

Cunninghame House,  
Irvine.

26 October 2016

## **North Ayrshire Licensing Board**

You are requested to attend a meeting of the North Ayrshire Licensing Board to be held in the Council Chambers, Cunninghame House, Irvine on **MONDAY 31 OCTOBER 2016** at **10.00 am** to consider the undernoted business.

Yours faithfully

Clerk to the Licensing Board

**1. Minutes**

Confirm the Minutes of the Board Meeting held on 5 September 2016.

**2. Chief Constable's Annual Report - Licensing (Scotland) Act 2005, Section 12A for year to 31 March 2016**

Submit report to the Licensing Board by the Chief Constable of Police Scotland (copy enclosed).

**3. Consideration of NALB Policy for Festive Period 2016-2017**

Submit report to the Licensing Board regarding Occasional Extensions and Occasional Licences during the Festive Period 2016-2017 (copy enclosed).

**4. Junior Football and Alcohol Licensing**

Submit report by the Clerk to the Licensing Board to consider and review the Policy in relation to Junior Football and Alcohol Licensing (copy enclosed).

**5. Licences and Applications under the Licensing (Scotland) Act 2005**

Submit report by the Clerk to the Licensing Board on applications under the Licensing (Scotland) Act 2005 (copy enclosed).



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## Licensing Board

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Sederunt:   Ronnie McNicol (Convenor)  
              Tom Marshall (Vice-Convenor)  
              Robert Barr  
              John Bruce  
              John Easdale  
              Grace McLean  
              Catherine McMillan  
              Alan Munro  
              Donald Reid  
              Robert Steel

Chair:

Attending:

Apologies:

Meeting Ended:



## AGENDA ITEM 2

Report

to

North Ayrshire Licensing Board

by

Solicitor (Licensing)

Subject:	Chief Constable's Annual Report - Licensing (Scotland) Act 2005, Section 12A for year to 31 March 2016
Recommendation:	That the Board note the Report

Under Section 12A of the 2005 Act (as inserted by the Alcohol etc. (Scotland) Act 2010) the Chief Constable must, as soon as practicable after the end of each financial year, send a report to the Board setting out—

(a) the Chief Constable's views about matters relating to policing in connection with the operation of the 2005 Act in the Board's area during that year and the following year, and

(b) any steps the Chief Constable—

(i) has taken during that year,

(ii) intends to take in the following year,

to prevent the sale or supply of alcohol to 'Children' or 'Young People' in that area.

The Chief Constable must also send a copy of the report to the Local Licensing Forum.

The Chief Constable of Police Scotland has therefore submitted the attached Report. If the Board so requests, the Chief Constable (or other constable nominated by the Chief Constable) must attend a meeting of the Board to discuss the Report.

The Board is not required to take any action. It will remain the case that if the Police have complaints about particular Licensed Premises, these will be raised using the Review procedures in Sections 36 (Premises Licence) and Sections 84 and 84A (Personal Licence).





**POLICE  
SCOTLAND**

Keeping people safe

CHIEF CONSTABLE'S REPORT TO THE  
NORTH Ayrshire LICENSING BOARD  
FOR THE PERIOD  
1<sup>ST</sup> APRIL 2015 to 31<sup>ST</sup> MARCH 2016





## **FOREWORD**

As the Chief Constable of Police Scotland, it gives me great pleasure to provide my first annual licensing report, in accordance with section 12(A) of the Licensing (Scotland) Act 2005.

I would firstly like to take this opportunity to acknowledge and thank you for the contribution and excellent work undertaken during the past year throughout the licensing area of business in Scotland, especially within our 32 Local Authorities.

Police Scotland together with our licensing partners have faced and continue to confront many challenges, not least our budget constraints. However, this will not detract from our commitment to continuing to provide the very best and sustainable policing service to our communities across the country.

I am especially keen to develop our local services to meet the varying licensing demands and expectations within our diverse local communities, by listening to people and developing opportunities to improve, including the sharing of best practise and influencing positive attitudes and behaviours to reduce alcohol related crimes and anti-social behaviour.

Police Scotland's licensing structure and function has recently undergone significant transition and now benefits from improved governance, flexibility and support, with a real emphasis on quality of service. These changes are further enhanced through our commitment to investing and implementing a national I.T. database, (Innkeeper), which has significantly improved our management and the administration of all liquor and civic licences. Police Scotland and our licensing partners now benefit from a consistent service with improved local delivery, decision making and reporting process.

With our licensing transition complete, we are now transforming our licensing service and central to this is our ability to continue to work closely with our Local Authorities, the licensed trade and other key partners, with a main focus on prevention and vulnerability.

We recognise that problem solving is essential in achieving our mutual aims of public safety and a healthy community environment, while enforcement should only be used as necessary. We will only achieve these aims together through consent and by legitimate means with the full support of all key licensing partners.

I look forward to the coming year where we will continue to improve licensing standards, reduce violence and continue to keep our communities and people safe.

Philip Gormley QPM  
Chief Constable  
Police Service of Scotland

## **Police Scotland Licensing Overview**

Following the inception of Police Scotland in 2013, a two tier structure for licensing was adopted to support both national and local priorities and service delivery.

A National Licensing Policy Unit (NLPU), which sits within Licensing and Violence Reduction Division, has overall responsibility for determining and delivering national licensing strategy and policy. The NLPU also provides advice, guidance and support to divisional licensing teams as well as undertaking other specialist functions.

Dedicated licensing teams are located in each of the 13 local divisions and are responsible for the day to day management of licensing administration, complying with statutory requirements as well as addressing any issues that may arise within licensed premises within their local area.

## **LICENSING BOARD AREA**

The North Ayrshire Licensing Board area is policed by North Ayrshire Sub-Division.

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

## **Local Policing Priorities**

Following our public consultation process, the policing priorities for Ayrshire Division, as set out in our Local Policing Plan are as follows;

- Drug Use and Drug Dealing
- Drunk or Disorderly Behaviour
- Assault and Violent Crime
- Housebreaking and Other Theft

## **Senior Officers**

The senior officers who hold responsibility for licensing within the area of North Ayrshire are as follows;

Superintendent Farouque Hussain - Support and Service Delivery

Chief Inspector Brian Shaw – Area Commander

Chief Inspector Tim Ross - Community Engagement and Partnership Working

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### Licensing Department;

Inspector Alison Wilson  
Sergeant Gareth Griffiths

Head of Department  
Licensing Sergeant

North Ayrshire has a population of approximately 136,000. It is located in the south-west region of Scotland covering 341 square miles and is bordered by the local authority areas of Inverclyde, Renfrewshire, East Ayrshire and South Ayrshire. The largest town, Irvine has an approximate population of 40,000. The area also contains the towns of Ardrossan, Beith, Dalry, Kilbirnie, Kilwinning, Largs, Saltcoats, Skelmorlie, Stevenston, West Kilbride, as well as the Isles of Arran and Cumbrae. This presents a diverse mixture of urban, rural and isolated towns and villages providing officers in the Command Area with a unique set of policing challenges. Building on existing partnerships, problems identified by community consultation are tackled to improve the quality of life for those within North Ayrshire. There are a total of 401 licensed premises in North Ayrshire; 274 on sales premises and 127 off sales.

### **OPERATION OF THE LICENSING (SCOTLAND) ACT 2005**

Alcohol pervades across a wide range of issues in our society and is often a factor in violence, domestic abuse and anti-social behaviour; incidents that the Police Service of Scotland deals with every day in each area of the country.

Our focus is to improve safety and wellbeing of people, places and communities in Ayrshire by focusing on Keeping People Safe.

In the North Ayrshire Board Area during the reporting year there were no Premise Licence reviews or Personal Licence reviews submitted to the board by Police Scotland.

This is due to Police Scotland proactively identifying and addressing concerns regarding licensed premises at an early stage. Through early intervention and working in partnership with Designated Premise Managers and Premise Licence Holders, areas of concern have been successfully resolved without the requirement for a Premise or Personal Licence Review.

