions

The Board is required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing *Premises Licences*
- Issue *Provisional Statements*
- Regulate *members' clubs* and *miners' welfare institutes* who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issue *Club Machine Permits* to *Commercial Clubs*
- Grant permits for the use of certain lower stake gaming machines at *unlicensed Family Entertainment Centres*
- Receive notifications from alcohol licensed premises (under the Licensing (Scotland) Act 2005) for the use of two or fewer gaming machines
- Issue *Licensed Premises Gaming Machine Permits* for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing (Scotland) Act 2005, where there are more than two machines
- Register *small society lotteries* below prescribed thresholds
- Issue *Prize Gaming Permits*
- Receive and Endorse *Temporary Use Notices*
- Receive *Occasional Use Notices*
- Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')
- Maintain registers of the permits and licences that are issued under these functions

It should be noted that the Board is not involved in licensing remote gambling. This is regulated by the Gambling Commission via operating licences.

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## PART B

### PREMISES LICENCES: CONSIDERATION OF APPLICATIONS

#### 1. General Principles

Premises licences are subject to the requirements set out in the Act and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. The Board is able to exclude default conditions and also attach others, where it is believed to be appropriate.

##### (i) Decision-making

The Board is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it:

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;

- reasonably consistent with the licensing objectives; and
- in accordance with the Board's statement of licensing policy.

It is appreciated that in accordance with the Guidance "moral and ethical objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution') and also that unmet demand is not a criterion for a licensing authority.

The Board has delegated certain functions to its Clerk and persons appointed to assist the Clerk in terms of section 155 of the Act. [Appendix 2](#) sets out the Scheme of Delegation.

#### **(ii) Definition of "premises"**

The Board takes particular note of the Guidance which states that: licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:

- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.
- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not "drift" into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- Customers should be able to participate in the activity named on the premises licence.

The Guidance also gives a list of factors which licensing authorities should be aware of, which may include:

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

The Board will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.

The Gambling Commission's relevant access provisions for each premises type are set out in paragraph 7.23 of the Guidance and reproduced below:

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#### **Casinos**

- The principal access entrance to the premises must be from a street (as defined at paragraph 7.21 of the Guidance)
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons

- No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence

#### **Adult Gaming Centre**

- No customer must be able to access the premises directly from any other licensed gambling premises

#### **Betting Shops**

- Access must be from a street (Guidance paragraph 7.21 or from another premises with a betting premises licence
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind. As an example, it would not be permissible to have a betting shop at the back of a café – the whole area would have to be licensed.

#### **Tracks**

- No customer must be able to access the premises directly from:
  - a casino
  - an adult gaming centre

#### **Bingo Premises**

- No customer must be able to access the premises directly from:
  - a casino
  - an adult gaming centre
  - a betting premises, other than a track

#### **Family Entertainment Centre**

- No customer must be able to access the premises directly from:
  - a casino
  - an adult gaming centre
  - a betting premises, other than a track

Part 7 of the Guidance contains further guidance on this issue, which this licensing authority will also take into account in its decision-making.

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#### **(iii) Premises “ready for gambling”**

The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.

In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, the Board will determine applications on their merits, applying a two stage consideration process:-

- First, whether the premises ought to be permitted to be used for gambling
- Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

Applicants should note that the Board is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

More detailed examples of the circumstances in which such a licence may be granted can be found at paragraphs 7.56-7.65 of the Guidance.

#### **(iv) Location**

The Board is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision-making. In accordance with the Guidance, the Board will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome. Regard will be had in particular to the terms of Risk Assessments carried out by applicants (about which more is said later in this policy). The Board remains mindful of the requirements of section 153 of the Act regarding the aim to permit the use of premises for gambling.

