

Cunninghame House
Irvine
KA12 8EE

14 November 2018

North Ayrshire Licensing Board

You are requested to attend a Special Meeting of the North Ayrshire Licensing Board to be held in the Irvine and Kilwinning Room, Ground Floor, Cunninghame House, Irvine on **Monday 19 November 2018** at 10.00 A.M. to consider the undernoted business. If the meeting continues beyond 2.00 P.M. then the Board will convene in Council Chambers, at the same address.

Yours faithfully

Clerk to the Licensing Board

1. Licensing Policy Statement 2018-2022

Submit report by the Clerk to the Licensing Board on the proposed draft Licensing Policy Statement under the Licensing (Scotland) Act 2005 (copy enclosed).

Licensing Board

Sederunt: Ronnie McNicol (Convenor)
Todd Ferguson (Vice-Convenor)
Robert Barr
John Easdale
Scott Gallacher
Jean McClung
Davina McTiernan
Donald L Reid
Angela Stephen

Chair:

Apologies:

Meeting Ended:

Meeting Date: Monday 19 November 2018

Report to North Ayrshire Licensing Board

by

Clerk

Title	Licensing Policy Statement 2018-2022
Purpose	To inform the Board of procedure
Recommendation	That the Board consider the draft L.P.S. and approve it with or without amendment

1. Executive Summary

1.1. This report explains the procedure relating to the preparation of the Licensing Policy Statement 2018-2022 (here "L.P.S.").

1.2. All Boards in Scotland must have a L.P.S. and have regard to it when making decisions, for example to grant or refuse a Premises Licence for particular Premises.

2. Background

2.1. Periodically the Board must review its L.P.S.. The last L.P.S. was adopted in 2013. Special legislation related to the timing of Local Government elections meant that the 2013 L.P.S. lasted 5 years, but the L.P.S. for 2018-2022 and later periods will be due every 4 years, to follow 18 months after Council elections.

2.2. The background papers circulated to Members consist of

- (a) the Board Agenda
- (b) this Report
- (c) an annex to the Report called "Licensing Policy Statement - Paper Apart"
- (d) the draft L.P.S..

2.3. The "Paper Apart" contains the following:

- 1. Procedure: how the Board obtained the views of consultees

2. Consultation responses and officer's comments:
 - (a) NHS Ayrshire & Arran
 - (b) Alcohol Focus Scotland
 - (c) Local Licensing Forum
3. Description of Documents containing data
4. Consideration of Overprovision during the period 2013-2018

2.5. The "Consultation responses" and the "Documents containing data" are contained in the following documents:

Doc (a) Alcohol Facts and figures (AFS)

Doc (b) TRAFFIC LIGHT chart (NALB)

Doc (c) Monitoring Report 2018 (Alcohol-specific Deaths) (MESAS)

Doc (d) Alcohol Related Harm in Scotland 2016 (MESAS)

Doc (e) Alcohol Information - North Ayrshire (NHS)

Doc (f) Alcohol Outlet and Harm (NA) (CRESH-AFS)

Doc (g) Licensing Indicators (NHS-NALB)

Doc (h) Alcohol Statistics (Scotland and NA)

Doc (i) Alcohol-related crimes in NA (Police)

Doc (j) Fires and Alcohol-related incidents (SFRS)

Doc (k) Premises Licences in North Ayrshire

Doc (l) NHSAA - Response to LPS consultation [GEN32 LPS]

Doc (m) AFS - Response to LPS consultation [GEN32 LPS]

Doc (n) AFS - Alcohol Outlet Availability and Harm in North Ayrshire [GEN32 LPS]

Doc (o) LLF - Response to LPS consultation [GEN32 LPS]

Doc (p) Equalities Screening

Documents (a) to (k) relate to the proposed Overprovision Policy.

Documents (l) to (o) are the submissions made by respondents to the Consultation process.

Document (p) was completed as part of the Board's legal duty under the Equalities Act 2010.