15 premises within the North Ayrshire Board Area have been subject to a Formal Intervention Agreement in the reporting year. These agreements are entered into between Premise Licence Holders and Police Scotland and set out areas in which improvement could be made. Each agreement is monitored and reviewed within a specific timescale to ensure that the necessary improvements have been implemented. The Formal Intervention process can often result in an improvement in standards and practices. The process also ensures that Police Scotland have utilised a fair and evidence based approach, prior to pursuing a formal review of a Premise Licence if agreed terms are not being complied with, or if there are recurring issues.

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## **NOT PROTECTIVELY MARKED**

An example of this is the proactive work that has been carried out with regards to a Licensed Premise in the Irvine area. Disorder was found to be occurring regularly within the premises and outside in the vicinity of the premises. A Formal Intervention meeting was held in June 2015 between Divisional Licensing staff, the Premise Licence Holder and Designated Premise Manager and an agreement entered into detailing a number of recommendations to assist the premises in dealing with any future incidents. These recommendations were all implemented by the premises and a positive working relationship was established between the premises and Police Scotland. Despite the proactive approach adopted by the premises, instances of disorder continued to occur. This was closely monitored by Divisional Licensing staff and due to the recurring issues at the premises, a second Intervention Meeting was held in January 2016 between Divisional Licensing staff and representatives from the premises. A further agreement was entered into; recommending additional measures to address the issues at the premises and emphasising that should any further incidents occur there would be no alternative other than to submit a Premise Licence review to North Ayrshire Licensing Board. This Intervention Agreement has had a positive effect; with a notable reduction in crimes occurring in and around the premises and a strong working relationship has been forged between Police Scotland and staff at the premises. As a result, there has been no need to proceed with a formal premises licence review.

### **Pub watch**

There is a successful Pub watch scheme operating in Saltcoats town centre area which meets monthly and is presided over by a Chairperson from a member premises. A designated police officer from the town centre Community Policing Team attends to provide input on any issues, trends, best practice or matters arising.

### **Partnerships**

Police officers and members of staff within Ayrshire Division work with a number of partner agencies in addressing alcohol related issues including; NHS, Education, Licensing Standards Officer and Licensing Forum to name a few.

### **Problem Solving**

Within Ayrshire Division every crime and incident which occurs in and around a licensed premise is scrutinised and followed up. This results in a greater knowledge and understanding of potential problematic premises which allows a problem solving approach to take place in conjunction with the Premises Licence Holder and Designated Premises Manager. Ayrshire Division operates a Monitored/Problematic Premises list which allows our officers to focus their attention on the premises requiring the most support and attention.

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## **PREVENTING THE SALE OR SUPPLY OF ALCOHOL TO CHILDREN OR YOUNG PEOPLE**

Police Scotland can help make a difference on the future outcomes for children by addressing the sale and supply of alcohol to young people. We can address this by targeting problematic licensed premises.

### **Activity**

In North Ayrshire 4 people have been reported to the Procurator Fiscal for contravention of Section 105 Licensing (Scotland) Act 2005, which relates to the purchase of alcohol by or for a child or young person. 2 people have been reported to the Procurator Fiscal for contravention of Section 102 of the Licensing (Scotland) Act 2005, which relates to the sale of alcohol to a child or a young person.

### **Proposed Activity**

Test Purchase Operations will continue where there is information and/or intelligence to indicate that alcohol is being supplied or purchased from a specific premises. This tactic is supported by Case Law but is only used where there is an indication that a problem exists.

## **TACKLING SERIOUS AND ORGANISED CRIME**

Serious and Organised Crime (SOCG) presents a clear threat to the Ayrshire Licensing trade and legitimate economy. As a result, Ayrshire Division continues to target known criminality in this area as well as attempting to reduce the opportunity for individuals to exploit legitimate licensing opportunities for their own illegitimate means.

Ayrshire Division Licensing Department has increased its links with the Divisional Intelligence Department and further integration between this department and the Serious and Organised Crime Interventions function is developing. This will ensure greater oversight between both areas allowing the Division to act at the earliest opportunity in providing the Licensing Board with information which may prevent a license being issued or to coordinate disruption activity around an existing license holder more effectively.

At this current time, there are 9 SOCG being managed by the Division with some of these groups having a known interest in a business requiring some form of licence to operate.

This involvement in the licensing trade is often a direct result of the expertise or experience of an individual from their group in that business sector, and/or the chosen business, providing an ability to launder criminal proceeds.

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Ayrshire Division continues to carry out targeted premises visits to ensure that all license conditions are being complied with. Such visits will also involve a range of partner agencies including; HMRC, DVSA, DVLA, Scottish Power, SEPA and others.

Within North Ayrshire, such continued scrutiny of problematic premises has had positive results.

As would be expected, detailed inspections of premises resulting in evidence based breaches of the Licensing Objectives will form the basis for matters to be brought to the attention of the Licensing Board, with close working between all departments involved to present the best possible factual information.

One example of the successful disruption of organised crime in North Ayrshire relates to a Designated Premises Manager with known links to SOCG in Ayrshire and Glasgow who was recently convicted of dealing in a significant amount of controlled drugs. Excellent work by the Divisional Interventions Team, supported by Ayrshire Licensing Department resulted in the male resigning his position as DPM with a review of his personal licence to be submitted imminently requesting that his licence is revoked. A Confiscation Order for money under the Proceeds of Crime Act was issued and work is ongoing to further disrupt his involvement in the licensed trade.

### **PROPOSED ACTIVITY FOR THE YEAR AHEAD**

Ayrshire Division will continue our focus to “Keep People Safe” and work collaboratively with the licensed trade, partners and local communities to improve standards and compliance across the licensed trade. We will address business practices that result in;

- excess alcohol consumption
- vulnerability due to excess alcohol consumption
- sale and supply of alcohol to children and young people
- incidents of crime and offending connect to sale of alcohol

### **National Perspective**

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

Consultation and engagement is combined with our own analysis of the issues likely to impact on the safety of the public to inform our local and national Strategic Assessments that identify our priorities and provide a firm evidence base for local policing teams across Scotland to deliver operational plans to prevent crime and disorder and Keep People Safe.

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**Our National Priorities are:**

- **Violence Disorder and Anti-social Behaviour**
- **Serious Organised Crime**
- **Road Safety and Road Crime**
- **Protecting People at Risk of Harm**
- **Counter Terrorism**

The National Licensing Policy Unit (NLPU) is a specialist department which consists of a small team of officers, based in Glasgow. The officers within the unit work in conjunction with licensing colleagues from local policing divisions. Together, they seek to ensure that legislation governing the sale and supply of alcohol and other civic licensed activity is applied and reported consistently across the country to licensing boards, in accordance with the Licensing Objectives.

During 2016/17, from a licensing perspective, our particular focus will be on the following;

- Scrutiny of the serious incidents of violence, disorder and antisocial behaviour linked to licensed premises.
- Continuous professional development training and guidance for staff to harmonise licensing practice across the country.
- Working closely with statutory partners to introduce a National Licensing Trade Forum to identify licensing related issues and prevent/reduce associated crimes.
- The implementation and ongoing development of a National ICT Licensing System, known as "Inn Keeper", to increase the efficiency and effectiveness of liquor and civic licensing administration and management.

The assistance obtained from the local authority to ensure that "Innkeeper" was implemented successfully during March 2016 is very much appreciated by Police Scotland. It is anticipated that this effective collaboration between the parties will continue to ensure that this valuable national resource remains fit for purpose and significantly improves the management of liquor and civic licensing records, documentation and information.





## AGENDA ITEM 3

Report

to

North Ayrshire Licensing Board

by

Solicitor (Licensing)

Subject:	Occasional Extensions and Occasional Licences for on-sales – Festive Period 2016-17
Purpose:	To advise the Board about previous and current Policy and procedure
Recommendation:	That the Board determine Policy

### **1. Background**

1.1. The Board are entitled to grant:

"Occasional Extensions" under Section 68 to Premises which are already licensed ("Extended Hours" or "E.H.");

"Occasional Licences" under Part 4 to Premises which are not already licensed ("O.L.").

1.2. The NALB Policy on Terminal Core Hours throughout the year is:

(a) Public Houses and Restaurants: Sunday to Wednesday: 24.00; Thursday to Saturday: 1.00.

