

DUNDEE CITY LICENSING BOARD
STATEMENT OF LICENSING POLICY
2023-2028
UNDER
SECTION 6 OF
THE LICENSING (SCOTLAND) ACT 2005

January 2024

1. INTRODUCTION

In terms of Section 6 of the Licensing (Scotland) Act 2005 ("**the 2005 Act**"), every Licensing Board is required to publish a statement of their policy with respect to the exercise of their functions under the Act during each licensing policy period. Licensing policy periods roughly coincide with the periods in between local government elections. In addition, the Licensing Board may, during that period, publish a supplementary statement of their policy with respect to the exercise of their functions during the remainder of that period (known as a "supplementary licensing policy statement").

In preparing its licensing policy statement (or a supplementary licensing policy statement), the Licensing Board must -

- (a) ensure that the policy statement seeks to promote the licensing objectives, and
- (b) consult -
 - (i) the Local Licensing Forum for the Board's area;
 - (ii) if the membership of the Forum is not representative of all of the interests required to be represented on it, such person or persons as appear to the Board to be representative of those interests of which the membership is not representative; and
 - (iii) the local health board;
 - (iv) such other persons as the Board thinks appropriate (Section 6(3)(b) of the 2005 Act).

In exercising their functions under the 2005 Act during each policy period, the Board must have regard to its licensing policy statement (and any supplementary licensing policy statement) published by the Board in relation to that period.

The "licensing objectives" referred to above are contained in Section 4 of the 2005 Act and are as follows :-

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

Dundee City Licensing Board is constituted under Section 5 of, and Schedule 1 to, the 2005 Act. It consists of 10 members and the quorum is five. It is the successor to the Licensing Board with the same name which was previously constituted under Section 1 of the Licensing (Scotland) Act 1976 ("the 1976 Act").

The Board has also had regard to the Guidance issued by Scottish Ministers under Section 142 of the Licensing (Scotland) Act 2005. This policy will be kept under review during the succeeding licensing policy period and we will consult regularly with interested parties and stakeholders in relation to the contents hereof.

In addition, this policy may require further revision in light of any regulations or further guidance issued by the Scottish Government.

This policy does not affect the right of any person to apply in terms of the 2005 Act and to have any such application considered on its individual merits. Any person may make representations in relation to an application or seek review of a licence where provision is made for this in the 2005 Act.

2. THE LICENSING (SCOTLAND) ACT 2005 - A BRIEF OVERVIEW

The provisions of the Licensing (Scotland) Act 2005 have been in force since 1st September 2009. There was a transition period beginning on 1st February 2008 during which all of the existing licences granted under the Licensing (Scotland) Act 1976 required to be transferred to the new system under the 2005 Act. All 1976 Act licences continued to run until 1st September 2009 when they terminated automatically.

Under the 2005 Act, the previous categories of licence (e.g., public house, hotel, refreshment, etc.) were discontinued and, instead, were replaced by a single premises licence in respect of the actual premises and, separately, a personal licence or licences allowing named individuals to manage, supervise or authorise the sale of alcohol on the premises concerned. Whilst premises licences last indefinitely (subject to payment of an annual fee to the licensing board), personal licences last for a period of ten years from the date of issue and may then be renewed for further periods of ten years at a time.

Dundee Licensing Forum

The 2005 Act introduced a statutory role for Local Licensing Forums and a lead-in time regarding the formation of these bodies. Within this context, the Dundee Licensing Forum was formed in 2007. The role of the Forum is to:-

- keep under review the operation of the Licensing (Scotland) Act 2005 in the Forum area;
- review the relevant Licensing Board functions;
- give policy advice and make recommendations to the Board as appropriate.

Dundee City Licensing Board has a duty to "have regard" to the Forum's views and must offer reasons where it takes decisions against the advice of the Forum. The role of the Forum does not include reviewing or offering advice or recommendations in relation to any particular application or case before Dundee City Licensing Board.

Membership of the Forum is required to consist of between five and 20 members, as determined by Dundee City Council. At least one member of the Forum must be a Licensing Standards Officer and also at least one member must be nominated by the local area health board. The Forum Members must be representative of the required 5 key interest areas which are:-

- holders of premises licences and personal licences;
- the Chief Constable for the Police area in which the Forum's area is situated;
- persons having functions relating to health, education or social work;
- young people; and
- persons resident within the Forum's area.

The Dundee Licensing Forum meets with Dundee City Licensing Board once a year. The Forum meets four times a year.

Premises Licences

A premises licence authorises the sale of alcohol on the premises. It is granted by the Licensing Board for the area where the premises are situated. An application for a premises licence may be made by any person aged 18 or over and must contain a description of the premises; an operating plan for the premises; a layout plan of the premises; and appropriate certificates in relation to planning, building standards and food hygiene (if food is to be sold on the premises).

Where a Licensing Board receives such an application, it must give notice to:-

- each person having an interest in neighbouring land;
- any Community Council within whose area the premises are situated;
- the Council within whose area the premises are situated;
- the relevant health board;
- the appropriate Chief Constable, and
- the Enforcing Authority within the meaning of Section 61 of the Fire (Scotland) Act 2005 in respect of the premises.

Notice to the Chief Constable of the premises licence application must be accompanied by a copy of the application. Once an application is received for a premises licence, the Licensing Board must hold a hearing for the purpose of considering and determining the application, taking into account appropriate plans and certificates accompanying the application, any police notices relating to convictions on the part of the applicant or any person connected with the applicant, or objections or representations made to it.

In considering and determining the premises licence application, the Board must consider whether any grounds for refusal of the application apply. If no grounds for refusal apply, the Board must grant the application. If there are grounds for refusal, the Board must refuse the application. The grounds for refusal are as follows :-

- the premises are "excluded premises";
- the application is within one year after the refusal of a previous premises licence application;
- the application is for a 24-hour licence (unless the Board is satisfied that there are exceptional circumstances to grant this);
- if the application is in relation to off-sales, it proposes hours for alcohol to be sold on the premises either before 10:00 am or after 10:00 pm or both;
- the board considers that, having regard to the licensing objectives, the applicant is not a fit and proper person to be the holder of a premises licence;
- the Board considers that the granting of the licence would be inconsistent with any one or more of the licensing objectives (narrated in the Introduction hereto);
- the Board considers the premises to be unsuitable for use for the sale of alcohol, and
- the Board considers that granting the application will result in overprovision in the locality.

Where the Board considers that they would refuse the application in the form in which it is made, but would accept it if a modification is made to the operating plan or the layout plan, they may propose this to the applicant and subsequently grant the application on this basis.

Personal Licences

To be eligible to apply for a personal licence, the applicant must :-

- be 18 years or over;
- possess an accredited licensing qualification, and
- not have had a personal licence revoked within the period of five years ending with the day on which the application for the personal licence is made.

Applications require to be copied to the appropriate Chief Constable, who must respond to the Licensing Board within 21 days with a notice confirming any relevant or foreign offences of which the applicant for the licence has been convicted and, if there are no such offences, the Chief Constable can still recommend refusal of the application if he considers it necessary for the purposes of any of the licensing objectives.