The Board notes the terms of Part 6 of the Guidance (particularly paragraph 6.47 onwards) regarding Local Area Profiling, in connection with identifying risks, etc for the purposes of assisting licence holders and applicants for licences in preparing locally-linked risk assessments for their premises. ~~At this stage the Board has not identified particular localities within the Board's area, but reserves the option to do so at a later date. The Board welcomes any representations on this in future, on the basis that it may consider carrying out consultation on a supplementary policy statement. The Board intends to carry out further work on the identification of Local Area Profiles, working with Police Scotland, the City of Edinburgh Council and others with an interest in public health, mental health, community safety, housing and education with a view to assessing potential impacts on the licensing objectives, particularly relating to protection of children and vulnerable persons. The outcome of this further work will form part of an interim review, for inclusion in the policy statement at a later date.~~

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#### **(v) Planning**

The Guidance states:

7.58 – In determining applications the licensing authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, i.e. those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.

The Board will not take into account irrelevant matters. In addition the Board notes the following excerpt from the Guidance:

7.65 - When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have or comply with the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and not form part of the consideration for the premises licence. Section 210 of the Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.

#### **(vi) Duplication with other regulatory regimes**

The Board seeks to avoid any duplication with other statutory / regulatory systems where possible, including planning. The Board will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will though, listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

When dealing with a premises licence application for finished buildings, the Board will not take into account whether those buildings have to comply with the necessary planning or buildings consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

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#### **(vii) Licensing objectives**

Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, the Board has considered the Guidance and some comments are made below.

#### **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime**

The Board is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime the Board will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. The Board is aware of the distinction between disorder and nuisance and will consider factors (for example whether police assistance was required and how threatening the behaviour was to those who could see it) so as to make that distinction.

### **Ensuring that gambling is conducted in a fair and open way**

The Board has noted that the Gambling Commission states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences.

### **Protecting children and other vulnerable persons from being harmed or exploited by gambling**

The Board has noted the Guidance that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at, or are, particularly attractive to children). The Board will therefore consider, as suggested in the Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.

The Board is also aware of the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises.

As regards the term “vulnerable persons” it is noted that the Gambling Commission does not seek to offer a definition but states that “it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gambling beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.” The Board will consider this licensing objective on a case by case basis.

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### **(viii) Conditions**

Any conditions attached to licences will be proportionate and will be:

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

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures the Board will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. The Board will also expect the licence applicant to offer his/her own suggestions as to way in which the licensing objectives can be met effectively.

The Board will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Guidance.

The Board will also ensure that where category C or above machines are on offer in premises to which children are admitted:

- all such machines are located in an area of the premises which is separated from the

remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;

- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

These considerations will apply to premises including buildings where multiple premises licences are applicable.

The Board is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. In accordance with the Guidance, the Board will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

It is noted that there are conditions which the Board cannot attach to premises licences which are:

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

### ***Door Supervisors***

The Guidance advises that if a licensing authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a premises licence condition to this effect.

Where it is decided that supervision of entrances/machines is appropriate for particular cases, a consideration of whether these need to be SIA licensed or not will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary (Guidance, Part 33).

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### **Risk Assessments**

Applicants for new licences and existing licence holders ~~will be~~ required to carry out local risk assessments specific to their premises, ~~with this requirement coming into effect from April 2016.~~ Further information is contained in the [consolidated Commission's Licence Conditions and Codes of Practice \(May 2015 most recent version April 2018\)](#). The Guidance also sets out reference to risk assessments, as being a matter for consideration by the Board in formulating its policy statement (paras 6.41 – 6.46).

~~The Board will have to give more detailed consideration in due course to these matters, but at this stage the~~ Board expects applicants for new premises licences, and applicants for variation of existing licences, to have due regard to the Commission's Guidance on risk assessments – and ~~that~~ the Board will continue to give due consideration to the terms of risk assessments provided by applicants.

The Board will expect licence holders and applicants for new licences to ensure that risk assessments take particular account of local circumstances specific to their premises. Risk assessments should include consideration of appropriate control measures, policies and procedures to reduce or mitigate risks.