(b) Nightclubs: Sunday to Wednesday: 1.00; Thursday to Saturday: 2.30.

(c) Members' Clubs: 7 days - 1.00.

1.3. In previous years, the Board have determined Policy for the Festive Period, which has:

(a) designated the dates of the 'Festive Period', during which extra hours were permitted - in past years, the Festive Period lasted about 5 weeks, starting around 1 December and continuing until the first day before shops and offices re-opened after New Year;

(b) divided the Festive Period in two, allocating the number of days of Extended Hours which could be applied for by each Premises. In past years, the Policy was:

(i) in the period to 15 December, up to four periods;

(ii) in the period from 16 December, up to seven periods.

## AGENDA ITEM 3

(c) determined what the authorised extension should be. In past years, this was one hour for each period of Licensed Hours beyond the Policy normally applicable for the particular type of Licensed Premises during the year (except that the extension for nightclubs in the period Thursday to Saturday was only 30", from 2.30 to 3.00 a.m.);

(d) qualified the Policy where Christmas Eve and Hogmanay fell on any of the days Sunday to Wednesday (and would otherwise have earlier closing hours): for the sole purpose of determining the application of Policy, an Application by individual Premises for Extended Hours under Section 68 for those nights would be treated as an Application for a Saturday (e.g. the maximum terminal hour which a public house could seek for those days was 2.00 a.m. during the Festive Period);

(e) directed that a curfew of 00.30 should apply to all on-sales premises (which is the same as during the rest of the year).

### 1.4. The practice of the other Ayrshire Boards is

#### (a) South Ayrshire LB:

The festive period is from 1st December to 2nd January. An extra hour is allowed. There is no curfew.

#### (b) East Ayrshire L.B.

The festive period is from two weeks prior to Christmas Day until 6 January.

Premises can stay open up to 4 days:

nightclub/discos can open to 3.00 a.m. with curfew at 2.15am. (in the rest of the year 2.30 a.m. with curfew at 1.15 a.m.)

other on-sales can open to 2.00 a.m. (rest of the year 1.00 a.m.)

1.5. The Board's Standard Conditions require all Premises open after 1.00 a.m. to have a First Aider and to observe a 00.30 curfew, regardless of the nature of the Licence or permission which authorises opening after 1.00 a.m. (e.g. an Occasional Extension or an Occasional Licence): NALB Conditions C.17, D.1 and D.4.

1.6. The Board have not previously made a Policy on extending off-sales hours. It is not necessary that they should, as most such Premises already have the maximum statutory hours (10.00 - 22.00, 7 days).

1.7. The Board have not used their powers under Section 67 ("Power for Licensing Board to grant general extensions of Licensed Hours"), i.e. PLHs have the option to apply for later hours, but do not automatically have them. Under the Policy Applications are treated on their merits, with the Police and L.S.O. being asked to comment on each proposal.

- 1.8. The Board's Licensing Policy Statement 2013-2018 includes:

*"7.15. Premises can only apply for 'Extended Hours' for the end of a period of Licensed Hours - if the Operating Plan does not already have Licensed Hours for the day in question, the Board must be asked for a Variation, rather than a grant of 'Extended Hours'. "*

### **2. Procedure**

2.1. For the convenience of Licensees, the Board accept a single Application Form covering several different days, although these are individual Applications. The prescribed fee per Application is £10, so an Application covering 4 dates would cost £40.

2.2. As with Applications throughout the year, the Board have a Policy requiring Applications to be made at least 28 days in advance of the date requested (detailed in the Board's Licensing Policy Statement 2013-2018, Annex C).

2.3. E.H. Applications are not publicised and there is no scope for public comment. If there is a complaint about the operation of Premises during Extended Hours, this would be dealt with as a normal Review.

2.4. Premises which are otherwise unlicensed (e.g. Community Centres) might be covered temporarily by an Occasional Licence. The Policy on hours during the year is as for Public Houses, with one hour extra during the Festive Period. These Applications are usually publicised on the Board website for 7 days.

### **3. Proposed Amendment to Scheme of Delegations**

3.1. Both types of Application are sent to the Police and Licensing Standards Officer for Report. These Reports are usually to be given within 10 days (E.H.) or 21 days (O.L.). However, the Board can shorten these periods to not less than 24 hours if satisfied that the Application requires to be dealt with quickly (E.H.: Sections 69(4)-(6); O.L.: Sections 57(4) & (5)).

3.2. Most Applications attract no adverse comments from Police etc. and are granted under Delegated Powers.

3.3. In cases that require to be dealt with quickly, the Board have previously delegated authority to the Convenor (whom failing the Vice-Convenor, whom failing any Member) to make both the preliminary decision to reduce the notice period, and thereafter to decide on whether or not to grant the Application itself. This additional Delegation applies throughout the year, and not only in the Festive Period.

### **4. Issues**

## AGENDA ITEM 3

- 4.1 The Board are invited to determine Policy for the forthcoming Festive Period. The Board should consider the Licensing Objectives, and in particular

- (a) preventing crime and disorder,
- (b) securing public safety,
- (c) preventing public nuisance,
- (d) protecting and improving public health, and

- 4.2. It is suggested that the Policy might be:

- (a) the first period should be Thursday 1 December 2016 to Thursday 15 December 2016 (both dates inclusive);
- (b) in that period, each Premises can apply for a maximum of 4 periods of Extended Hours;
- (c) the second period should be Friday 16 December 2016 to Monday 2 January 2017 (both dates inclusive);
- (d) in that period, each Premises could apply for a maximum of 7 periods of Extended Hours;
- (e) Since Christmas Eve & Hogmanay both fall on Saturdays in 2016 there is no need to have a special rule to treat these nights as if they were Saturdays;
- (f) the maximum extension should be for the period from:
  - (1) the end of the particular Premises' Core Hours for that day, until
  - (2) one hour after the Policy hour normally applicable for the particular type of Licensed Premises during the year,except that the extension for nightclubs in the period Thursday to Saturday will be only 30", from 2.30 to 3.00 a.m.;
- (g) the maximum Terminal Hour for Occasional Licences should be 2.00 a.m. (on all 7 days);
- (h) a 00.30 a.m. curfew should apply to all Licences (whether Premises Licences or Occasional Licences).

4.3. (f) is not worded simply as 'one hour after Core Hours' because if the extension is related to the actual hours held by particular Premises during the rest of the year, this might disadvantage those Premises which have chosen to have shorter Terminal Hours throughout the rest of the year.

For example, a restaurant might normally close at 21.00 all week:

### AGENDA ITEM 3

(a) If the Extension is linked to the 'Policy Hours' the Premises could have applied for for normal trading, then that restaurant could seek a festive extension to 1.00 (Sunday-Wednesday) or 2.00 (Thursday-Friday), but

(b) If the Extension is linked to actual Core Hours, it could only seek an extension to 22.00 on all days.



## AGENDA ITEM 4

Report to North Ayrshire Licensing Board

by

Solicitor (Licensing)

Subject	Junior Football and Alcohol Licensing
Purpose	To give Members background information
Recommendation	That Members consider the situation and review their Policy

### **Background**

1. After a consultation process which commenced on 14 September 2015 and which involved representations being made both by the Scottish Junior Football Association and the Police, on 5 September 2016 the Board discussed this matter further and:

- (a) agreed the Policy below (see Appendix 1);
- (b) created special Licence conditions for Occasional Licences granted for Junior Football (see Appendix 2).

2. One of the requirements of the Policy is that Applications should be made at least 14 days before the requested date. If they were late, they would still be accepted, but the Applicant would have to give a reason for being late, and the Convenor would then decide whether or not the Application should be processed.

By giving this power to the Convenor the Board acknowledged the possibility that sometimes it would be difficult for Clubs to give 14 days' notice, for example where a fixture on one weekend required to be replayed the next weekend, so that there was an unexpected need for an Occasional Licence.

3. 14 days is regarded as the minimum period necessary to comply with the legal obligations on the Board to notify the Police and the Licensing Standards Officer, and to advertise the Application to the public, so that short-notice Applications should be treated as exceptional.