The Licensing Board must grant a personal licence application if they are satisfied that the applicant meets the criteria above and there is no notice from the Chief Constable of any relevant or foreign offences. If there is such a notice from the Chief Constable and that notice recommends refusal of the application having regard to the licensing objectives, the Board must hold a hearing for the purpose of considering and determining the application. The Board may still hold a hearing even in the absence of a recommendation from the Chief Constable to refuse the application where it receives a notice of any relevant or foreign convictions which relate to the applicant. After such a hearing, the Board must, having regard to the notice from the Chief Constable and any further information provided either by the Chief Constable or a Licensing Standards Officer, either grant the application or, if it is satisfied that it is necessary to do so for the purposes of any of the licensing objectives or that having regard to the licensing objectives the applicant is not a fit and proper person to be granted a personal licence, refuse the application.

Objections and Representations to Premises and Personal Licences

Any person may, by notice to the Licensing Board, object to a premises licence application on any relevant ground for refusal. Such persons may also make representations to the Board either in support of the application, seeking modifications to the operating plan or conditions to be imposed upon the grant of any licence. Where notice of objection or representation is received by the Licensing

Board, it must give a copy of the notice to the applicant and have regard to the notice in determining the application. A notice of objection or representation may be rejected by the Board if it considers it to be frivolous or vexatious.

(As noted above in relation to personal licences, only the Chief Constable and a Licensing Standards Officer may comment to the Board with regard to an application. In such circumstances, the Board is obliged to hold a hearing into the application.)

Other permissions

Apart from the two types of licence referred to above, the 2005 Act also makes provision for a number of other permissions to be granted by a Licensing Board. These are set out in the following paragraphs, together with the powers of the Board to review existing licences.

Occasional Licences

Premises (other than licensed premises) may be issued an occasional licence authorising the sale of alcohol on the premises, providing the application is made by a premises or personal licence holder, or a representative of any voluntary organisation. This type of licence is likely to be used for events (e.g., a wedding reception) not held in premises already licensed for the sale of alcohol. An occasional licence can have effect for no more than 14 days. Where an application is made for an Occasional Licence, any person may object to the application on any ground for refusal or make representations to the Board concerning the application. Representations can be made either in support of or against granting the application. Applications are advertised on the Board's website www.dundee.gov.uk. Applications are also copied to the Chief Constable and any Licensing Standards Officers for the Licensing Board's area. Provided there are no adverse reports from the Chief Constable, Licensing Standards Officers or any objections or representations, the Board must grant the application. Failing this, the Board must either hold a hearing to determine the application or allow the applicant an opportunity to comment on the objection(s)/representation(s). The grounds for refusal are similar to those relating to premises licence applications. Due to the statutory 21-day period during which the Chief Constable and the Licensing Standards Officers or any other person who may make representations, applications for an occasional licence will not be accepted less than 28 days before the event in question except for good reasons.

Provisional Premises Licences

This is an application in relation to premises which are being constructed or converted for use as licensed premises. A provisional premises licence has no effect until confirmed by the Licensing Board. The licence has to be confirmed within four years, otherwise it will automatically be revoked. This period can be extended if the construction or conversion work of the premises is delayed for reasons outwith the control of the licence holder.

Section 47 of the 2005 Act makes further provision in respect of temporary premises licences and this applies where any licensed premises are undergoing, or are about to undergo, reconstruction or conversion. On application to the Licensing Board, the licence holder can obtain a temporary premises licence in respect of other premises within the Board's area, provided that the other premises are suitable for use for the sale of alcohol and the Board is satisfied that it is necessary to grant the application to enable the applicant to carry on business pending reconstruction or conversion of the principal premises. Such temporary licence has effect for a maximum period of two years and is subject to the same conditions as those to which the principal premises licence is subject. The two-year period can be extended for a maximum further period of twelve months on application by the licence holder.

Extended Hours Applications

The Licensing Board may, on application by a premises licence holder, extend the licensed hours by such period as is specified in the application or such other period as the Board consider appropriate, in connection with a special event or occasion to be catered for on the premises, or an event of local or national significance. Applications must be copied to the appropriate Chief Constable and Licensing Standards Officers. The Board must take into account any comments from the Chief Constable or Licensing Standards Officers and may hold a hearing for the purposes of determining the application. Where the Board decides not to hold a hearing, it must ensure that, before determining the application for extended hours, the applicant is given sufficient opportunity to comment with regard to any notices and reports submitted either by the Chief Constable or Licensing Standards Officers.

Variation and Transfer of Premises Licences

A premises licence holder may apply to the Licensing Board for a variation of the licence. This can be any variation of:-

- conditions to which the licence is subject, other than mandatory conditions;
- information contained in the operating plan;
- the layout plan contained in the licence, and,
- any other information contained or referred to in the licence.

If the application is for a "minor variation", this must be granted by the Licensing Board. A "minor variation" includes any variation of the layout plan which is not inconsistent with the operating plan, any restriction of the terms on which children and young persons are to be allowed entry to the premises, any variation of the information contained in the licence relating to the premises manager, any change of name of the premises, a reduction in capacity or licensed hours, or ceasing to provide loud music. If the variation does not fall within the categories of minor variation, the application must be the subject of a hearing before the Board for the purposes of considering and determining the application. If none of the statutory grounds for refusal apply, the Board must grant the application.

Equally, a premises licence holder may apply to the Board for the transfer of the licence to another person. If the Board receives a notice from the Chief Constable stating that neither the person to whom the licence is proposed to be transferred nor any person connected with him has been convicted of any relevant or foreign offence, they must grant the application. If there is notice of any such convictions, the Board must hold a hearing for the purpose of considering or determining the application. The person to whom it is proposed to transfer the licence may make the application in certain prescribed circumstances, e.g., upon purchase of the licensed premises concerned.

Operating Plan

This must accompany an application for a premises licence and should set out clearly the proposals for the operation of the licensed premises, including activities to be undertaken on the premises, proposed opening hours and the applicant's policy in relation to children and young persons. Applicants should be aware of the expectations of the Licensing Board and any responsible authorities as to steps **which are necessary** for the promotion of the licensing objectives.

Review of Premises Licenses

Any person may apply to the Licensing Board for a review of a premises licence on the grounds that one or more of the conditions attached to the licence have been breached, that (having regard to the licensing objectives) the premises licence holder is no longer a fit and proper person to hold a licence, or any other ground relevant to one or more of the licensing objectives. The Board can also review any premises licence in their area on their own initiative. This must also relate to the grounds of review referred to above. Where the Board makes or receives a review application, they must hold a hearing for the purposes of considering and determining the application unless the review application is rejected as being frivolous or vexatious. If the Board is satisfied that there are grounds for review and that these are established, it can :-

- take no action;
- issue a written warning to the licence holder;
- vary a licence;
- suspend the licence for a period, or
- revoke the licence.

Review of Personal Licences

The Licensing Board must hold a review hearing into a personal licence should it become aware of the holder of the licence having been convicted of a relevant or foreign offence. In addition, the Chief constable and a Licensing Standards Officer may report a personal licence holder to the Board for conduct which is inconsistent with the licensing objectives. Following such a hearing the Licensing Board, should it consider that action should be taken, may revoke the licence, suspend it for a period not exceeding 6 months or endorse the licence. Should a personal licence holder receive three endorsements from the Licensing Board, the Board must hold a further hearing where it can either take no action, or suspend or revoke the licence (**Section 86 of the 2005 Act**).