2.6. As some of the documents (a) to (p) are large spreadsheets which cannot be reproduced in the single file which is usually used to give Members information, the following alternative procedure is being followed here:

(a) All of the documents (a) to (p) are available for free download on the Board's website:

<https://www.north-ayrshire.gov.uk/business/licences-and-permits/food-alcohol-gambling/licences/licensing-board.aspx>

(b) The draft L.P.S. will be discussed at a Special Meeting of the Board, which will include a presentation from officers on the report, draft L.P.S. and these documents. All of the documents (a) to (p) will be available to be shown on the large TV screens in the meeting Room, so that Members of the Board and members of the public in attendance will be able to view them.

2.7. The L.P.S. drafted for 2018-2022 is based on the current L.P.S. 2013-2018, although the draft has been updated to reflect:

- decisions by the Board in individual cases and on policy matters since 2013
- legislative changes

The text also has suggested additional text, for example to set out or clarify Policy on a particular matter. Possible changes for discussion by the Board are marked " ** ".

While the Board must have regard to the statutory guidance issued in 2007, this limited weight should be given to it as it is now considerably out of date. It was issued before the new system commenced in 2009, and has not been revised since to deal with subsequent legislative change or case law. Although further draft guidance was issued for consultation by the Scottish Government in early 2018, this has been widely criticised and current indications are that it will have to be subject to further consultation.

2.8. As with the current L.P.S., the draft consists of text plus several Annexes identified A, B, C .. F. The proposed Overprovision Policy is in

Annex D. The Overprovision Policy adopted in 2018 is similar to that adopted in 2013, which was a development of the Policy adopted in 2010. The data that the Board has collected indicates that there have been changes in health and other indicators over that time. For example a number of indicators in Largs have deteriorated and a number in Irvine have improved. However across the main three alcohol related health indicators of life expectancy in males and females, and alcohol-related hospital stays, the broad picture across each locality remains similar to that of the current Licensing Policy Statement. The data relating to alcohol related crime paints a similar picture, of more deprived communities facing the worst impacts from alcohol. This accords with the conclusions of the Sheffield University study, as considered by the Supreme Court in relation to minimum pricing. It accepted that alcohol disproportionately impacts on the poor. In short, the data for North Ayrshire is below the national average for the whole of Scotland, which itself is a low benchmark. Accordingly it is recommended that the current Overprovision Policy should be continued. This provides that there is Overprovision across all Localities of North Ayrshire, particularly in Irvine, Kilwinning, the Three Towns and Garnock Valley, and in all type of premises excluding hotels and restaurants.

3. Proposals

That the Board consider the draft and approve it with or without amendment before the next scheduled Board meeting on Monday 10 December 2018.

4. Implications

Financial:	The L.P.S. itself does not have financial implications, although any decision of the Board will take this into account and if a decision is challenged in Court then there will be financial implications.
Human Resources:	None.
Legal:	The L.P.S. itself does not have legal implications, although any decision of the Board will take this into account and if a decision is challenged in Court then there will be legal implications.
Equality:	The Clerk has considered the "Public Sector Equality Duty" in preparing this Report and the draft L.P.S.. An "Equality and Children's Rights Integrated Screening Form" is included with the supporting documents. The draft L.P.S. is consistent with the Board's duties

	under the Equality Act 2010, Section 149 ("Public Sector Equality Duty").
Children and Young People:	One of the 5 Licensing Objectives is "protecting Children and Young People from harm" (meaning under-18s). The L.P.S. explains how the Board approaches this L.O.
Environmental & Sustainability:	None.
Key Priorities:	An effective licensing system (e.g. monitoring the 'fit and proper' status of licence-holders and the compliance with the statutory Licensing Objectives) helps achieve Priority 4 of the North Ayrshire Council Plan 2015-2020, ("Supporting all of our people to stay safe, healthy and active")
Community Benefits:	Not applicable, as the Report does not relate to tendering or procurement exercises.