### **The detail in Applications**

4. Since the Policy was adopted, it has been found that some Clubs give too much notice, rather than too little, because they lodge their Applications many weeks before. This means that they meet the 14 day limit, but their Applications may give little detail of the particular fixture. Board staff have found that some Applications have been lodged simply stating "Football Match", without naming the playing teams. Sometimes the Board staff are able to supplement the information, by checking the

## AGENDA ITEM 4

— fixture list on the SJFA's website, but sometimes the Applicant supplies details to the Board only a few days in advance of the fixture.

5. To be competent, an Occasional Licence Application must contain a "Description of activities to be carried on in the premises" (2005 Act, Section 56(7) and (8), and the Occasional Licence (Scotland) Regulations 2007 No. 96, Schedule 2).

The consequence of an Application being unspecific is that the Board may be expected to make a decision 'in the dark':

(a) If the Police or any third-party make an Objection or Representation to the Board under Section 58, the Board may disregard it as "frivolous or vexatious", but otherwise they are obliged to have regard to it.

(b) even if the Board do not disregard it, they might regard it as so unspecific as to have little weight.

Since the Board must be able to assess whether or not the particular Application is consistent with the Licensing Objectives, full information must be supplied to the Police and LSO before the decision.

For example, fixtures involving particular teams have often been the occasion of disorder in the past. If the Police do not know what teams are to be involved they cannot offer a meaningful response to the Board when an Occasional Licence is applied for. They cannot plan appropriate resources.

6. This situation has the potential to harm the public interest:

(a) there is a risk that the Board will make a judgment on Licensing Objectives without adequate information;

(b) The legislation on Occasional Licences does not give the Board power to Suspend or otherwise review the Licence after it is granted. This means that if the Board grant the Licence after the Applicant gives unspecific information and the Board later acquires more detailed information, nothing can be done.

(c) one of the Board conditions is frustrated. The Condition is:

*"If felt necessary by Police Scotland, the club should agree all policing costs prior to the grant of a Licence." (Condition M.6)*

### Conclusion

7. The Board are invited to state whether or not a vague Application (e.g. just saying "Football Match") should be rejected as incompetent, so that only Applications naming the playing teams should be accepted.



### Appendix 1

#### **North Ayrshire Licensing Board Junior Football Policy for Occasional Licences Licensing (Scotland) Act 2005**

Following representations from the Scottish Junior Football Association (West Region) and Police Scotland, and having regard to the fact that the sale or consumption of alcohol at Junior Football fixtures has the potential for crime, disorder, nuisance and anti-social behaviour, the Board have adopted a Policy which applies to any Occasional Licence granted for Premises linked to the playing of Junior Football.

Occasional Licences are automatically subject to Mandatory Conditions set out in Schedule 4 to the Act. In addition, the Policy also includes conditions made under Section 60(4), which are set out below ("Conditions for Junior Football - Board's Standard Conditions, Part M").

### **Policy**

1. The Notice Period between

- the date the Application is made and
- the requested date

must be at least fourteen (14) days.

2. If it is late, the Applicant will have to state why.

3. The Applicant must

- give the Board a plan showing the designated area (the only place where alcohol may be sold or consumed). If the Licence is issued, the plan approved by the Board will be an essential part of the Licence.
- state the times of the scheduled start and finish of the fixture.

4. If a late Application is lodged, it will be referred to the Convenor for a preliminary decision on whether or not to accept it for processing.

5. if the Notice Period is seven (7) days or less, the Convenor will be "satisfied that the application requires to be dealt with quickly" and so the usual statutory timescale of 21 days is reduced to 72 hours under (Licensing (Scotland) Act 2005,

## AGENDA ITEM 4

Section 57(4,5), added by Criminal Justice and Licensing (Scotland) Act 2010, Section 189(2).)

6. If it is not accepted, it will be treated as refused on the basis that the Convenor considers that it is not possible for

- the Police
- Licensing Standards Officer, or
- anyone entitled to make objections or representations

to give adequate consideration to the Application, and that it should be refused as inconsistent with the Licensing Objectives:

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

7. If it is accepted, it will be processed as normal (with intimation and advertisement). The Response Period will be the period available for Notices or Reports, objections or representations (subject to any reduction authorised by the Convenor under the 'quick' procedure.)

8. When the Response Period has expired, the Application will be referred to the Convenor for a decision on whether or not to grant the Licence. If there are adverse Notices or Reports, objections or adverse representations:

- the Applicant should be sent copies or advised orally or by email of their contents;
- the Applicant will be told the date and time when the Convenor is likely to consider the case and will be invited to lodge written or email comments

9. If the Licence is granted, it will be subject to the conditions of Part M of the Board's Standard Conditions. Part M is stated below

10. Anything which may be done by the Convenor may, whom failing, be done by the Vice-Convenor, and who failing, by any Member of the Licensing Board.

**Appendix 2**

**Conditions for Junior Football  
(Board's Standard Conditions, Part M)**

*Occasional Licences are automatically subject to Mandatory Conditions set out in Schedule 4 to the Act. The Conditions in Part M are local conditions made by the Board under Section 60(4).*

**M.1. Times**

Alcohol may only be sold or consumed in the periods:

- (a) one hour immediately before the scheduled start time of the fixture (if the start is delayed, period for sale or consumption is not extended),
- (b) one hour immediately after the end of the match.

There is to be no sale or consumption at half-time or any other interval.

**M.2. Places**

- (a) Alcohol may only be sold or consumed in the Designated Area shown on the plan included with the Application.
- (b) No alcohol is to leave the Designated Area.
- (c) No glasses shall be used. All drinks (alcoholic or not) shall be decanted into paper or plastic containers.

**M.3. Under-18s**

No person under 18 years of age may enter or remain in any place where alcohol is being sold or consumed, except that the sale or supply of non-alcoholic drinks is permitted but the person must immediately leave the designated area after the drinks are supplied.

**M.4. Temporary Structures**

Where a marquee, tent or other temporary structure is used:

- (a) Alcohol must only be consumed within
  - (1) the temporary structure or

## AGENDA ITEM 4

(2)a roped area beside it reserved exclusively for this purpose. The roped area shall not exceed in size the equivalent of one-half the floor area of the temporary structure itself.

(b) The Licence Holder shall follow the instructions of any officer of North Ayrshire Council prior to and throughout the duration of the Occasional Licence.

### M.5. Supervision

The Licence Holder:

- (a) shall provide adequate stewarding to enforce all conditions;
- (b) shall ensure that all staff who sell or serve alcohol on the Premises to which the Occasional Licence relates either hold a Personal Licence or have received the same training as is required of staff in Licensed Premises by 2005 Act, Schedule 3, Paragraph 6, and the Personal Licence or training record must be produced to a Licensing Standards Officer on request;
- (c) shall ensure that either he or that trained member of staff is present at the Premises throughout the duration of the Licence.

### M.6. Police costs

If felt necessary by Police Scotland, the club should agree all policing costs prior to the grant of a Licence.

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## **Agenda Item 5**

**31 October 2016**

### **North Ayrshire Licensing Board**

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**Subject:** **Licences and Applications under the Licensing (Scotland) Act 2005**

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**Purpose:** To inform the Licensing Board on the background to applications received under the Licensing (Scotland) Act 2005.

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**Recommendation:** That the Licensing Board determines the applications.

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#### **1. Introduction**

- 1.1 The Licensing Board is responsible for determining applications made under the Licensing (Scotland) Act 2005, and for determining questions under that Act.
- 1.2 The Board has previously approved a Scheme of Delegation whereby certain matters can be delegated.

#### **2. Current Position**

- 2.1 The applications before the Board are set out in the attached appendices. Each appendix contains reports prepared by licensing staff for each individual case before the Board.
- 2.2 Appropriate consultation has taken place with Police Scotland and with the Council's Building Standards and Planning Sections. Where relevant the reports have been copied to the applicants and any persons making objections or representations. Any objections or representations have been copied to the applicants, so that a response might be made at the Board Hearing.