3. POLICY ISSUES

As can be seen from the preceding section outlining the powers of the Licensing Board and the kinds of decisions it makes under the 2005 Act, there is a great deal of discretion involved in the discharge by the Board of its licensing functions. Applicants for, and holders of, licences require to have notice as to the manner in which the Board is likely to exercise these discretionary powers and also of the expectations of the Board as far as the conduct and operation of licensed premises is concerned.

The 2005 Act imposes a statutory requirement upon Licensing Boards to produce policy statements, as is explained more fully in the Introduction. Nevertheless, it will still be open to applicants and licence holders to seek to convince the Board that any policy or policies so adopted should **not** apply in the circumstances of their own individual case.

Guidance for Licensing Boards

Under the terms of Section 142 of the 2005 Act, Scottish Ministers have issued guidance to Licensing Boards as to the exercise of their functions under the Act. As far as statements of licensing policy are concerned, the guidance contains a number of recommendations for Licensing Boards. As noted in the Introduction, Section 6 of the 2005 Act requires the Licensing Board, when preparing its policy statement, to ensure that this seeks to promote the licensing objectives. In addition, the Licensing Board must have regard to the ministerial guidance.

In general terms, the Guidance says that statements of licensing policy should make clear that licensing is about regulating the sale of alcohol and the premises on which alcohol is sold, and for connected purposes within the terms of the Act. A statement of policy should also make clear that licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are no longer on licensed premises and beyond the direct control of the licence holder.

Overprovision of Licensed Premises

In terms of Section 7 of the 2005 Act, each licensing policy statement must include a statement as to the extent to which the Board considers there to be overprovision of either licensed premises in general or licensed premises of a particular description in any locality within its area. It is for the Board to determine the localities for this purpose and it must also have regard to the number and capacity of licensed premises in any particular locality. In making the assessment as to whether or not there is overprovision, the Board is required to consult with the Chief Constable, the local health board and also such persons as appear to the Board to be representative of the interests of premises licence holders and persons resident within the locality, together with the views of such other persons as the Board thinks fit.

At its meeting on 18th January 2024, the Licensing Board adopted the following policy in terms of Section 7 of the Licensing (Scotland) Act 2005 concerning the overprovision of licensed premises in Dundee -

The Board considers that the whole of its area is overprovided in relation to premises only selling alcohol for consumption off the premises.

The Board consulted on a provisional proposal that the whole of its area was overprovided in relation to off-sales only premises. This proposal also referred to a presentation to the Board at its meeting on 21st September 2023 by the Dundee Alcohol and Drugs Partnership (“ADP”) detailing information of alcohol-related harm in the City, in respect of both health issues and crime. The consultation ran until 31st December 2023. The results of the consultation are summarised in Report No. 30-2024 which was submitted to the Board on 18th January 2024. Copies of these reports may be obtained from the minutes section of the Dundee City Council website.

Following consideration of the contents of Report 30-2024, the Board decided to adopt the proposal to cover premises selling alcohol for consumption off the premises only. Although there were only 2 responses to this question in the consultation, these did represent opposing views on the subject. The response in favour of the proposal came from the NHS and that against from the Scottish Grocers Federation (SGF). The SGF were not in favour of the Board’s proposal. They opposed the inclusion of only off-sales premises within any such policy and also suggested that an area-wide approach is too blunt an option. In substance, they contended that if the Board wished to consider overprovision in any particular application, it should adopt a locality-based approach, focussing on smaller localities, and

also look at the specific mode of operation of the proposed premises, including capacity, although they did not produce any empirical evidence to suggest why different modes of operation of off-sales premises (or indeed other types of licences) should be considered. The NHS, on the other hand, were fully supportive of the Board's proposal. They agreed that the policy should cover the whole of the Board area and that it should be limited to off-sales only premises. This is based upon the small size of the Board area and its dense population where travel across the city is relatively easy and there is evidence of alcohol-related harm throughout the whole Board area. The NHS also point to information contained in the ADP report to the Board (The Public Health and Social Impact of Alcohol Availability in Dundee) which was considered at the Board meeting in September 2023 which detailed the reasons why it is felt that more alcohol-related harm is likely attributable to off-sales as opposed to on-sales of alcohol.

As to the possible impact of price on the level of alcohol-related harm in the Board's area or of the effect of Minimum Unit Pricing (MUP) on any decision as to proceed with an overprovision policy, the NHS response states that whilst affordability is a key factor in the level of alcohol related harm, availability and attractiveness are equally important and should be addressed by policy interventions other than MUP. The SGF set out in their response that they are supportive of MUP (albeit not of the proposed increase in the unit price) but did not provide any more detailed comments as to what impact MUP should have when deciding whether to introduce any policy on overprovision of licensed premises. The Board was aware of the various reports in recent years which suggested that the introduction of MUP has had at best a limited effect on tackling alcohol-related harm which would tend to indicate that no one tool is sufficient by itself to deal with the concerning levels of such harm in Scotland. There was also no particular evidence put forward by any consultees to support any reduction in the hours of licensed premises or what impact these may have on matters relevant to overprovision.

The Board requires to have regard to the statutory guidance issued under Section 142 of the 2005 Act. None of the responses received made any detailed comment on any aspects of the guidance. The guidance states (at paragraph 5.6) that an overprovision assessment must be evidence-based. It is a matter for each Licensing Board to determine what their overprovision policy will be and how the evidence it has ingathered will be interpreted and weighed. When undertaking this work Licensing Boards should be mindful of 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. Licensing Boards should ensure the approach to ingathering, weighing and interpreting evidence, and consultation responses is robust, all of the relevant evidence before them is taken into account and the rationale for regarding/disregarding that evidence in developing Licensing Policy Statements is clearly set out.

The ADP report to the Board in September 2023 had contained evidence of a relationship between alcohol-related harm in the City and the density of off-sales outlets. The Board was satisfied that this established a causal link for the purposes of assessing overprovision of such premises. Taking that into account, together with the then current (i.e., January 2024) total capacity of 6 846.765 sq. m. of a total number of 135 off-sales only premises, the results of the consultation exercise and having regard to the Guidance issued by Scottish Ministers under Section 142 of the 2005 Act, the Board was satisfied that there was an overprovision of off-sales only premises throughout the whole of its area. The Board had considered the possibility of different localities and other types of alcohol premises when it made its original proposal in September 2023 but decided that, due to the relatively small size of its area and the fact that there was no convincing evidence available to relate the information about alcohol-related harm to smaller localities or other types of premises or modes of operation, the whole area approach for off-sales only premises should be proposed.

The Board also decided, in fairness to those who had applications pending, that the policy should only apply to applications received on or after 18th January 2024.

Notwithstanding the policy, it is, of course, open to applicants for off-sales premises to seek to persuade the Board that it should not apply in any individual case. The effect of the policy is simply to create a rebuttable presumption against the grant of such licences. Equally, for those applications which may be received in respect of other types of licences (i.e., other than off-sales) which are not covered by this policy on overprovision, the Board does reserve the right to consider that there may be overprovision of such premises on a case-by-case basis should there be relevant material in this regard. The locality which would be adopted for the purposes of assessing overprovision in any individual case not subject to the policy will generally be a 500 metres radius from the application premises since this is considered an appropriate area for an application in an urban setting such as the

City of Dundee. However, applicants will specifically be invited to address the Board on the appropriate locality to be adopted before the Board makes a decision on the locality to be used.