5. Consultations

5.1 The Board consulted with the following by sending letters or memoranda inviting the recipients to make suggestions to the Board as to the form and content of the draft L.P.S.:

- (a) Local Licensing Forum
- (b) NHS Ayrshire & Arran
- (c) Police Scotland
- (d) Scottish Fire & Rescue
- (e) All active Community Councils in North Ayrshire,
- (f) Community Justice Ayrshire
- (g) North Ayrshire Alcohol and Drug Partnership (NAADP)
- (h) North Ayrshire Council's Protective Services Department (Environmental Health, Trading Standards, Building Control and Planning)

In addition, a Public Notice summarising the purpose of the L.P.S. and inviting comments was published on the Board's website, and a notice was also posted on the Council's Twitter feed.

Craig Hatton
Chief Executive

Reference: WOB/GEN32

For further information please contact Aileen Craig, Clerk to the Board, on 01294-324322.

Background Papers

LPS NALB-Report (Paper Apart) 2 [GEN32]

LPS DRAFT 36 [GEN32]

Licensing Policy Statement

Paper Apart

Contents

1. Procedure: how the Board obtained the views of consultees
2. Consultation responses and officer's comments:
 - (a) NHS Ayrshire & Arran
 - (b) Alcohol Focus Scotland
 - (c) Local Licensing Forum
3. Description of Documents containing data
4. Consideration of Overprovision during the period 2013-2018

1. Procedure: how the Board obtained the views of consultees

The 2005 Act makes separate provision for consultation on:

- (a) Licensing Policy Statement ("L.P.S.")
- (b) Overprovision Assessment

(a) L.P.S. Consultation (Section 6(3)(b))

The Board must consult with:

- (a) the Local Licensing Forum;
- (b) Insofar as the Forum is not in fact representative of the interests which the Forum is required to be representative of:
 - (i) holders of Premises Licences and Personal Licences,
 - (ii) the Chief Constable for the police area in which the Forum's area is situated,
 - (iii) persons having functions relating to health, education or social work,

(iv) young people,

(v) persons resident within the Forum's area,

the Board must consult with such person or persons as appear to the Board to be representative of those interests;

(c) such other persons as the Board thinks appropriate.

In implementation of its duty, the Board consulted with the following by sending letters or memoranda inviting the recipients to make suggestions to the Board as to the form and content of the L.P.S.. In particular the Board sought views and supporting data on whether the Board's 2013 L.P.S. should be changed. Consultees were:

- (a) Local Licensing Forum
- (b) NHS Ayrshire & Arran
- (c) Police Scotland
- (d) Scottish Fire & Rescue
- (e) All active Community Councils in North Ayrshire,
- (f) Community Justice Ayrshire
- (g) North Ayrshire Alcohol and Drug Partnership (NAADP)
- (h) North Ayrshire Council's Protective Services Department (Environmental Health, Trading Standards, Building Control and Planning)

In addition, a Public Notice summarising the purpose of the L.P.S. and inviting comments was published on the Board's website on the page headed "Licensing Policy Statement consultation":

<https://www.north-ayrshire.gov.uk/business/licences-and-permits/food-alcohol-gambling-licences/lps-consultation.aspx>

A notice was also posted on the Council's Twitter feed.

Specific representations are summarised below, with comments. In addition, NHS Ayrshire and Arran, Alcohol Focus Scotland, Police Scotland, and Scottish Fire and Rescue provided data, details of which are considered as part of the supporting documents.

(b) Overprovision Assessment Consultation (Section 7(3)(b))

The Board is required to consult:

(a) the Chief Constable,

(b) such persons as appear to the Board to be representative of the interests of—

(i) holders of Premises Licences in respect of Premises within the locality,

(ii) persons resident in the locality, and

(c) such other persons as the Board thinks fit.

The Board considered that the consultation for the L.P.S. satisfied this additional duty and took no other action to canvass views.