Clerk to the Licensing Board

Reference : WO'B/MC

*For further information please contact William O'Brien , on 01294 324305.*



## APPENDIX A

### Premises Licence Applications or any other Applications requiring a Hearing

Case No.	Licence No.	Applicant/Licence Holder	Premises	Comments
1.	0484	Colin Malcher 70 Dalry Road Ardrossan KA22 7JZ	The Niche 106 Montgomery Street Irvine KA12 8PW	Application for Grant of Provisional Premises Licence - Section 45
2.	0483	The Scottish Sports Council t/a Sportscotland Doges, Templeton on the Green 62 Templeton Street Glasgow G40 1DA	Sportscotland National Centre Inverclyde Burnside Road Largs KA30 8RW	Application for Grant of Provisional Premises Licence - Section 45
3.	0124	Largs Convenience Store Limited 20/22 Nelson Street Largs KA30 8LW	Day-Today 20/22 Nelson Street Largs KA30 8LW	Application for Variation of Premises Licence - Section 29
4.	0078	CPC Largs Ltd Unit 3A Somervell Street Cambuslang Glasgow G72 7EB	The Royal Oak Bar 1 Boyd Street Largs KA30 8LD	Application for Variation of Premises Licence - Section 29
5.	0051	P/Ship of M & S Burnham 7 Braemore Wood Troon KA10 7FN	Elms Bar 21 Raise Street Saltcoats KA21 5JX	Application for Variation of Premises Licence - Section 29
6.	NA/2194 Trevor Mark John Helliwell			Application for Grant of Personal Licence - Section 74
7.	891/16	Simpsinns Limited 152a High Street Irvine KA12 8AN	Waterside Hotel Ardrossan Road Seamill West Kilbride KA23 9NG	Application for Extended Hours - Section 68
8.	911/16 - 913/16	Sharon Carol-Ann Horn 52 Westpark Wynd Dalry KA24 5BQ	The Tartan Bar 32 North Street Dalry KA24 5DW	Applications for Occasional Licence - Section 56 Clerk to report





### Application for Grant of Provisional Premises Licence - Section 45

Applicant	Colin Malcher
Premises	The Niche, 106 Montgomery Street, Irvine
Ref.	0484

#### **Preliminary**

*The Board is entitled, but not obliged, to request a report from the Chief Constable detailing all cases of Antisocial Behaviour, and all complaints or other representations made to Police which have taken place on, or in the vicinity of, the Premises, in the previous year. (The Board's power is under Section 24A, as added by the Criminal Justice and Licensing (Scotland) Act 2010).*

*Before proceeding to determine the Application itself, the Board should decide whether or not to request a Report. If it does, it must defer further consideration until the Report is produced.*

*This Report was prepared provisionally before the end of the Site Notice display period, which ends on 21<sup>st</sup> October 2016.*

*No objections have been received to date. If any objections are received prior to the end of the site display notice period these will be copied to the Applicant and all letters will be handed to Members at the Meeting.*

*The Applicant should lodge the following Certificate. Until the Board has it, it cannot determine the Application: Display of Site Notice*

#### **1. Summary of Proposal**

The Applicant has applied for the Grant of a Provisional Premises Licence (PPL).

The premises currently trade as a health food café but are not licensed to serve alcohol. The proposal is to extend the current café offering to provide a restaurant service with an on-sales only alcohol offering. The capacity of the premises is 30 persons.

The PPL relates to Premises which are to be constructed or converted for use as Licensed Premises, and is valid for a period of four years. During this period, the Applicant can request the Board to Confirm the PPL, or to extend the period.

The Premises cannot sell alcohol until the PPL is Confirmed. The Licence-Holder will apply to the Board for Confirmation once the construction or conversion is complete, and after Certificates as to Building Control (and if appropriate Food Hygiene) are issued. Confirmation is usually done by the Clerk or other officers under the Scheme of Delegations.

The Board decision on the PPL relates only to licensing legislation, and does not act as permission or certification under other legislation, such as Planning or Building Control. If the PPL is granted, the Premises cannot operate until all other legislative requirements are met.

**2. Detailed proposal****(a) Licensed Hours**

The Premises sell on-sales only.

Either the request is within NALB Policy on licensed hours, and is shown 'OK', or the Policy is shown.

	<b><i>Proposal</i></b>	<b><i>Policy</i></b>
Monday	11.00 - 24.00	OK
Tuesday	11.00 - 24.00	OK
Wednesday	11.00 - 24.00	OK
Thursday	11.00 - 24.00	OK
Friday	11.00 - 24.00	OK
Saturday	11.00 - 24.00	OK
Sunday	11.00 - 24.00	OK

**(b) Capacity**

The Applicant has advised that the total capacity of the Premises is 30 persons. All customers are expected to be seated.

**(c) Activities other than the sale of alcohol**

	<b><i>Proposed</i></b>
Accommodation	
Conference facilities	x
Restaurant facilities	x
Bar meals	x
Receptions (including weddings, funerals, birthdays, retirements, etc.)	x
Club or other group meetings	x
Recorded music	x
Live performances	x
Dance facilities	
Theatre	
Films	
Gaming	
Indoor/Outdoor sports	
Televised sport	
Outdoor Drinking	x
Adult entertainment	

**(d) Access for Under-18s**

Terms and Ages (OP 6(b) & (c))	All under 18s permitted access to the premises.  No conditions placed on the terms of access for under 18s.
Times (OP 6(d))	For the duration of the Premises' operating hours.  No restriction on the times at which under 18s may access the Premises.
Parts (OP 6(e))	All public areas including the outside terrace.

### **3. Issues**

#### **(a) Overprovision**

*The Board have a discretion to grant or refuse the Application. Subject to the Board's views about Overprovision, it is the Clerk's opinion that there are no statutory reasons to refuse, and there is no breach of Board Policy.*

*There is a rebuttable presumption of refusal due to Scottish Government guidance and the Board's own Licensing Policy Statement (LPS 2013-2018, Annex E). It is not necessary, for the presumption of refusal to apply, for there to be any objection made by a third party.*

*However, the Board's Overprovision Policy distinguishes Premises by 'Function Types', so that the presumption of refusal is stronger or weaker depending on the 'Function Type' of the Premises. The Premises here are in 'Function Type 4' (On-sales Premises whose principal function is the provision of accommodation, meals or non-alcoholic refreshment).*

*Accordingly, while the Board are entitled to refuse the Application due to Overprovision, they are not bound to do so, so the present Report omits the usual details about the Policy. If the Board consider that this is an issue which should be investigated, the case should be continued and the Clerk will prepare a supplementary Report.*

#### **(b) Variation of Standard Condition C.5.2**

*Standard Condition C.5.2 prohibits the consumption of all drinks (alcoholic or not) in the outdoor drinking area prior to 11.00am and after 10.00pm.*

*Within the Premises boundary wall is a terrace with room for 2 tables. The Applicant wishes the Board to vary Standard Condition C.5.2 to permit the consumption of non-alcoholic drinks in the outdoor drinking area outwith the core licensed hours, so to include service before 11.00am and after 10.00pm.*

*The Variation is sought to allow the use of the outdoor drinking area, outside the core licensed hours, for the service of food and non-alcoholic drinks.*

*The Board should be satisfied that granting the Variation will not be inconsistent with any of the Licensing Objectives, in particular Objective (c) "preventing public nuisance". The outdoor drinking area is immediately adjacent to the Premises and will be monitored by staff.*

## CASE 1

*If the Board grants the Variation and is subsequently satisfied that use of the outdoor drinking area out with the core licensed hours is inconsistent with any of the Licensing Objectives they have the right to further vary the Licence conditions so as to prevent the proposed use of the area before 11.00am and after 10.00pm.*

### **4. Observations**

- a. *The proposal would allow unaccompanied under-18s to be on the Premises throughout Licensing Hours (11.00 - 24.00).*
- b. *The terrace has two entrances: one from inside the building, and the other from the street. Applicant should advise Board what arrangements are proposed for supervising the area, to guard against people who are not customers entering the terrace and taking drink away.*

### **5. Licence Conditions**

If the Licence is granted, it will be subject to the following parts of the NALB Standard Conditions (Edition 5, made on 1 September 2009, as read with later amendments of the statutory mandatory conditions):

- A (All Premises)
- C (On-sale Premises)
- F (Entertainment)