The Licensing Objectives

The 2005 Act sets out 5 licensing objectives. These represent the principles on which the new licensing system is based and provide Licensing Boards with a foundation on which to build local policies. The objectives are not ranked in order of importance. Each has an equal weighting and all must be given consideration when Licensing Boards are carrying out their responsibilities. These five objectives are:-

- (i) Preventing crime and disorder;
- (ii) Securing public safety;
- (iii) Preventing public nuisance;
- (iv) Protecting and improving public health, and
- (v) Protecting children and young persons from harm.

The following paragraphs of this policy statement set out Dundee City Licensing Board's recommended practice in relation to each of the licensing objectives, and the main factors that the policy aims to influence in order to deliver these outcomes. A menu of possible control measures is then presented, which is neither prescriptive nor exhaustive in describing approaches that may be taken to meet the objective. Applicants will know their own premises best, and will be expected to address the licensing objectives through the means most relevant to the individual style and characteristics of their premises, and the licensed activities for which they are seeking authorisation. Much of the suggested practice will impact on a number of the objectives, so may be mentioned more than once.

(i) Preventing crime and disorder

In carrying out its functions under the Act, the Board will have regard to the impact that licensed activities may have on crime and disorder in the area. In particular, the Board has, as one of its objectives, making the Board's area a safe environment for residents and visitors.

The Board encourages licence holders to institute measures which will be put in place to promote the prevention of crime and disorder. These include addressing problems associated with:-

- Underage drinking including agency purchases;
- Drunkenness on the premises;
- Public disorder or violent behaviour;
- Drink driving;
- Anti-social behaviour, including littering;
- Illegal possession, supply and/or use of drugs, and
- The sale of illegal or stolen goods on the premises.

Suggested measures might include:-

- Appropriate training of staff members, including in conflict management;
- Installation of CCTV equipment;
- Effective and responsible management of the premises;
- Suitable lighting, internally and externally;
- Security policies and employment of appropriate SIA licensed door staff;
- Maintenance of a clean, hygienic environment in good repair;
- Membership of Pubwatch or another similar scheme where such a scheme is in operation;
- Display of prominent notices which set out the management's policy on illegal substances;
- Participation in responsible purchase schemes e.g., PASS (Proof of Age Standards Scheme);
- Ensuring displays of alcohol in off-sales premises are situated in areas which can be monitored by a member of staff;
- Justification of size of measures and choice of size of wine glass;
- Display of anti-drink driving materials;
- Availability of reasonably priced non-alcoholic drinks.
- Displaying local transport information to facilitate safe journeys home for customers;
- Promoting awareness of schemes such as the designated driver scheme, and
- Training staff members on the correct way to pour a measure by hand as required under the Weights and Measures Act 1985.

(ii) Securing Public Safety

One of the Board's priorities is ensuring that the licensed premise is a safe environment for members of the public.

The Board encourages licence holders to take measures which will be put in place to ensure public safety on the premises. Such measures should take account of the following:-

- the occupancy capacity of the premises;
- the design and layout of the premises, including means of escape;
- The nature of the activities provided, such as music and dancing, and the provision of special effects;
- the hours of operation; and
- the profile of the customer at the premises.

Suggested measures might include:-

- Carrying out risk assessments;
- Installation of CCTV equipment;
- Membership of Pubwatch or another similar scheme where such a scheme is in operation;
- Effective and responsible management of the premises;
- Glass management policy;
- First Aid facilities and suitably trained staff;
- Having an accident reporting system;
- Having a written policy, backed up by staff training and good management, on the approach to be taken with people on the premises who are incapacitated or vulnerable through use of alcohol;
- Employment of adequate numbers of suitably trained staff, and
- Proof of regular testing of procedures or equipment which are in place.

(iii) Prevention of Public Nuisance

The Board recognises that licensed premises can have an impact on the amenity of the local area. The Board intends to protect local communities from any negative impact from the operation of licensed premises, whilst recognising the valuable cultural, social and business contribution of these premises. The Board will take a wide view of the phrase "public nuisance" to include noise, light, odour, litter and anti-social behaviour where they impact on the community living or working in the local area.

The Board encourages licence holders to take measures which will be put in place to prevent public nuisance. Such measures should take account of the following:-

- Any proposed curfew times;
- The location of the premises;
- The type of neighbouring properties in the vicinity;
- The nature of the activity to be carried out on the premises;
- The licensed hours, and
- The occupancy capacity of the premises.

Suggested measures include:-

- Sufficient management of people entering and leaving the premises;
- The installation of sound-proofing and sound-limiting devices;
- The control of operating hours for different parts of the premises;
- Restricting use of outside areas (e.g., beer gardens) at night, and ensuring day-time use (e.g., of pavement cafes) does not interfere with the amenity of local people;
- Membership of Pubwatch or another similar scheme where such a scheme is in operation;
- Supporting local schemes which encourage safe dispersal of patrons at closing time, for example, taxi marshalling;

- Liaising with the providers of public transport, and
- Appropriate training of staff members.

(iv) Protecting and Improving Public Health

The Board has, as a priority, the health and well-being of patrons of the licensed premises, and local people. The Board will have regard to the views of any other bodies responsible for or having an interest in public health.

The Board encourages licence holders to take measures which will be put in place to protect public health. This includes addressing the following:

- Awareness amongst patrons of low risk alcohol consumption guidance;
- Avoidance of over-consumption and drunkenness, and
- The risks to health of staff within the premises.

Suggested measures might include:-

- Making available information which promotes moderate drinking along with awareness of units of alcohol in the products sold, and recommended low risk alcohol consumption guidelines;
- Providing information on contact details where assistance for alcohol related problems may be sought;
- Justification of size of measures and choice of size of wine glass;
- Displaying anti drink driving materials and promoting awareness of campaigns such as designated driver schemes;
- Having in place a policy to deal with patrons who have consumed excessive alcohol;
- Providing tap water fit for drinking, free of charge, and a wide selection of non-alcoholic drinks at reasonable prices at all times whilst the licensed premises are open;
- Making it possible for women to comfortably breast feed their babies on the premises if they wish;
- Participating in schemes that recognise the availability of healthy food choices (such as Best Bar None), and,
- Appropriate training of staff members.

There is evidence that those involved in the licensed trade are more likely to suffer from an alcohol related problem than those in other professions. Therefore, the Board would encourage businesses in the licensed trade to have in place a workplace alcohol policy in order to raise awareness, minimise harm and ensure that staff are able to access help (without fear of a job loss) when an alcohol related problem arises.

Licence holders especially are reminded of the offences relating to the sale of alcohol; especially the offences of sale of alcohol to an under-age person, sale of alcohol to a drunk person and allowing drunkenness to take place on the premises.

(v) Protecting Children and Young Persons from Harm

The Board welcomes applications from licensed premises which will accommodate children and young persons. However, the Board recognises the additional responsibilities placed upon such premises and the importance that such premises have in place appropriate measures to protect children and young persons from harm. In pursuing this objective, the Board's aim is to achieve balance between the availability of licensed premises where families can enjoy leisure time together, and the need to prevent the exposure of young people to harmful influences, including excessive alcohol consumption, access to alcohol when under-age, bad language (including on TVs), gambling, violence, adult entertainment, or the association of alcohol with activities that appeal to young people. The Board will also seek to protect young people who are on licensed premises from adults who may wish to exploit their vulnerability, including staff.

The Board encourages licence holders to take measures which will be put in place to protect children and young persons from harm. The Operating Plan (see below) should also set out the terms under which children and young persons are permitted access to the licensed premises.