2. Summary of Consultation responses and officer's comments:

No representations were received from any party or member of the public, except for:

- (a) NHS Ayrshire & Arran
- (b) Alcohol Focus Scotland
- (c) Local Licensing Forum

(a) NHS Ayrshire & Arran

The Health Board is a statutory consultee not only for the L.P.S. but also for individual applications for Premises Licences and Major Variations.

The consultation response document is:

"Doc (I) NHSAA - Response to LPS consultation [GEN32 LPS]"

This response referred to paragraphs of the 2013-18 L.P.S..

Where appropriate, the wording of the draft has been amended to reflect the representations.

The Health Board also provided the text and statistics which are published on the Board's website in relation to the Overprovision part of the L.P.S. (Annex D).

Board Comments

Protecting and Improving Public Health

In relation to the part of the L.P.S. 2013-18 dealing with this Licensing Objective:

1. NHS Ayrshire & Arran said:

"This objective could be more explicit in how licensed premises can promote this licensing objective. For example the policy statement should make reference to licence holders supporting campaigns such as designated driver campaigns, alcohol awareness campaigns and considering the relationship between alcohol and other health topics such as tobacco. Licence Holders can work in partnerships with NHS Ayrshire & Arran, North Ayrshire Council, North Ayrshire Alcohol & Drug Partnership, Police Scotland and the local community to protect and improve the health of North Ayrshire."

The Board comments:

While the Board can, and does, encourage Licensees to supply advice etc., it cannot require them to.

The Board licenses the sale of alcohol, and Section 27(7)(c) prohibits the Board from having Licence conditions which relate to a matter which is regulated under another enactment. The sale and advertising of tobacco is regulated by the Tobacco Advertising and Promotion Act 2002 and Tobacco and Primary Medical Services (Scotland) Act 2010, so the Board's conditions cannot relate to the sale and use of Tobacco products.

On a practical level, any Board decision is more likely to be affected by its Overprovision Assessment than by its views on the Licensing Objective "protecting and improving public health" (the "Public Health Licensing Objective" or "PHLO"). It is rare for any Board decision to be based solely on the PHLO, and this has never happened in North Ayrshire since the 2005 Act came into force in September 2009. This is because it is unlikely that the Board, when dealing with a Grant or Review involving particular Premises would be able to establish that there was a causal link between these particular premises and public health. By way of contrast an Overprovision Policy reverses the onus onto the applicant to show why the policy should not be followed.

The PHLO can be contrasted with the other 4 L.O.s. For example, in relation to the 'preventing crime and disorder' L.O., the Board might receive a Review Application from the Police, narrating numerous criminal incidents taking place on or near particular Premises. The Board might be able to point at those Premises and say "the operation of those Premises is not consistent with the 'preventing crime and disorder' L.O., and accordingly the Licence should be suspended". Again, if the Board receives a report from Environmental Health Officers about noise from Premises or an Outdoor Drinking Area ("beer garden") the Board might conclude "the operation of these Premises is not consistent with the 'preventing public nuisance' L.O."

The Board is unlikely to be able to be so specific with the PHLO. The Board might accept that the Premises are in an area which has significant health problems, but that acceptance would not imply that particular Premises offended the PHLO.

It is much more common for a decision to be referable to both the Overprovision Assessment and the PHLO. On many occasions the Board has refused a Premises Licence or refused a Variation seeking to increase alcohol display capacity, issuing a Statement of Reasons which discusses each of the potential reasons for refusal and in relation to the potential reason:

"that the Licensing Board considers that the granting of the Application would be inconsistent with one or more of the Licensing Objectives"

has said:

"The issue of inconsistency with one or more Licensing Objectives (set out in Section 4) did not arise, except in so far the Public Health Licensing Objective ("protecting & improving public health") was concerned. The Board were satisfied that its approach to Overprovision addressed that L.O., and did not consider [that potential reason for refusal] further."