If the variation to Standard Condition C.5.2 is permitted the condition should be replaced with:

*"No alcoholic drinks shall be taken into or consumed in the outdoor drinking area earlier than 11.00am or later than 10.00pm."*

## Application for Grant of Provisional Premises Licence - Section 45

Applicant	The Scottish Sports Council, trading as "Sportscotland"
Premises	Sportscotland, National Centre Inverclyde, Burnside Road, Largs
Ref.	0483

**Preliminary**

*The Board is entitled, but not obliged, to request a report from the Chief Constable detailing all cases of Antisocial Behaviour, and all complaints or other representations made to Police which have taken place on, or in the vicinity of, the Premises, in the previous year. (The Board's power is under Section 24A, as added by the Criminal Justice and Licensing (Scotland) Act 2010).*

*Before proceeding to determine the Application itself, the Board should decide whether or not to request a Report. If it does, it must defer further consideration until the Report is produced.*

*This Report was prepared provisionally before the end of the Site Notice display period, which ends on 21<sup>st</sup> October 2016. Only the objections received to date are noted here. If there are others, these will be copied to the Applicant, and all letters will be handed to Members at the Meeting.*

*The Applicant should lodge the Display of Site Notice Certificate. Until the Board has the Notice it cannot determine the Application.*

**1. Summary of Proposal**

The Applicant has applied for the Grant of a Provisional Premises Licence (PPL).

The proposal is for a new build inclusive residential venue for sport which will replace Sportscotland's current licenced premises (Licence 328). The new premises will cater for governing bodies for sport as well as sports clubs, education seminars and other sporting and community events. The premises will be set in woodland estate to the east of Largs and removed from residential areas.

The main residential area will consist of 60 bedrooms, a dining room, reception area, lounge bar, cafeteria, changing rooms and administration areas. The sports area will include an 8 court badminton hall, physical preparation centre, fitness suite and outdoor sports areas.

The PPL relates to Premises which are to be constructed or converted for use as Licensed Premises, and is valid for a period of four years. During this period, the Applicant can request the Board to Confirm the PPL, or to extend the period.

The Premises cannot sell alcohol until the PPL is Confirmed. The Licence-Holder will apply to the Board for Confirmation once the construction or conversion is complete, and after Certificates as to Building Control (and if appropriate Food Hygiene) are issued. Confirmation is usually done by the Clerk or other officers under the Scheme of Delegations.

## CASE 2

The Board decision on the PPL relates only to licensing legislation, and does not act as permission or certification under other legislation, such as Planning or Building Control. If the PPL is granted, the Premises cannot operate until all other legislative requirements are met.

### 2. Detailed proposal

#### (a) Licensed Hours

The Premises sell on-sales only.

Either the request is within NALB Policy on licensed hours, and is shown 'OK', or the Policy is shown.

	<b><i>Proposal</i></b>	<b><i>Policy</i></b>
Monday	12.30 - 24.00	OK
Tuesday	12.30 - 24.00	OK
Wednesday	12.30 - 24.00	OK
Thursday	12.30 - 24.00	OK
Friday	12.30 - 24.00	OK
Saturday	12.30 - 24.00	OK
Sunday	12.30 - 24.00	OK

#### (b) Capacity

The licensed area applied for covers the whole of the residential and sporting facilities, it is not restricted to certain designated areas, for example the bar, café and dining room. The Applicant has advised that the capacity of those particular areas, however, being those areas within the premises where alcohol will predominantly be served/consumed, have the following capacity:

- (i) the bar            50 (standing)
- (ii) café             50 (seated)
- (iii) dining room    200 (seated)

The Applicant has also advised that the residential accommodation available extends to 120 persons.

#### (c) Activities other than the sale of alcohol

	<b><i>Proposed</i></b>
Accommodation	X
Conference facilities	X
Restaurant facilities	X
Bar meals	X
Receptions (including weddings, funerals, birthdays, retirements, etc.)	
Club or other group meetings	X
Recorded music	X

Live performances	X
Dance facilities	
Theatre	
Films	
Gaming	
Indoor/Outdoor sports	X
Televised sport	X
Outdoor Drinking	X
Adult entertainment	

**(d) Access for Under-18s**

Under 18s will be allowed to access all areas, including the dining room, café and outdoor areas of the premises in connection with sporting activities they are undertaking at the premises and for the duration of any function or event that they are attending at the premises subject to the following restrictions.

Children will not, however, be permitted access to the bar area. Young Persons may attend at the bar area until 09.00pm

**3. Issues**

The Board have a discretion to grant or refuse the Application. Subject to the Board's views about Overprovision, it is the Clerk's opinion that there are no statutory reasons to refuse, and there is no breach of Board Policy.

There is a rebuttable presumption of refusal due to Scottish Government guidance and the Board's own Licensing Policy Statement (LPS 2013-2018, Annex E). It is not necessary, for the presumption of refusal to apply, for there to be any objection made by a third party.

However, the Board's Overprovision Policy distinguishes Premises by 'Function Types', so that the presumption of refusal is stronger or weaker depending on the 'Function Type' of the Premises. The Premises here are in 'Function Type 4' (On-sales Premises whose principal function is the provision of accommodation, meals or non-alcoholic refreshment).

Accordingly, while the Board are entitled to refuse the Application due to Overprovision, they are not bound to do so, so the present Report omits the usual details about the Policy. If the Board consider that this is an issue which should be investigated, the case should be continued and the Clerk will prepare a supplementary Report.

**4. Observations**

(a) While the Board may choose to disregard Overprovision, they might ask the Applicant to confirm that the facilities for buying alcohol will only be open to bona fide users or residents of the sports complex. While the Premises cannot be described as 'a public house', the Board should satisfy themselves

that they can properly disregard Overprovision, and they may do this by asking -- about any restriction on the sale of alcohol.

(b) The Premises' opening time is 12.30pm on all 7 days. However the Applicant has requested permission for outdoor drinking. The Applicant has stated that there shall be no drinking in the outdoor areas after 10.00pm, however it is not stated whether the outdoor areas will be used prior to 11.00am. The Board may wish to clarify with the Applicant whether the outdoor drinking area is to be available for use prior to 11.00am. The Premises will be in use for sports activities, functions and events from 8.00am and residents occupying the facility may be consuming alcohol on the Premises outwith the licensed on and off-sales hours.

(c) Note to Applicant: if alcohol is to be sold outside the times permitted by the Operating Plan in the Licence, the Applicant can apply for a temporary extension ("Extended Hours") under Section 68. The Board do not make general extensions under Section 68, but individual Licensed Premises can apply under Section 68. See the "Statement of Practice" in the Board's Licensing Policy Statement (on the Board's website) for guidance on time-limits.

### **5. Licence Conditions**

If the Licence is granted, it will be subject to the following parts of the NALB Standard Conditions (Edition 5, made on 1 September 2009, as read with later amendments of the statutory mandatory conditions):

- A (All Premises)
- B (Off-Sales)
- C (On-sale Premises)
- F (Entertainment)



## Application for Variation of Premises Licence - Section 29

Applicant	Largs Convenience Store Ltd.
Premises	"Day-Today", 20-22 Nelson St., Largs
Ref.	124

**Preliminary**

*This Report has been prepared provisionally before the end of the Site Notice display period, which ends on 21 October 2016:*

- 1. Until the Board have a Certificate of Display, they cannot determine the Application.*
- 2. no details of comments from third parties are given here. If there any, the Applicant will be advised and copies will be handed to Members.*

*Note to Applicant: this is not an issue for the Board and the Board cannot grant a Building Warrant, Completion Certificate or other permit, but NAC Building Standards state that:*

- 1. a Building Warrant is needed for the proposal to increase the shop floor area*
- 2. the 2011 Building Warrant 11/01273/BW for the conversion to a shop was refused a Completion Certificate in 2012.*

*Even if the Board grant the Licence variation, the operator should still obtain whatever other statutory permits are appropriate.*

**A. Summary of Variation Request(s)**

No.	Variation
1	Increase off-sales capacity from 11.4 sq. m. to 47.84 sq.m. (about 320%)
2	Alter Layout Plan

**B. Issues**

This gives the position for each of the numbered 'Variation Requests' summarised above. Where the legislation makes a decision mandatory, this is stated. Otherwise, the Board have a discretion whether to grant or refuse the request. Possible issues with L.O.s or Board Policy are highlighted.