The Board will also expect licence holders to ensure that their risk assessments remain up to date and relevant for the particular local circumstances, taking account of the following:-

- changes to local circumstances which are considered to be significant, including changes to the Board's policy
- changes to licence holder's premises such as may affect existing mitigation of risks
- at time of applying for variation to existing licence

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Applicants for new licences will be expected to ensure that their risk assessment is lodged with the Board, and updates to assessments lodged when applications for variation of licence are made. Whilst the Board has, to date, not been required to consider applications for review of gambling premises licences, The Board continues to emphasise the importance of risk assessments, which become of relevance in connection with review applications, in that the Board can have regard to the extent to which licence holders have taken steps to mitigate risks to the licensing objectives. Premises licence holders should ensure that a copy of their risk assessment is kept available on premises at all times.

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The Board considers that premises licence holders will ensure risk assessments are monitored from time to time and reviewed where necessary.

## **2. Adult Gaming Centres**

The Board will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the Board that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises.

The Board may consider measures to meet the licensing objectives such as:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as Gamblers Anonymous Scotland, GamCare and other support organisations.



This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

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### 3. (Licensed) Family Entertainment Centres:

The Board will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the Board, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

The Board may consider measures to meet the licensing objectives such as:

- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as Gamblers Anonymous Scotland, GamCare and other support organisations.
- Measures / training for staff on how to deal with suspected truant school children on the premises

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

The Board will, in accordance with the Guidance, refer to the Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. The Board will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

### 4. Casinos

#### ***No Casinos resolution***

The Board has not passed a 'no casino' resolution under Section 166 of the Act, but is aware that it has the power to do so. Should the Board decide in the future to pass such a resolution, it will update this policy statement with details of that resolution.

#### ***Licence considerations / conditions***

The Board will attach conditions to casino premises licences according to the principles set out in part 9 of the Guidance, bearing in mind the mandatory conditions listed in part 17 of the Guidance, [as updated](#), and the Licence Conditions and Codes of Practice published by the Gambling Commission.

#### ***Betting machines***

The Board will, in accordance with the Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

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## 5. Bingo premises

The Board notes that the [Guidance-Guidance, as updated](#), states:

18.5 Licensing authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.

18.7 Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed.

## 6. Betting premises

### ***Betting machines***

The Board will, in accordance with the Guidance [\(as updated\)](#), take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

## 7. Tracks

The Board is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. In accordance with the Guidance, the Board will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

The Board will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

The Board may consider measures to meet the licensing objectives such as:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours

- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as Gamblers Anonymous Scotland, GamCare and other support organisations

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

### ***Gaming machines***

Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.

### ***Betting machines***

The Board will, in accordance with Part 16 of the Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator proposes to offer.

### ***Applications and plans***

The Act (section 51) requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity. (Guidance paragraph 20.43).

Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations. (Guidance, paragraph 20.44). Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises.

In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined. (Guidance, part 15).

The Board appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that the Board can satisfy itself that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the “five times rule” (commonly known as betting rings) must be indicated on the plan. (Guidance, paragraphs 20.46-47).

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## **8. Travelling Fairs**

The Board is responsible for deciding whether, where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

The Board will also consider whether the applicant falls within the statutory definition of a travelling fair.

It is noted that the 27-day statutory maximum for the land being used as a fair applies on a per calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. The Board will work with its neighbouring authorities to ensure that land which crosses its boundaries is monitored so that the statutory limits are not exceeded.

## 9. Provisional Statements

Developers may wish to apply to the Board for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

Section 204 of the Act provides for a person to make an application to the Board for a provisional statement in respect of premises that he or she:

- expects to be constructed;
- expects to be altered; or
- expects to acquire a right to occupy.

The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.

In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.

The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The Board will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:

- they concern matters which could not have been addressed at the provisional statement stage, or
- they reflect a change in the applicant's circumstances.

In addition, the Board may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- which could not have been raised by objectors at the provisional statement stage;
- which in the Board's opinion reflect a change in the operator's circumstances; or
- where the premises has not been constructed in accordance with the plan submitted

with the application. This must be a substantial change to the plan and the Board notes that it can discuss any concerns it has with the applicant before making a decision.

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## 10. Reviews

Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the Board to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below;

- in accordance with any relevant Code of Practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with this policy statement.

The request for the review will also be subject to the consideration by the Board as to whether the request is frivolous, vexatious, or whether it will certainly not cause the Board to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.

The Board can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.

