

Licensing Forum
11th June 2013
Dunedin Room

Present: Graeme Arnott, Inspector Dianne Bruce (Lothian and Borders Police), Isla Burton (Facilitator), Julie Dickson (Minute Taker), Kenneth Fairgrieve (Licensing Standards Officer), Rosaleen Harley, Maria Kelly (South West Representative), John Loudon (Convener), Ian Lovie (Scotmid), Alison Magill, John Murphy, Samuel Piacentini (City Centre/ Leith Representative), William Strachan, Jim Sherval (Edinburgh Drugs and Alcohol Partnership), Bridget Stevens, Peter Swanson, Eddie Thorn, Terry Tweed, (North Representative), Chris Wigglesworth

Apologies: John Clark, Kirsten Haigh, Robin Morris, Dr Fiona Watson

1 Agenda

1.1 Apologies

As above

1.2 Minutes of the last meeting

The minutes of the Forum meeting were approved.

The minutes of the joint Forum and Board meeting were approved.

1.3 Matters arising from joint meeting of 15th April 2013

A number of points were discussed in relation to the minutes of the joint meeting.

It was agreed that Mr Robert Millar (Clerk to the Board) should be prompted regarding a written response which he had agreed to provide with regards to points 1.1-1.6 of the agenda of the joint meeting. **Action: John Loudon (Convener)**

With regards to point 1.8 of the minutes it was agreed that a recommendation should be made to the Board to conduct visits to those premises wishing to vary their licence in order to allow children and young persons' access prior to the Board hearing at which the application is to be considered so saving time for all concerned and to allow Board members to give helpful input to their colleagues when considering the matter. Ms Rosaleen Harley informed those present that such visits were currently being carried out, but normally with a

continuation to the next Board sitting to allow for a site visit. She also advised those present that the 11 o'clock Sunday opening recommendation had given rise to a number of applications, which had had been granted.

The Convener reiterated that a summary should be sought from Mr Millar and that a timetable including consultation on policy review be sought.

Mr Samuel Piacentini asked whether an invitation could be extended to Mr Millar, on a regular basis, to attend the Forum meetings. Isla Burton confirmed that Mr Millar was already kept informed of Forum business, including meeting dates. The Convener agreed that Mr Millar or a representative, as well as the Board members, should be invited to attend the Forum on a regular basis.

Action: John Loudon (Convener)

1.4 To note that the Board have approved a number of applications to open some premises on Sunday mornings following up on the Licensing Forum's recommendation.

Inspector Dianne Bruce estimated that approximately 100+ applications had been made in relation to Sunday morning opening.

1.5 To note and consider how the following consultation might affect the question of provision within the city (see agenda).

The Convener suggested that communication would be paramount in relation to this consultation.

There was some discussion regarding whether any new premises licences for Princes Street would be treated as on or off sales licences. Mr Ken Fairgrieve stated that there were no issues with outdoor areas being licensed but only until 10pm. The licensee would have the same responsibility for any licensed outdoor area as for the indoor area.

Inspector Bruce advised that there had been some suggestion of the table and chairs policy being extended throughout the festival period, until 11:30pm. This was in relation to George Street and the High Street. However, she advised that the Police would strongly oppose this.

Mr Graham Arnott commented that many occasional licences were granted during this period, often until 12am. He suggested that there may be an issue of fairness of practice.

The Convener advised that he would make contact with Councillor Milligan (Convener of the Board) with a number of recommendations. These would include –

- Occasional applications and those from established businesses should be treated on a level playing field.
- Someone should be appointed to look at the overall picture and fairness of the process.

Mr John Murphy asked that clarification be sought regarding the issue of whether the premises would apply for an on or an off sales licence in order that the implications could be considered. **Action: John Loudon (Convener)**

1.6 Update from 'provision' sub group, which has met twice since the last Forum meeting.

- To discuss and consider what, if any, recommendations on provision should be made to the Board.
- To consider whether to make a recommendation to the Board as regards the display of non alcoholic or low alcohol product in off sales premises.

Mr Jim Sherval tabled summary documents from both meetings, as well as an overall summary, which included items for the Forum to discuss and, in principle, recommend to the Board.