<b><i>Variation 1: Increase off-sales capacity from 11.4 sq. m. to 47.84 sq.m. (about 320%)</i></b>
Discretionary refusal
Notes:

Overprovision may result if the Application is granted

There is a rebuttable presumption of refusal due to Scottish Government guidance and the Board's own Licensing Policy Statement (LPS 2013-2018, Annex E). It is not necessary, for the presumption of refusal to apply, for there to be any objection made by a third party.

The Board should consider any submissions made by the Applicant and any interested party, and take into account those submissions and the following presumptions:

- (a) the existing number and capacities of Premises in that Locality and in that Function Type is already sufficient,
- (b) Overprovision would result if the Application was to be granted, and
- (c) the Application should be refused.

The Policy is only a guideline and does not set rigid quotas. It would always be open to the particular Applicant to seek to persuade the Board that the Application should be granted.

The Board will expect Applicants who are seeking the grant of a Variation which increases the capacity under an existing Licence to provide robust and reliable evidence as to why the benefit to each of the Licensing Objectives outweighs the apparent detriment to those Licensing Objectives. The Board will expect to be addressed on the way the promotion of each Licensing Objective will be achieved by granting the Application.

This report to the Board supplies the following information:

- (a) the Locality of the Premises
- (b) the Function Type of the Premises
- (c) any Additional Factors
- (d) other similar premises in the Locality

(a) the Locality of the Premises

The Board has determined that there are 6 'localities' in its area (coinciding with the 6 'Neighbourhood Areas' used by the North Ayrshire Community Planning Partnership).

The Subject Premises are in Locality 1 : "North Coast" (Skelmorlie, Largs, Isle of Cumbrae, Fairlie, Seamill & West Kilbride).

(b) the Function Type of the Premises

The Board's Overprovision Policy distinguishes Premises by 'Function Types'.

The Subject Premises are in Function Type 1 (Off-sales).

**(c) Additional Factors**

The likelihood that the Application will be granted or refused will be influenced by the Locality and the Function Type:

- (1) Locality: the Additional Factor related to Locality does not apply;
- (2) Function Type: any Application for Premises in FT 1 (Off-sales) is especially unlikely to be granted (regardless of the Locality);

**(d) other similar premises in the Locality**

If the Board wish details of other similar Premises in the Locality, they might continue consideration to a later Meeting so that a Statement can be prepared and intimated to the Applicant.

***Variation 2: Alter Layout Plan***

Discretionary refusal

Notes:

Variation 2 follows from Variation 1:

if Variation 1 is refused, Variation 2 will be unnecessary and will be refused.

If Variation 1 is granted, Variation 2 is a mandatory grant.

**C. Licence Conditions**

No variation of the Conditions is appropriate.



## Application for Variation of Premises Licence - Section 29

Applicant	CPC Largs Limited
Premises	The Royal Oak Bar, 1 Boyd Street, Largs
Ref.	0078

### Preliminary

*This Report has been prepared provisionally before the end of the Site Notice display period, which ends 21<sup>st</sup> October 2016. Until the Board has a Certificate of Display, it cannot determine the Application.*

### 1. Summary of Variation Request(s)

The Premises are currently licensed as a public house but have not been trading for a number of months. The Variation is sought to allow the Premises to re-open as a bar-restaurant called "Tinto Tapas". A new layout plan for the restaurant has been submitted as part of the Application and the capacity of the premises is to be reduced from 59 to 30.

No.	Variation
1	Change name to "Tinto Tapas Bar"
2	Change Layout Plan
3	Reduce capacity from 59 to 30 customers
4	Alter on-sales hours
5	Alter off-sales hours
6	Vary access arrangements for under-18s
7	Vary activities

### 2. Procedure

The Board should hear from the Applicant and all parties making comments on the Application.

The Board should ask themselves two questions in relating to a third-party comment:

1. Should it be rejected as "frivolous or vexatious" ?
2. If the comment is not rejected, what weight should be put on it?

#### 1. Should it be rejected as "frivolous or vexatious" ?

2005 Act, Section 22(4) is:

*"A Licensing Board may reject a notice of Objection or Representation received by the Board under subsection (1) if the Board considers the Objection or Representation is frivolous or vexatious."*

The Board may therefore disregard any third-party comment which:

-- does not raise any of the statutory "grounds for refusal" (listed in Section 23(5)); and/or

- does not give the Applicant fair notice, by specifying the comment.

2. If the comment is not rejected, what **weight** should be put on it?

If the Board choose not to reject the comment, they should take it into account in deciding on the Application, but they are not obliged to follow the comment (for example, they do not have to refuse the Application).

They may

- treat the comment as having little weight, as against the other issues before the Board

- consider that there are other avenues open to the party, such as a complaint to another Authority

- consider that the concerns underlying the comment are already addressed by the Licence Conditions

- consider that extra Licence Conditions should be specially-written for this case

The representation from the occupier of 11 Gateside Street

This raises the issue of noise from Spanish guitar and flamenco exhibitions.

The Board are obliged to take account of two Licensing Objectives:

(c): 'preventing public nuisance'

(d): 'protecting & improving public health'

but may take the view that as there is no current objection it is not appropriate to pursue these.

If there is later a substantial noise problem, it will be open to the complainer

- to refer the matter to NAC Building Standards under the Environmental Protection Act 1990, Section 80

- to make a Review Application to the Board under 2005 Act, Section 36.

As the Premises are not currently operating it is premature to speculate that undue nuisance would be likely.

The Board are not entitled to determine matters which are regulated by other legislation. 2005 Act, Section 27(7) is:

*"A Licensing Board may not impose a condition under subsection (6) which—  
...*

*(c) relates to a matter (such as planning, building control or food hygiene) which is regulated under another enactment. "*

### 3. Issues

This gives the position for each of the 'Variation Requests' summarised above. Where the legislation makes a decision mandatory, this is stated. Otherwise, the Board has a discretion whether to grant or refuse the request. Possible issues with L.O.s or Board Policy are highlighted.

#### 1. Change name to "Tinto Tapas Bar"

Mandatory Grant : The request is for a 'Minor Variation'

#### 2. Change Layout Plan and reduce capacity from 59 to 30 customers

Grant : No statutory reason to refuse and no breach of Board Policy

The Applicant should be mindful that, while the Board have no comment to make in respect of any licensing issues arising in relation to the proposed variation to the layout of the premises, the Board is not entitled to determine matters which are regulated by other legislation, for example planning permission or building control.

Section 27(7) 2005 Act:

*"A Licensing Board may not impose a condition under subsection (6) which—  
...*

*(c) relates to a matter (such as planning, building control or food hygiene) which is regulated under another enactment. "*

The Applicants should therefore ensure that, notwithstanding the grant of any variation to the Premises Licence, they obtain all necessary Planning Permissions, Building Warrants or other consents.

#### 3. Reduce capacity from 59 to 30 customers

Mandatory Grant : The request is for a 'Minor Variation'

#### 4. Alter on-sales hours

Grant : No statutory reason to refuse and no breach of Board Policy

#### Variation of Hours - On-Sales

	<b><i>Current</i></b>	<b><i>Proposed</i></b>
Monday	11.00 - 24.00	11.00 - 24.00
Tuesday	"	"
Wednesday	"	"
Thursday	"	<b>11.00 - 1.00</b>
Friday	"	"
Saturday	"	"
Sunday	12.30 - 23.00	<b>11.00 - 24.00</b>

**5. Alter off-sales hours**

Grant : No statutory reason to refuse and no breach of Board Policy

Variation of Hours - Off-sales

	<b><i>Current</i></b>	<b><i>Proposed</i></b>
Monday	11.00 - 22.00	
Tuesday	"	11.00 - 22.00 on all
Wednesday	"	7 days
Thursday	"	
Friday	"	
Saturday	"	
Sunday	12.30 - 22.00	

**6. Vary access arrangements for under-18s**

Grant : No statutory reason to refuse and no breach of Board Policy

Under-18s are currently not permitted access to the premises in any circumstance. The Applicant wishes to allow under-18s access to the premises up until 10.00pm on the condition that they are accompanied by an adult. Under-18s will not be permitted in the immediate vicinity of the bar area.