The Board's approach was stated in the L.P.S. 2013-2018, Annex E. Para. 4.5(d) includes:

"... the Board accepts that the consumption of alcohol in any circumstances has the potential to injure health, and endorses the view that "alcohol is not an ordinary commodity" ..."

The word 'any' is to be emphasised.

Therefore the Board has rejected the approach sometimes proposed by Applicants. It is not for the Board to determine that there would be any harm to health arising from this proposal. It would be difficult and probably impossible to point to particular Premises and say:

"The proposal for these Premises is inconsistent with the Licensing Objective of 'protecting & improving public health' "

On the contrary, the Scottish Government Guidance is that, once a Board had determined that Overprovision exists, there is a presumption of refusal. In previous cases (involving other Premises in North Ayrshire), the Board had already concluded that the Locality was overprovided. There was therefore a presumption of refusal in the case then before the Board.

The Board approaches each case on its merits, and the Report which the Applicant and the Board will see sets out the Board's Policy and the approach. It will then be for the Applicant to attempt to persuade the Board that there is an adequate justification which should induce the Board to make an exception to its policy in favour of the present application.

The Board has no powers to regulate the sale or use of any other item which happens to be sold on Premises which also sell alcohol. For example, convenience stores and supermarkets sell both off-sales alcohol and 'food'. Food is regulated by the Council under the Food Safety Act 1990. When these Premises apply for a Premises Licence to sell Alcohol they must give the Board a 'Food Hygiene Certificate' (Licensing (Scotland) Act 2005, Section 50). This Certificate simply confirms that, in the opinion of the 'Food Authority', the Premises meet the requisite standard. The opinion is that of the Food Authority, not of the Board, and the Board is not authorised to revisit the Premises to determine whether or not they do in fact merit a Certificate.

The Scottish Government recognised the limitations on the PHLO, and accordingly amended the legislation on Overprovision to make it clear that an Overprovision could cover the whole of a Board's area, and not simply parts.

(a) In their 2012 Consultation Paper "Further Options for Alcohol Licensing" the Scottish Government wrote:

"97. Boards have struggled to identify locality for overprovision areas and questioned the ability to declare an entire Board area overprovided for. In respect of the Public Health objective, in the absence of a whole population approach over a wider geographical area it is difficult to make a case and almost impossible to relate public health data to individual premises. In terms of the public health objective it is very difficult, if not impossible in most cases to make a causal link between where alcohol is sold and where it is consumed."

(b) Accordingly the Overprovision legislation was amended by the Air Weapons and Licensing (Scotland) Act 2015, Section 55, to make clear that a Board may determine that the whole of its Board's area can be an Overprovision "Locality".

Conversely, in a case where the Board refused an Application citing both the PHLO and Overprovision, the Sheriff Principal held that the PHLO reference was unjustified, but the Board's decision to refuse was still held validly-based on Overprovision: Martin McColl Ltd. v. West Dunbartonshire Licensing Board (Case B420/16, 19 April 2017, Sheriff Principal Murray).

2. NHS Ayrshire & Arran said:

"We are aware that overprovision is only one ground for refusal and we would therefore urge the Licensing Board to also carefully consider whether the granting of an alcohol licence would be inconsistent with the Licensing Objective of Protecting and Improving Public Health, particularly if it may contribute to further harm in the areas highlighted above. This may result in the refusal of a license even in areas which have a lower number and capacity of licensed premises. We would urge the Board to consider making this explicit in the Policy Statement."

The Board comments:

The Board is satisfied that the L.P.S. already gives the PHLO its proper place, and does not propose to change this. Apart from the Overprovision Assessment, it would not be possible to refuse a new Premises Licence on the basis that there were already alcohol outlets and poor health statistics. In North Ayrshire, the Overprovision Assessment and the subsequent Policy apply to varying degrees throughout the area. If it did not do so, it would be difficult to justify a decision based solely on the PHLO where that decision related to Premises which were in an area not covered by the Policy.