Suggested measures may include:-

- Appropriate measures to ensure children and young persons do not purchase or consume alcohol on the premises (unless such consumption is permitted by a young person in terms of the restricted provisions of Section 105(5) of the Act);
- Appropriate checks for staff who will be working in premises where children and young people are present;
- Acceptance of accredited proof of age schemes;
- Means to ensure that children and young persons are not exposed to strong language, adult entertainment, violence or disorder, and
- Appropriate training of staff members.

In addition the Board recommends the following:-

- (a) The part or parts of the licensed premises where children and young persons are permitted should, if possible, be free of gaming and/or amusements with prizes machines;
- (b) Gaming and amusements with prizes machines should not be located in walkway areas of the parts of the premises which children and young persons will have access to;
- (c) Where televisions or video machines are intended to be used in areas where children are permitted, the programmes or video films must be of a type suitable for family and children's viewing;
- (d) Toilets will require to be of a suitable type and standard for children and young persons;
- (e) When meals are sold within licensed premises, a children's menu shall be necessary. This would not be satisfied by the provision of lemonade and crisps, but would require to be of the plated food variety, in addition to any form of sandwiches etc., which may be available;
- (f) Electrical sockets within the part or parts of the premises to which children and young persons have access should, when not in use, have plug caps thereon;
- (g) Availability of high chairs and suitable drinking vessels for children and young persons, and
- (h) Where open fires or electrical or gas fires or radiators are within part or parts of the premises to which children and young persons have access, it is expected that such fires and radiators etc., will be securely guarded.

As a general rule, children and young persons under the age of 18 will only be permitted into licensed premises which are considered to be restaurants or into other licensed premises where the primary purpose of allowing them access is to consume a meal or to attend a pre-booked and ticketed function. Children and young persons will not be permitted in the licensed premises after 10:00 pm (other than in exceptional circumstances, for example, a wedding or other pre-booked and ticketed function being held on a licensed premises where the presence of children and young persons after 10:00 pm can be justified). A condition to this effect may be imposed by the Board on the licences of all premises where children are permitted access.

For the avoidance of doubt the foregoing paragraph does not apply to premises where no on-sales take place and the sale of alcohol is for consumption off the premises only. However, the Board would expect licence holders to have in place sufficient measures to ensure that children or young people do not access part or parts of premises where alcohol is displayed. Applicants and premises licence-holders are also reminded of the requirement under Section 110 of the Act to display a prominent notice in respect of the prohibition of the sale of alcohol to persons under the age of 18.

Licensing Hours

Under the 1976 Act, the opening hours of licensed premises were fixed according to the type of licence involved. However, under the 2005 Act, the concept of permitted hours in terms of periods fixed by statute is discontinued. Instead, applicants for licences require to specify in their operating plan the hours during which they intend to be open. (Although off-sales premises are restricted to a maximum period of 10.00 a.m. until 10.00 p.m. each day).

The Guidance reminds Licensing Boards that they must observe the requirement set out in Section 64 of the 2005 Act which provides a presumption against routine 24 hour opening of licensed premises, other than in limited exceptional circumstances. It is recommended that Licensing Boards should consider exceptional circumstances to cover only special events such as one-off local or national festivals. In considering applications for licensed hours, Boards may wish to consider applications for up to 14 hours as being reasonable but local circumstances and the views of the Local Licensing Forum should always be considered.

It should be borne in mind that premises which wish to open after 1:00 am may be the subject of mandatory licence conditions and these are contained in The Licensing Conditions (Late Opening Premises) (Scotland) Regulations 2007.

The Board had previously adopted a similar approach to its policy under the 1976 Act. That meant that premises whose principal purpose is the provision of entertainment, e.g., discotheques and nightclubs, would be permitted to open until 2:30 am, as also would premises offering mainly restaurant facilities. All other licensed premises would be permitted to remain open until 12:00 am. The Board was also prepared to allow on-sales from 11:00 am on Sundays, instead of 12:30 pm under the 1976 Act.

Following a consultation in 2013, the Board adopted a new approach with regard to opening hours. This was carried out as a joint exercise with the Licensing Committee as a result of a number of applications from liquor licensed and late hours catering licensed premises for opening hours outwith the then existing policies for such establishments. The policies had been in place for a number of years and it was considered that it was appropriate to review these policies. (Report No 489-2013 to the Licensing Board and Licensing Committee meetings on 19th September, 2013 refers to this in more detail).

As a result, the Board's policy is as follows:-

- **Public house/bar premises (Category 1) to be allowed to open until 1:00 am Friday and Saturday only;**
- **Premises with substantial entertainment (which shall not be constituted merely by the provision of karaoke and/or recorded music) (Category 2) to be allowed to open until 2:00 am Friday and Saturday only (with the minimum entry charge from 00:00);**
- **Nightclubs and similar dedicated or purpose-built entertainment premises (Category 3) to be allowed to open until 3:00 am Friday and Saturday only (with the minimum entry charge from 00:00).**

(N.B. Licensing hours during other days of the week continue as under the previous policy.)

Of course, each application will be dealt with according to its individual merits. The Board will take into account all the statutory licensing objectives in assessing any application for a licence, including the hours of trading. Any applicants seeking to open outwith the terms of the policy outlined above will require to convince the Board that there are exceptional circumstances to justify this and that there would be no conflict with the licensing objectives. For example, the Board would generally favour allowing dedicated function suites within licensed premises to remain open until 1:00 am. "Private function" means an exclusive invitation –only event such as a birthday, christening, etc., and not an event to which any member of the public can simply turn up and attend on the night.

As noted on page 5 above, a premises licence holder may, under the 2005 Act, apply for an extension of the hours approved by the Board in the operating plan provided that this is in connection with a special event or occasion to be catered for on the premises, or an event of local or national significance. In addition to applications from individual licence holders, Section 67 of the 2005 Act will enable Licensing Boards to grant a general extension of licensed hours to enable premises to open for specified extended hours on particular specified occasions, e.g., local holidays, international sporting events, etc. The grant of such a general extension of hours can apply to the whole of the Board's area, to specified parts only, to all premises in the area or specified or particular types of premises.

With regard to the Board's previous policy of designating in advance those occasions which it will consider as entitling people to apply for an occasional extension of licensing hours under Section 68 of the 2005 Act this will continue and a list of such occasions will be made available each year on the Board's website. **However, any premises falling within Categories 1 or 2 of the Board's policy on opening hours will not generally be granted an extension under Section 68 for Fridays and Saturdays if they are already enjoying permanent extended hours for those nights of the week under that policy. An exception will be made for Category 3 premises which can apply to open until 3:30 am Fridays/Saturdays in order to preserve the hours they enjoyed previously.**

Minimum Entry Charge for Premises Providing Entertainment

Previously, the Board operated a policy whereby the undernoted condition was attached to Entertainment Licences for premises such as Discotheques, namely:-

"A minimum charge for entry to premises, applicable to persons of 18 years of age and over, must be charged. This charge shall be fixed by the Licensing Board at its meeting in June of each year for the year beginning 1st July and ending 30th June. This minimum charge must not be offset in any way. For the avoidance of doubt, offsetting the minimum charge includes, but is not limited to (a) the issue of complimentary tickets or vouchers; and (b) the advance purchase of tickets granting entry on more than one evening".