1. That the Board acknowledge that alcohol is very easily accessible in Edinburgh and that there is, at least, 'generous' provision. *Mr John Murphy commented that there was unequal distribution, in that some geographical areas were less well provided than others.*
2. That the Board ask applicants to explain in more detail how they will meet each of the Licensing Objectives, including how the application will not lead to overprovision. *The Convener agreed that more information in applications, to give clarity regarding proposals, would benefit the system as a whole.*
3. That the Board look at whatever evidence is available in relation to particular hotspots in the city.
4. That the Board look at extending the present overprovision area in the city centre to include the Tollcross area. *Mr Sherval explained that having a statement of policy on overprovision in relation to some areas would allow them to look at evidence more clearly. It would not in effect 'tie the hands' of the Board, who could, and should, still use discretion. It would also put the onus of arguing the case on the applicant (rather than on objectors, as is currently the case).* In some areas the number of applications makes it very difficult for objectors to respond.
5. The Board reflect on the need for more takeaway food outlets to sell alcohol. There was a general consensus that the selling of alcohol by takeaway food outlets was unnecessary.
6. That the Board is asked again to ensure that there are clearer site notices that more fully explain what the proposed licence or variation entails. *The Convener asked that Mr Millar be prompted about this point when he is contacted regarding a written response.*

7. That the Board look at the availability of no/low alcohol displays in off sales. *Mr Sherval thought that the word 'availability' should be replaced with 'promotion' or 'provision'. Mr Ian Lovie, Scotmid, made the point that these products are marketed as non-alcoholic alternatives for adults. Putting them in a place which is accessible to children could have dangerous implications, potentially 'normalising' the purchase of products which still look like alcoholic drinks, even when they aren't. He used the analogy of 'sweetie cigarettes', which were taken off the market some years ago, to avoid 'normalising' smoking. He advised that Scotmid sell non-alcoholic products only to over 18s, and that a different chain had previously experienced problems and been subject to test purchasing following sale of these products to under 18s. This had caused some confusion and concern when members of the public mistook the products for alcoholic beverages. The Convener agreed that a recommendation should be made to the Board to look for better signage and promotion of low alcohol and non-alcoholic drinks, where these were being sold within the alcohol section.*

1.7 Information only

1.8 Proxy voting or substitute members (Peter Swanson)

Mr Peter Swanson advised that he had asked a representative to attend the meeting of the 15th April on his behalf. He felt very strongly that there was an argument for a 10am Sunday opening and had asked his representative to convey this to the meeting.

The Convenor advised that this had happened and had been supported by Graeme Arnott; however there had been an in-depth debate on this issue. It being clear that 10am opening was not well supported and that the 11am opening recommendation had accordingly been unanimously agreed without division. Chris Wigglesworth emphasised this had been a matter of consensus by Forum members.

Ms Maria Kelly added that during the meeting the Convenor had also asked if anyone present objected to the 11am opening.

The Convenor concluded that, in the event that they are unable to attend, a member of the Forum can convey his views to the Convenor prior to a meeting, or can convey their views via a representative. **Action: all**

1.9 Exclusion of undesirable members of the public from licensed premises – request for advice from Peter Swanson.

Inspector Bruce advised that a Section 94 Exclusion Order can be sought. This can be done by Police or by the premises licence holder. Following an

incident the person involved may also be banned from the premises as a condition of bail.

Inspector Bruce suggested that if a member of the public is causing a nuisance then the staff should call the Police. With reference to timescales in terms of Police attendance, Inspector Bruce advised that depending on the nature of the report the call will be given a grading.

Ms Harley advised that the information regarding Section 94 Exclusion Orders is part of the personal licence holder training. The Convenor recommended that this information be included in an article in the Licensed Trade Press as a reminder to publicans.

1.10 Suggestion that a Forum member should shadow the other Licensing Forums online and report back on concerns and projects undertaken by them (John Murphy).

It was agreed that Mr Murphy would kindly take on this role and that it would be included as a standing agenda item forthwith. **Action: John Murphy**

1.11 That a member of the Board should be asked to attend the Edinburgh meetings.

This was agreed, as discussed earlier in the meeting.

1.12 Point for discussion: "I notice from the Highland Forum that they have agreed that the review period for the licence statement could be moved to five years without impacting on the implementation of the policy and thereby saving the constant revisiting of the policy issue, would we support this or the status quo?" (John Murphy)

The Convenor responded by advising that the policy review period of three years was the law, but objectively policies should probably only need to be revised as and when necessary. This would require a change by Government.

1.13 AOCB

The Convenor and members of the Forum extended their thanks to Ms Isla Burton for her work both with the web information and the facilitating of the Forum meetings.

Mr Ian Lovie referred to an article which he had read, in relation to the seizure of illegal (non duty paid) alcohol in an operation carried out in Edinburgh by HMRC, Trading Standards and Police Scotland. He asked whether the subjects of the seizures would face any repercussions from the Board. The

Convenor replied that, if convictions resulted, a report would be automatically provided to the Board by the courts and a hearing would be arranged.

1.14 DONM

Tuesday 10th September in the Dunedin Room, City Chambers at 10:00am (9:30am for coffee).