Once a valid application for a review has been received by the Board, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the Board, who will publish notice of the application within 7 days of receipt.

The Board must carry out the review as soon as possible after the 28 day period for making representations has passed.

The purpose of the review will be to determine whether the Board should take any action in relation to the licence. If action is justified, the options open to the Board are:-

- (a) add, remove or amend a licence condition imposed by the licensing authority;
- (b) exclude a default condition imposed by the Secretary of State or Scottish Ministers (e.g. opening hours) or remove or amend such an exclusion;
- (c) suspend the premises licence for a period not exceeding three months; and
- (d) revoke the premises licence.

In determining what action, if any, should be taken following a review, the Board must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.

Risk assessments – in considering review of premises licences, the Board will have regard to the terms of risk assessments carried out by licence holders, and the extent to which their assessments have identified, and the steps the licence holder will take to mitigate, risk.

The Board may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

Once the review has been completed, the Board must, as soon as possible, notify its decision to:

- the licence holder
- the applicant for review (if any)
- the Commission
- any person who made representations
- the Chief Constable; and
- Her Majesty's Commissioners for Revenue and Customs

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## PART C

### PERMITS / TEMPORARY & OCCASIONAL USE NOTICE

#### 1. Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits - Schedule 10 paragraph 7 of the Act)

Statement of Principles The Board will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises. The Board will also expect, in accordance with the Guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed Family Entertainment Centres; that the applicant has no relevant convictions (those set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

#### 2. (Alcohol) Licensed premises gaming machine permits - (Schedule 13 paragraph 4(1) of the Act)

##### **Automatic entitlement: 2 machines**

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the Board.

The Board can remove the automatic authorisation in respect of any particular premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
- the premises are mainly used for gaming; or
- an offence under the Act has been committed on the premises.

### **Permits: 3 or more machines**

If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the Board must consider that application based upon the licensing objectives, the Guidance, and “such matters as they think relevant.”

The Board considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harmed or being exploited by gambling and will expect the applicant to satisfy the Board that there will be sufficient measures to ensure that persons under 18 do not have access to the adult only gaming machines. Measures which are likely to satisfy the Board that there will be no access may include provisions that the adult machines will be in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by persons under 18. Notices and signage may also be help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as Gamblers Anonymous Scotland, GamCare and other support organisations.

It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied as if for, and dealt with as, an Adult Gaming Centre premises licence.

It should be noted that the Board can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

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### **3. Prize Gaming Permits**

The Act states that a licensing authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority proposes to consider in determining the suitability of the applicant for a permit”.

The Board has prepared a Statement of Principles which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:

- that they understand the limits to stakes and prizes that are set out in Regulations;
- that the gaming offered is within the law
- that there are steps proposed to protect children from harm.

In making its decision on an application for this permit the Board does not need to (but may) have regard to the licensing objectives but must have regard to any Gambling Commission guidance. (Schedule 14 paragraph 8(3) of the Act).

It should be noted that there are conditions in the Act by which the permit holder must comply, but that the Board cannot attach conditions. The conditions in the Act are:

- the limits on participation fees, as set out in regulations, must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

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#### **4. Club Gaming and Club Machines Permits**

Members Clubs and Miners' welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in forthcoming regulations.

Members Clubs and Miner's welfare institutes – and also Commercial Clubs – may apply for a Club Machine Permit. A Club Machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D). NB Commercial Clubs may not site category B3A gaming machines offering lottery games in their club.

The Board has noted part 25 of the Guidance which set out the requirements to be recognised as a Members' Club.

The Guidance also notes that licensing authorities may only refuse an application on the grounds that:

- (a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
- (b) the applicant's premises are used wholly or mainly by children and/or young persons;
- (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- (d) a permit held by the applicant has been cancelled in the previous ten years; or
- (e) an objection has been lodged by the Commission or the police.

There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

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#### **5. Temporary Use Notices**

Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a Temporary Use Notice, according to the Gambling Commission, would include hotels, conference centres and sporting venues.

The Board can only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.