The Board has decided to maintain this condition and would intend attaching it to licensed premises whose primary function is the provision of entertainment and which seek to remain open after 12:00 am. From 1st July 2008, the minimum charge was increased from £2.50 to £3.50. The minimum charge was adopted a number of years ago in consultation with Tayside Police and the former licensing forum. The reason it was adopted was to discourage patrons from engaging in a "disco crawl" in the same way they might do with public houses. In terms of the 2005 Act, this serves to promote the licensing objectives of the prevention of crime and disorder, the prevention of public nuisance, securing public safety, and the protection and improvement of public health.

Operating Plan

All applications for premises licences must be accompanied by an operating plan making clear how the premises are to be run, what activities will be undertaken thereon and at what time(s). An operating plan in relation to any premises is a document in the prescribed form containing:-

- A description of the activities to be carried on in the premises;
- A statement of the times during which it is proposed that alcohol be sold on the premises;
- A statement as to whether alcohol is to be sold for consumption on the premises, off the premises or both;
- A statement of the times at which other activities in addition to the sale of alcohol are to be carried out on the premises;
- Where alcohol is to be sold for consumption on the premises, a statement as to whether children or young persons are to be allowed entry to the premises and, if they are allowed entry, a statement of the terms on which they are to be allowed entry including, in particular, the ages of children or young persons concerned, the times at which they are to be allowed entry and the parts of the premises to which they are to be allowed entry;
- Information as to the proposed capacity of the premises;
- Prescribed information about the individual who is to be premises manager, and,
- Such other information in relation to the premises and to the activities to be carried thereon as may be prescribed.

As noted above, a premises manager must be specified in the operating plan. The Board will expect the premises manager to have day-to-day responsibility for running the premises and to be present at the premises on a regular basis when alcohol is being sold. Staff will require to be appropriately trained to the standards required by the 2005 Act. The Board will also expect applicants for premises licences to have arrangements in place for the management and supervision of the premises on those occasions when the premises manager is absent from the premises. Ideally, the Board would wish to see at least one personal licence holder on the premises at all times when alcohol is being sold. The Board appreciates that this may not be possible with smaller establishments. However, and in any event, the Board will expect there to be within all licensed premises proper management arrangements in place which will ensure that there are responsible, trained persons on the premises sufficient to comply with the premises licence holder's statutory responsibilities and the terms and conditions of the licence.

Where applicants propose to provide outside seating, tables or other such facilities (excluding pavement cafes for which provision is made below), the area should be included on the plan of the premises to be licensed. Due consideration must be given to the need to ensure that the use of such areas will not cause disturbance or nuisance to the occupiers of other premises in the vicinity and effective management controls, supervision and other measures require to be put in place to ensure that the use of such areas does not have any detrimental impact in the vicinity.

In general, licensed premises are not permitted music outside the venue on a permanent basis. If music is desired for a special event (such as Dundee Dance Event or Almost Blue), the applicant may need to seek planning permission prior to a major variation being applied for. Any music outside the venue should not cause a nuisance. The Board would generally only grant permission for music outside until 7pm.

Occasional Licences

The Board proposes to continue with the practice of inviting applications for occasional licences in respect of pavement cafes. These would be considered for periods of 14 days at any time during the calendar year. In addition to the mandatory conditions contained in Schedule 4 to the 2005 Act, the Board would intend to impose some or all of the conditions shown at APPENDIX 1 to this statement of licensing policy, where it considers this to be necessary or expedient for the purposes of any of the licensing objectives.

With regard to occasional licences generally, the Board will expect applicants to ensure that they have sufficient management and other arrangements in place to comply with the licensing objectives, particularly where the application is from a voluntary organisation. The Board will consider the imposition of such additional conditions as it thinks are necessary under Section 60 of the 2005 Act, including the use of plastic containers, bottles and glasses. A standard list of "pool" conditions is attached at APPENDIX 2 to this policy statement.

Please note that no applications will be processed in respect of occasional licences or occasional extensions of licensed hours less than 28 and 14 days respectively before the event(s) to which the application relates, unless there are exceptional circumstances as to why the application was not submitted timeously.

Additionally, for events which the capacity is 500 or more, the Board will consider requiring the applicant to provide an Alcohol Management Plan, an example of which is contained at APPENDIX 3 to this policy statement. This may be attached as a condition to the licence. If there is to be entertainment provided at any event for which an occasional licence is being sought, then a Public Entertainment Licence (PEL) may also be required.

In general, licensed premises are not permitted music outside the venue on a permanent basis. If music is desired for a special event (such as Dundee Dance Event or Almost Blue), the applicant may need to seek planning permission prior to a major variation being applied for. Any music outside the venue should not cause a nuisance. The Board would generally only grant permission for music outside until 7pm.

Irresponsible Promotions and Price Variations

"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. Promotions can occur in relation to both on and off sales. A drinks promotion which involves a variation in pricing will be affected by the requirements of Paragraph 7 of Schedule 3 to the 2005 Act ("Pricing of alcohol"). A drinks promotion is irresponsible if it falls within the descriptions listed in Paragraph 8(2) of Schedule 3 to the Act. Paragraphs 7 and 8(1), 8(2) & 8(3) are reproduced in full below.

An irresponsible drinks promotion must not be carried on in or in connection with any premises. Presently there is no definitive guidance as to what constitutes an "irresponsible drinks promotion". Examples of drinks promotions will require to be considered individually against the legislative criteria to assess if the promotion is irresponsible in terms of the Act.

** Pricing of alcohol*

7 Where the price at which any alcohol sold 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 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.*

Irresponsible drinks promotions

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

Children and Young Persons on Licensed Premises

The Board will, in furtherance of the licensing objective of protecting children and young persons from harm, seek advice from and have regard to the views of the Dundee Children's Protection Committee.

The Board wishes to see family friendly premises thriving in the city. It will welcome applications from those who wish to operate licensed premises which accommodate 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.

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 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 characteristics of their premises and the licensable activities for which a licence is being sought.

The following examples of control measures are given to assist applicants who may adopt them in any combination. They are considered to be among the most essential that applicants should take account of in their operating plan, having regard to their particular type of premises or activities:

- effective and responsible premises management
- appropriate instruction, training and supervision of those employed to secure the protection of children and young persons from harm
- adoption of best practice guidance
- limitations on the hours when children may be present, in all or parts of the premises
- limitations or exclusions by age when certain activities are taking place
- imposition of requirements for children and young persons to be accompanied by an adult
- acceptance of accredited proof of age cards with photographs, or passports
- measures to ensure children do not purchase, acquire or consume alcohol

- measures to ensure children and young persons are not exposed to incidences of violence or disorder

In preparing and presenting the operating plan, applicants should be aware that the Board expects premises to be run in a way compliant with, and promoting, the licensing objectives and will expect the operating plan to meet these objectives. Although guidance may be sought from the Clerk to the Board and Licensing Standards Officers, it is for the applicant to ensure that the operating plan is in the correct form and covers all aspects of the operation of the premises as outlined above.

The Board is aware that a number of licensed premises in the vicinity of the two major football grounds at Dens Park and Tannadice wish to permit the presence of children and young persons before and after football matches. The Board would be prepared to agree to the inclusion of this in operating plans provided the children and young persons are accompanied by a responsible adult, the hours of such admission are restricted to two hours before kick-off and one hour after the conclusion of the games, subject to a maximum terminal hour of 8:00 pm, and the proposed terms of admission of such children and young persons are not inconsistent with any other provision of this Statement of Licensing Policy.