Protecting Children and Young People from Harm

In relation to the part of the L.P.S. 2013-18 dealing with this Licensing Objective:

3. NHS Ayrshire & Arran said:

"We recognise there are a number of factors that influence young people to drink alcohol which include peer and family influences and we would welcome the range of responsibilities also being applied to occasional licences for events as are applied to premise licences."

The Board comments:

The legislation prevents this from being done. Most decisions on O.L.s are mandatory grants made by Board officers under Delegated Powers. Few Applications for O.L.s are referred to the Board and the Licensing Objectives are rarely relevant.

The procedure for obtaining an O.L. is very different from the procedure for obtaining a Premises Licence. The Applicant for a Premises Licence must give the Board two detailed documents (an Operating Plan and a Layout Plan) setting out exactly what is going to happen on the Premises, and where. Amongst other things, the Operating Plan must set out the times, terms, and parts of premises where "Children" (under-16s) or "Young Persons" (16-17) will be.

Commonly the Operating Plan will set out

- the arrangements for adult supervision
- prohibitions on under-18s being in certain parts of the Premises
- requirements that access is permitted only for meals

(since each Premises propose their own Operating Plan, there can be no consistency across a Board area as there will be hundreds of different Operating Plans).

Since 2011 the Scottish Government has had power, never used, to limit the number of O.L.s which a single place or person may have (Sections 56(6A) - (6C) added by Alcohol (Scotland) Act 2010). At present, a person who holds a Personal Licence or Premises Licence may apply for an unlimited number of O.L.s. There are operators who run businesses providing bars for parties and other functions. The Board cannot limit the use of O.L.s and is not responsible for 'normalising' of drinking in association with social functions.

Early Opening Policy

4. NHS Ayrshire & Arran said:

"7.5: On-sales- early opening

While we recognise that alcohol is part of many individuals' social lives in Scotland and is widely available indicating that alcohol can be seen as an everyday product, we support the continuation of the Licensing Board's position that the earliest opening hour normally being 11am. We would advocate that the Licensing Board does not lower this to 10am as outlined in the policy statement."

The Board comments:

As a matter of Law, any decision-maker with a Policy must be open to the possibility that a particular Applicant's case merits an exception. The Board does not intend to depart from its longstanding Policy that on-sales should generally not open before 11.00 a.m..

Occasional Licences

The Respondent made observations about the desirability of applying similar Policies to the grant of Occasional Licences to those used for Premises Licences.

The Board comments:

This is legally not possible. With most O.L. Applications, the Law requires the Application to be granted in the absence of

- objections from third parties

- adverse report from the Police
- adverse report from the L.S.O.

The Licensing Objectives are not often considered with O.L. applications. The majority of O.L.s are granted under Delegated Powers (without reference to a Board Meeting), because the Board often has no discretion to choose between grant and refusal, whereas Applications for Premises Licences are always considered by the Board at a meeting.

(b) Alcohol Focus Scotland

This is the national charity working to prevent and reduce alcohol-related harm.

The response document is:

Doc (m) AFS - Response to LPS consultation [GEN32 LPS]

AFS also provided:

Doc (n) AFS - alcohol outlet availability and harm in north ayrshire [GEN32 LPS]

AFS generally support the existing L.P.S. but make observations about the content, e.g. they welcome information intended for community use but comment that if it is an Annex (as in the 2013-18 L.P.S) it may not be readily appreciated by the public. The Board intends to move this content to free-standing documents on its public website.

AFS say (Page 2):

"AFS would also suggest that the policy could be enhanced by setting out a clear expectation that applicants address the objectives in their operating plan, and also supply a written statement detailing how they will promote the objectives."

The Board comments:

The Board will continue with its existing practice. It is not necessary to require Applicants to prepare written statements.

Since the 2005 Act came into force, the Board has proceeded like this:

When an Applicant asks the Board to grant a Licence or a Major Variation, the Board Agenda includes a Report, tailored to the particular circumstances of the Premises. This Report highlights issues which appear to arise, whether with Licensing Objectives, Licence Conditions, or Board Policy. This Report is intimated to the Applicant and the Board expects the Applicant to address any issues raised during the Meeting.