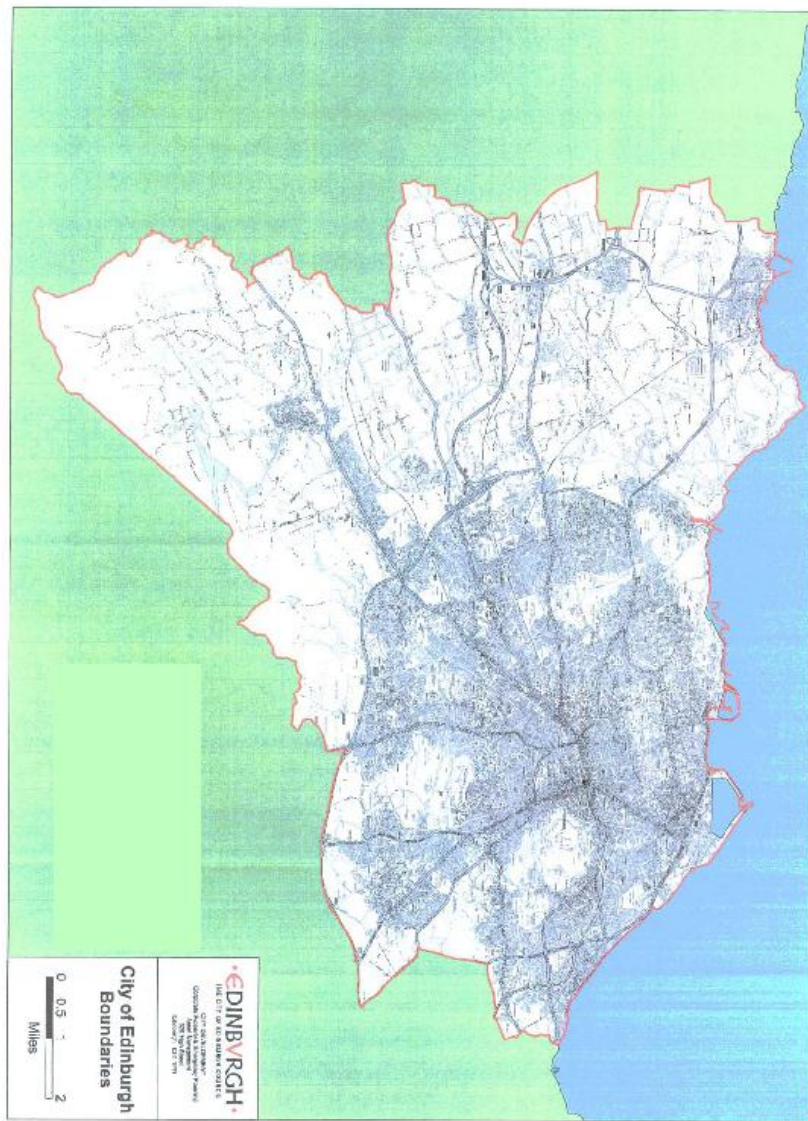
The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices. The relevant Regulation (SI No 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that Temporary Use Notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.

There are a number of statutory limits as regards Temporary Use Notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Guidance. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place". In considering whether a place falls within the definition of "a set of premises", the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.

The Board expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Guidance.

#### **6. Occasional Use Notices**

The Board will consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice and will ensure that the statutory limit of 8 days in a calendar year is not exceeded.