Deliveries of Alcohol

Where premises licence holders with an off sales facility apply for a variation to operate a delivery service, policies and procedures should be in place and implemented by staff including in relation to the process of taking and recording of orders, training for delivery drivers, recording of items despatched, age verification policy and recording deliveries made. Those policies and procedures should be aimed at preventing alcohol being delivered to and consumed by persons under 18 or drunk persons.

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

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

Safety of Workers and Employees within Licensed Premises

The Licensing Board acknowledges that it has no specific remit in relation to health and safety issues involving staff working within licensed premises. It does however recognise that there will be occasions where the safety of staff may be compromised by customers who are intoxicated, particularly where they have been refused service or access to the premises. It also recognises that staff travelling home alone at night, particularly women, are at a heightened risk of violent crime. The Board therefore believes that licence holders have an added responsibility towards their staff flowing from issues directly relating to the sale of alcohol and the specific provisions of their licence.

The Board believes that all licence holders, and particularly those operating or applying for later licensed hours, should consider what arrangements are in place for staff getting home safely after the premises have closed when public transportation options may be more limited or non-existent. The Licensing Board is greatly encouraged by the "Safe Home" initiatives adopted by some licence holders for their staff and would strongly encourage others to take a similarly responsible approach to the safety of staff working within their premises later at night. The Board also welcomes the growing number of campaigns and initiatives aimed at improving pay and conditions for staff working within the hospitality sector and expects that licence holders will lead the way in helping to eliminate unfair working practices within the licensed trade.

Procedure for Dealing with Applications for Licences, Etc.

The various types of applications and matters which the Board will require to deal with have been set out in Part 2 of this document. However, the Act recognises that not every application should require to be the subject of a Hearing before the Board and allows a considerable amount of delegation to the Clerk, should the Board so decide.

Those applications which require to be submitted to the Board for a Hearing are as follows:-

- application for new premises licences;
- application for variation of premises licence where the variation sought is not a minor variation;
- application for transfer of premises licence where the applicant has been convicted of a relevant or foreign offence;
- application for a personal licence (new application or renewal) where the applicant has been convicted of a relevant or foreign offence;
- a Hearing on an application for review of a premises or personal licence;
- making a closure order, and
- refusing an application for confirmation of a provisional premises licence.

All other matters can potentially be delegated and these include:-

- applications for transfer of a premises licence where the applicant has not been convicted of a relevant or foreign offence;
- applications for variation of a premises licence where the variation is a minor variation;
- applications for personal licences (new and renewal) where the applicant has not been convicted of a relevant or foreign offence;
- applications for occasional licences where there is no notice of objection or representation or no notice from the Chief Constable recommending refusal;
- grant of occasional extensions of hours for a special event of local or national significance, and
- grant of extended hours applications where neither the Chief Constable nor the Licensing Standards Officers have submitted an objection.

In the case of applications for the transfer of licences, if an ongoing licence holder is prepared to allow the proposed transfer to trade on their licence pending the processing of the application, a letter/e-mail authorising this should be sent to the Licensing Office.

Only those matters where there is a statutory requirement for a hearing will be dealt with at a meeting of the Board and all other matters are delegated to the Convener in consultation with the Clerk in terms of Paragraph 10(1) and (2) of Schedule I to the 2005 Act, the Convener refers the matter to the Board for determination.

The procedure at any hearing before the Board will be to hear first from the objector or person making a representation or making a complaint to the Board. At that point the Board may ask questions of that person. The licence holder/applicant and/or their agent would then have the opportunity to respond and answer any questions that might be asked by members of the Board. After any further discussion, there would then be final submissions by all parties present, whereupon the Board would then consider its decision. It would not normally be the practice of the Board to hear evidence from witnesses. In the event that the procedure at hearings is made the subject of regulations or further guidance from Scottish Ministers, this policy statement would be superseded to that extent.

The Board acknowledges the mandatory conditions laid down in Schedules 3 and 4 to the 2005 Act and is aware that other conditions are to be included in various regulations under the Act. Appropriate use will be made of all such conditions and, in addition, where relevant representations are made, the Board will consider whether any other conditions need to be attached to a licence to secure achievement of the licensing objectives.

Licences Ceasing to have Effect

Section 28(1)(b) states that a premises licence ceases to have effect on the occurrence of any of the events set out in Section 28(5). Section 28(5) sets out a list of the circumstances in which a licence ceases to have effect. Two of these circumstances are the revocation or surrender of a licence. If a licence is revoked or surrendered, it is difficult to see how it can be said that the licence remains in existence and can in some way be revived at a later date. Section 28(1)(b) simply refers to a licence ceasing to have effect in relation to all of the defined circumstances in section 28(5). No distinction is drawn between what ceasing to have effect means when a licence is revoked as opposed to, say, when a licence holder is dissolved. The Board's view, therefore, is that "ceasing to have effect" means the same as regards all of the circumstances set out in Section 28(5).

As stated above, when a licence is revoked or surrendered it is plain that it does not remain in existence and cannot be revived at a future date. Thus, the same must apply to the other sets of

circumstances specified in section 28(5) and, accordingly, where a licence ceases to have effect as a result of section 28(5) it no longer exists.

Furthermore, the 28 day window under Section 28(2) for applying for a transfer of a premises licence demonstrates that, in certain circumstances, there is the opportunity to keep the licence alive but, if that opportunity is not taken, then the licence will cease to have effect and will no longer exist.

Relationship with other Strategies and Regimes

The Board will endeavour to secure proper integration with local crime prevention, community safety, health, planning, transport, tourism, equality and cultural strategies.

There are a number of wider issues which may need to be given due consideration when dealing with applications. The Board will receive, when appropriate, reports on the needs of the local tourism authority to make sure that these are reflected in the Board's consideration. Also, the Board recognises that licensing applications should not be seen as a re-run of the planning process and there will be a clear separation of the planning and licensing regimes to avoid duplication and inefficiency. However, there will continue to be proper liaison and communication between these two regimes. The Board will, so far as possible, avoid duplication with other regulatory regimes such as health and safety at work and fire safety. The Board will liaise with the Dundee Drug and Alcohol Action Team (DAAT), which is represented on the Local Licensing Forum. The Board will also 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.

All premises for which a licence is being sought will be expected to comply 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.

Other statutory requirements may apply to the provision of any activities at premises and the responsibility for compliance lies with the licence holder. 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 a requirement of any licence decision to address these matters but a responsible licence holder will conform to all relevant legislation.

The Board will at all times have due regard to the terms of the Equality Act 2010 (as amended).