**7. Vary activities**

Grant : No statutory reason to refuse and no breach of Board Policy

	<b><i>Current</i></b>	<b><i>Proposed</i></b>
Accommodation		
Conference facilities		
Restaurant facilities		X
Bar meals		X
Receptions (including weddings, funerals, birthdays, retirements, etc.)		X
Club or other group meetings		X
Recorded music		X
Live performances	X	X
Dance facilities		X
Theatre		
Films		
Gaming	X	
Indoor/Outdoor sports		
Televised sport	X	X
Outdoor Drinking		
Adult entertainment		



**3. Licence Conditions**

None of the proposed variations require a variation of any of the Licence Conditions.



## Application for Variation of Premises Licence - Section 29

Applicant	Michael & Sara Burnham
Premises	Elms Bar, 21-23 Raise Street, Saltcoats
Ref.	0051

**1. Preliminary**

*This Report has been prepared provisionally before the end of the Site Notice display period, which ends on 21<sup>st</sup> October 2016:*

- 1. Until the Board has a Certificate of Display, it cannot determine the Application.*
- 2. no details of comments from third parties are given here. If there any, the Applicant will be advised and copies will be handed to Members.*

**2. Summary of Variation Request(s)**

No.	Variation
1	Increase Sunday trading hours for both on and off sales

**3. Changes****Variation of Sunday Hours - On-Sales**

	<b>Current</b>	<b>Proposed</b>
Sunday	12.30 - 23.00	11.00 – 24.00

**Variation of Sunday Hours - Off-sales**

	<b>Current</b>	<b>Proposed</b>
Sunday	12.30 -22.00	11.00 – 22.00

**4. Issues**

**Variation: Increase Sunday trading hours for both on and off sales**

Grant (no statutory reason to refuse, and no breach of Board policy)

**5. Licence Conditions**

No variation of the Conditions is appropriate.



**Application for Grant of Personal Licence - Section 74**

Applicant	Trevor M.J. Helliwell
Ref.	NA 2194

**1. Summary**

The Applicant has applied for a Personal Licence. The Application is not advertised and the only consultation involves the Chief Constable, who is to provide the Board with a letter confirming whether or not the Applicant has been convicted of 'relevant or foreign offences'.

A copy of the letter will be given to Members.

The Chief Constable has reported that this Applicant has been convicted of one or more such offences.

The information was also supplied by the Applicant.

**2. Police Recommendation**

If the Chief Constable considers that it is necessary for the purposes of any of the Licensing Objectives that the Application should be refused, he may recommend this under Section 73(4). He has not done so.

**3. Procedure**

A copy of the Police letter and of this Report has been sent to the Applicant, together with Intimation of the Board Hearing.

At the Hearing, the Board must have regard to

- (a) the Chief Constable's letter
- (b) any comments made by the Applicant.

**4. Board's Powers**

If the Board is satisfied that it is necessary to refuse the Application for the purposes of any of the Licensing Objectives, it must do so. Otherwise, it must grant the Application.

All Personal Licences are valid for 10 years, and can be renewed indefinitely at 10 year intervals. The Board cannot limit the length of the grant or attach conditions.

**5. Subsequently**

The Applicant can appeal to the Sheriff if the Application is refused. The Chief Constable cannot appeal if the Application is granted.

After a decision to grant, if any of these occur:

- (a) the Licence Holder is convicted of an offence during the currency of the Licence, or
- (b) the Board, while dealing with a Premises Licence Review, makes a finding that the Holder has acted in a manner which was inconsistent with any of the Licensing Objectives, or
- (c) the Chief Constable considers that the Holder has acted in a manner which is inconsistent with any of the Licensing Objectives,

the Board will be entitled to hold a Hearing which may lead to the Revocation, Suspension for up to 6 months, or the Endorsement of the Licence. If 3 Endorsements are imposed within a 5-year period, the Board may Suspend or Revoke the Licence.

The Holder must obtain a fresh Licensing Qualification every 5 years, failing which the Licence is automatically revoked, without Board discretion or Appeal to the Sheriff.

**Application for Extended Hours - Section 68**

Applicant	Simpinns Ltd. (Karen Haddow)
Premises Name	"Waterside Hotel"
Premises Address	Ardrossan Road, Seamill, West Kilbride KA23 9NG
NALB ref	426 [891/16]

**1. Extension request:**

Ref.	Day, Date and Period	Purpose
1	31 December 2016 to 2.00 a.m. on Sunday 1 January 2017	"Hogmanay Ball"

**2. Current Licensed Hours**

The Premises sell both on-sales & off-sales.

	<i>On-Sales</i>	<i>Off-Sales</i>
Monday	11.00 - 24.00	11.00 - 22.00
Tuesday	"	"
Wednesday	"	"
Thursday	11.00 - 1.00	"
Friday	"	"
Saturday	"	"
Sunday	12.00 - 24.00	12.00 - 22.00

**3. Consultation**

When Extended Hours are applied for, the Board informs:

- (a) the Chief Constable, who is entitled to object if he considers it necessary to do so for the purposes of any of the Licensing Objectives.
- (b) the Licensing Standards Officer, who is obliged to comment.

Where there is no adverse comment from either, the Application is granted under delegated powers. There is no process of public advertisement and no scope for the public to object.

The Board Agenda includes a report from the L.S.O., and the Board will be updated at the Meeting.

At the date of preparing this Report the Police had not commented on the Application. If there is a Police Notice of Objection, it will be handed to Members and copied to the Applicant.

**4. Issues**

The Licensing Board must take into account

- (a) any Notice of Objection given by the Chief Constable, and
- (b) any Licensing Standards Officer's report.

The Board should be satisfied:

- (a) that the Extended Hours are requested to cover either:
  - (1) a special event or occasion to be catered for on the Premises, or
  - (2) a special event of local or national significance,
- (b) that the grant of Extended Hours would be consistent with the Licensing Objectives.

In deciding these questions, the Board are entitled to consider their Policy. The Policy should be seen as no more than a guideline and not a rigid rule. The Applicant is entitled to ask for an exception to be made.

The Board require to consider whether or not the Application is inconsistent with any Licensing Objective, and in particular L.O. (c) "preventing public nuisance".

For several weeks the L.S.O. had liaised with the Applicant, neighbours, the Police and the NAC Environmental Health Department. The neighbours complain that some of the 'live music' events on the Premises involve very loud and continuous sound.

## **5. Licence Conditions**

Under Section 70A, when the Board grant an EH Application, they may make such variation, addition, deletion or other modification of the Premises Licence Conditions as they consider necessary or expedient for the purposes of any of the Licensing Objectives. They are not obliged to make such a variation. If they do, it only applies during the period of extra hours, and the Conditions continue to apply for the rest of the Licensed Hours as they did before the EH were granted.

Conditions might impose a temporary variation on the activities to be carried on on the Premises, both their times and their locations.

If EH are granted, the Board may consider that this additional condition is necessary or expedient for the purposes of any of the Licensing Objectives:

*"For the duration of the Extended Hours, there shall be no playing of live or recorded music in any part of the Premises."*

## **6. Further Procedure**

The neighbours' complaints arise during the Premises' usual operating hours, so regardless of the Board's decision on the 'Extended Hours' application, the Board should consider whether or not to make a 'Premises Licence Review Proposal' under Section 37. If they do, the Premises Licence itself will be reviewed at a later Hearing.



If, at that Hearing, the Board uphold the Review, they can take whatever steps that they consider necessary or appropriate for the purposes of any of the Licensing Objectives: Revocation, Suspension, Variation or the issue of a Written Warning.

The Board should state the Ground for Review. The suggestion is:

*"whether or not the operation of the Premises in conformity with the Operating Plan, Layout Plan and Conditions is inconsistent with any Licensing Objective, and in particular L.O. (c) "preventing public nuisance" "*