**APPENDIX 2**

**CITY OF EDINBURGH LICENSING BOARD**

**Scheme of Delegation made under the Gambling Act 2005**

**Reference page 7 of the Policy Statement**

	<b>Subject Matter</b>	<b>Licensing Board</b>	<b>Clerk of Licensing Board</b>
1	Final approval of three year licensing policy	✓	
2	Policy in respect of casinos	✓	
3	Application for premises licence	Where representations have been received and not withdrawn	Where no representations have been received/representations have been received but thereafter withdrawn
4	Application to vary a licence	Where representations have been received and not withdrawn	Where no representations have been received/representations have been received but thereafter withdrawn
5	Application to transfer a licence	Where representations have been received from the Gambling Commission.	When no representations received from the Gambling Commission or other responsible authority or received but thereafter withdrawn
6	Application for a provisional statement	Where representations have been received and not withdrawn.	Where no representations have been received or representations have been received and thereafter withdrawn
7	Review of a premises licence	✓	
8	Application for a club/gaming machine permit	Where objections have been made and not withdrawn	Where no objections have been made or objections have been made and thereafter withdrawn
9	Cancellation of club gaming/club machine permit	✓	
10	Application for other permits		✓
11	Cancellation of licensed premises gaming machine permit		✓
12	Consideration of temporary use notice		✓
13	Decision to give a counter notice to a temporary use notice (section 224)	✓	
14	Determination of applications for registration of small society lotteries	Where representations have been received and not withdrawn	Where no representations have been received or received but thereafter withdrawn

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### APPENDIX 3

#### Schedule of Consultees to this Policy Statement – TO BE UPDATED

- ~~1. All members of the City of Edinburgh Council~~
- ~~2. The Gambling Commission~~
- ~~3. The Chief Constable, Police Scotland~~
- ~~4. The Chief Fire Officer, Scottish Fire and Rescue Service~~
- ~~5. Edinburgh Child Protection Committee~~
- ~~6. City Development~~
- ~~7. The Director, Directorate of Place – Planning; Environmental Health~~
- ~~8. The Director, Children and Families~~
- ~~9. The Director, Health and Social Care~~
- ~~10. Chief Social Worker, Health and Social Care~~
- ~~11. NHS Lothian, Public Health & Health Policy, Waverley Gate, 2-4 Waterloo Place, Edinburgh EH1 3EG~~
- ~~12. HM Revenue & Customs, National Registration Unit, Portcullis House, 21 India Street, Glasgow G2 4PZ~~
- ~~13. Church of Scotland, 121 George Street, Edinburgh EH2 4YN~~
- ~~14. National Casino Forum, Carlyle House, 235-237 Vauxhall Bridge Road, London, SW1V 1EJ~~
- ~~15. Association of British Bookmakers Limited, Warwick House, 25 Buckingham Palace Road, London, SW1W 0PP~~
- ~~16. Cheshire Racing Leisure Ltd, 187/189 London Road, Liverpool~~
- ~~17. The Bingo Association Ltd, Lexham House, 75 High Street North, Dunstable, Beds, LU6 1JF~~
- ~~18. British Amusement Catering Trade Association, 134-136 Buckingham Palace Road, London SW1W 9SA~~
- ~~19. The Lotteries Council, 1 Dechmont Gardens, Calderbraes, Uddingston, Glasgow, G71 6DR~~
- ~~20. Coral Racing, New Castle House, Castle Boulevard, Nottingham, Nottinghamshire, NG7 4FT~~

21. Ladbroke's, Imperial House, Imperial Drive, Rayners Lane, Harrow, Middlesex,  
HA2 7JW

22. Morrisons Bookmakers, 84 B Clerk Street, Loanhead, Midlothian, EH20 9RG

23. Noble Leisure Company Limited, 49 Figgate Lane, Portobello, Edinburgh, EH15  
4HJ

24. Mecca Bingo Limited, Statesman House, Stafferton Way, Maidenhead, Berkshire,  
SL6 1AY

25. Gala Leisure Limited, New Castle House, Castle Boulevard, Nottingham,  
Nottinghamshire, NG7 1FT

26. Casino Gaming Limited, Seebeck House, 1a Seebeck Place, Knowlhill, Milton  
Keynes, Buckinghamshire, MK5 8FR

27. Genting Casinos UK Limited, Genting Club Star City, Watson Road, Birmingham,  
B75 5A

28. William Hill plc, Greenside House, 50 Station Road, Wood Green, London, N22  
7TP

29. Gamcare, Head Office, 2nd Floor, 7-11 St John's Hill, London, SW11 1TR

30. Gamblers Anonymous Scotland, Scottish Head Office, Central Halls, 304 Maryhill Road,  
Glasgow G20 7YE

31. SEPA, Clearwater House, Heriot Watt Research Park, Avenue North, Riccarton  
Edinburgh, EH14 4AP

Notification of the consultation was also sent to agents acting for gambling premises licence  
holders

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