Enforcement

Dundee City Council, as the appropriate local authority, employs two Licensing Standards Officers (LSO's) in accordance with the terms of the 2005 Act. LSO's seek to ensure compliance with licensing conditions and the licensing objectives and provide information and guidance to applicants and licence-holders. At the time of publication of this document, two LSO's have been appointed and their contact details are:-

1. Simon Goulding (01382) 436222
E-mail: simon.goulding@dundeecity.gov.uk
2. Paul Hogan (01382) 436299
E-mail: paul.hogan@dundeecity.gov.uk

APPENDIX 1

PAVEMENT CAFÉ CONDITIONS ISSUED BY DUNDEE CITY LICENSING BOARD

1. To avoid causing a public nuisance the pavement café shall cease at 9:00 pm each evening. However, between 28th June and 11th August 2013, the pavement café will be granted to operate until 10.00 pm.
2. All tables, chairs and cordon material must be removed at that closure of the pavement café and stored in a manner so not as to impede any entrances or exists of the licensed premises.
3. The area that has been approved by the Licensing Board to operate as a pavement café shall be cordoned off using material deemed by the Licensing Board to be suitable for the purpose. This is to ensure that all patrons know the boundaries of the area where alcohol is allowed to be consumed.
4. The Premises Licence Holder or Designated Premises Manager shall ensure that a suitable portable cigarette receptacle is situated within the pavement café area (e.g., either a portable bin with cigarette stubbing out facility or ashtrays).
5. The Premises Licence Holder or Designated Premises Manager shall ensure that staff:-
 - (a) promptly collect all empty/unused drinking glasses and bottles from the pavement café area;
 - (b) regularly supervise the pavement café and its patrons (this can be done whilst regularly collecting drinking glasses), and
 - (c) regularly clear all litter associated with the pavement café during the operating hours and, at the end of licensing period, clear all litter (this includes cigarette ends).
6. A notice must be placed in a suitable area of the pavement café informing all patrons using the facility that alcohol shall only be consumed in that area and whilst being seated.
7. All pavement café furniture including the cordon must be a minimum of two metres away from the kerbside to allow the unrestricted movement of members of the public.
8. Furniture used for a pavement café must be in a serviceable condition and be of a standard acceptable to the Licensing Board. Under not circumstances shall bar room furniture be placed into the pavement café area. Acceptable material for pavement café furniture is detailed below:-

CRITERIA FOR CONSIDERATION OF AN APPLICATION

1. If the Pavement Café is operational on more than 28 days in a 12 month period, planning permission may be required. For information contact Ms Lesley Campbell (Tel. 433019).
2. Tables and chairs must be stored in such a manner so as not to impede any entrances to or exists from the building.
3. All furniture e.g., tables and chairs must be a minimum of two metres away from the kerbside.
4. The area of the Pavement Cafe must be cordoned off using suitable materials.

APPENDIX 2**ADDITIONAL OCCASIONAL LICENCE CONDITIONS WHICH MAY BE IMPOSED
BY THE LICENSING BOARD****TRAINING OF STAFF**

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.
 - 1a. That is the capacity (whether paid or unpaid) which involves a person -
 - (i) making sales of alcohol, or
 - (ii) where alcohol is sold on the premises for consumption on the premises, serving such alcohol to any person.
 - 1b. At any time when a person (other than a person that holds a personal licence) is working in the premises in a capacity mentioned in 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.
 - 1c. A record kept on the premises under sub-paragraph (2a) must be produced to a Licensing Standards Officer on request.

2. Control of Musical Noise

All amplified music and vocals shall be so controlled as to be inaudible within the nearest residential accommodation.

3. Litter

All litter, including cigarette ends, which have been discarded outside the adjacent to any entrance/exit doors of the premises must be cleared from the road and pavement and disposed of correctly at the end of each evening when an event has taken place.

4. Occasional Licence

The applicant must ensure that the occasional licence is held at the venue.

APPENDIX 3

DUNDEE CITY LICENSING BOARD

LARGE EVENTS & ALCOHOL LICENSING

GUIDANCE ON ALCOHOL MANAGEMENT PLANS (AMP) AND LAYOUT PLANS FOR LARGE EVENTS WITH A LICENCED CAPACITY 500 OR MORE PATRONS

Dundee Licensing Board will require a detailed Alcohol Management Plan (AMP) for all large scale and one off events with a capacity of 500 or more patrons that will include the sale of alcohol by way of an occasional licence. The AMP must be to the satisfaction of Licensing Standards Officers and Police Scotland. This plan must be submitted at the earliest opportunity and may be required to be submitted with a Public Entertainment Licence (PEL) application.

The AMP will consist of but will not be limited to the following:

The Licensing Objectives are listed below, with example of controls that may be applied to prevent possible breaches of the objectives

Preventing Crime and Disorder

Examples:

SIA licensed staff will be controlling access to the event, any person deemed to be under the influence of alcohol will not be permitted

Bag searches will be carried out by SIA staff to prevent any alcohol being brought into the event

SIA staff will search all persons deemed over 12 years of age using a metal detector wand to search for hidden metal objects

Securing Public Safety

Examples:

Policy for dealing with individuals that have consumed too much alcohol or may be in a distressed vulnerable state

Number of SIA door supervisors, their roles throughout the event and static locations

Smoking Policy

Preventing a Public Nuisance

Examples:

What roles will SIA door supervisors have with the end/closure of the event and persons leaving the area?

Dealing with complaints with regards to loud music

Preventing alcohol from being removed from the event unless an off sales licence has been granted

Protecting Children and Young Persons from Harm

Examples:

Policy for distressed or lost children and young persons

Policy for identifying young person in possession of alcohol

Challenge 25 at all bars

Wristbands for person 18 and over

Protecting and Improving Public Health

Example:

A policy in place for dealing with persons who have consumed too much alcohol

Weights and Measures

What type of drinking vessels will be used and that they are compliant with weights and measures legislation?

<https://www.businesscompanion.info/en/quick-guides/weights-and-measures/the-sale-of-alcohol-in-licensed-premises#Stampedmeasuringequipmentglasses>

General Information

Layout plan of the event to include but not limited to locations of: bars, water points, stage, speakers (including direction), toilets, bar queuing locations, fire escape areas, first aid area, smoking areas and waste locations

Sizes of bars including the amount of staff on each bar

A list of all drinks being sold at the event and the cost of those alcoholic drinks

Age verification policies and identification checks by bar staff using 'challenge 25' as a benchmark

A list of signage that will be displayed at each bar e.g., Section 110 notice, weights and measures signage, age verification policy, challenge 25 posters and price lists, statutory no smoking signs

What time the event is to finish and what time last orders will be called at the bars and how drinking up time (15mins) will be monitored?

Will there being queuing system in place? And if so, what kind, layout and will it be monitored? If there is no queuing system will there be equipment stored in case one has to be implemented during the course of the event?

Will there be security/radios at the bar areas? If so how many and where?

Drugs Policy

What is the event organisers policy on dealing with person who have taken or are seen to be taking drugs? What is the event organisers policy on persons dealing drugs at the event? What is the policy for staff members who find drugs in the venue?

Staff Training

All staff that do not hold a personal licence will be required to be trained in line with the Staff Training Regulation 2007. How will this be carried out?

Where will all required documents be held? These should include staff training records, personal licenses, occasional licence and drugs policy. All documents should be made accessible to the LSO and or police

Refusal Logs – should be retained at each bar and be made accessible to the police

Large notice informing patrons of the bar closing times.

Will persons 18 and over be issued with wrist bands for age restriction purposes?

Single use plastic policy. Dundee City Council are aware of the damage that single use plastic causes to the environment. We expect event organisers to adopt a policy that restricts the use of this type of product at the event e.g., use paper cups instead of single use plastic, don't offer straws, use paper straws instead of plastic, ask people to bring their own non single use plastic water bottle, sell cans of soft drinks instead of single use plastic soft drinks, do not give out or use plastic stirrers.

Waste Disposal Policy, who will be cleaning the area during and after the event?

Waste contract?