Mainly, the Board decides its own procedure. 2005 Act, Schedule 1, Paragraph 12 directs the Board to conduct meetings in public and to follow any procedure Regulations made by the Scottish Government, but the Paragraph contains Paragraph 12(5):

"Subject to—

(a) the other provisions of this paragraph, and

(b) any regulations made under sub-paragraph (4),

the arrangements for meetings of a Licensing Board, and other matters relating to proceedings of the Board, are to be such as the Board may by rules provide."

There are no regulations prescribing the conduct of Board Meetings. The form of the 'rules' referred to in Paragraph 12(5) is not prescribed, and NALB sets out its approach in the L.P.S..

2. AFS say (page 6):

"More generally, we would recommend that the policy be reviewed to make its language more user-friendly and accessible for members of the public. At eighty-one pages long (including annexes), the policy is among the longest that AFS has reviewed and responded to in consultation. While the information contained is all of relevance, it is very detailed in sections and could be shortened or summarised to aide reading. Policy statements should be easily understood by all licensing stakeholders, including by members of the public without technical expertise. Ensuring that the new policy is written in plain, accessible language could help facilitate the involvement of a wide range of stakeholders."

The Board comments:

There is a balance to be struck between on the one hand, having an L.P.S. which has all required information in the one place and which is robust enough to withstand challenge by Applicants, (who are likely to have legal advisers with technical expertise), and on the other, having a document which is user-friendly, accessible and likely to be read by applicants licensees and public. The full document tries to address these different audiences through the use of more detailed appendices. However it remains an inevitably long document. A possible solution to this dilemma would be to develop a shortened Executive Summary document, which could refer to the main LPS for further detail. This could be done after approval of the LPS. .

(c) Local Licensing Forum

The Local Licensing Forum response included:

"The Forum have no changes to propose at this time and would like the Board to note that they are happy with the Policy Statement and recommend that the overprovision policy remains the same."

3. Description of Documents containing data

Attached to this L.P.S. are documents which were considered by the Board in the preparation of this L.P.S.. Several bodies supplied information for the Board:

The Centre for Research on Environment Society and Health (CRESH)

This is an association of scientists from the Universities of Edinburgh and Glasgow in Scotland. CRESH's research is focused on exploring how physical and social environments can influence population health, for better and for worse. It monitors many factors, including the use of alcohol and tobacco in Scotland.

Monitoring and Evaluating Scotland's Alcohol Strategy (MESAS)

This is an NHS Agency which produces detailed annual "Monitoring Reports".

There are also documents supplied by:

NHS Ayrshire and Arran
Alcohol Focus Scotland (AFS)
Police Scotland
Scottish Fire and Rescue

The documents are:

Doc (a) Alcohol Facts and figures (AFS)
Doc (b) TRAFFIC LIGHT chart (NALB)
Doc (c) Monitoring Report 2018 (Alcohol-specific Deaths) (MESAS)
Doc (d) Alcohol Related Harm in Scotland 2016 (MESAS)
Doc (e) Alcohol Information - North Ayrshire (NHS)
Doc (f) Alcohol Outlet and Harm (NA) (CRESH-AFS)
Doc (g) Licensing Indicators (NHS-NALB)
Doc (h) Alcohol Statistics (Scotland and NA)
Doc (i) Alcohol-related crimes in NA (Police)
Doc (j) Fires and Alcohol-related incidents (SFRS)
Doc (k) Premises Licences in North Ayrshire

This is a summary of these documents.

Doc (a) Alcohol Facts and figures (AFS)

This document is a summary of alcohol statistics prepared by AFS. It brings together a wide variety of information and contains links to the source data. Taken from the website of AFS on 18 October 2018:

<https://www.alcohol-focus-scotland.org.uk/alcohol-information/alcohol-facts-and-figures/>

Doc (b) Traffic Light Chart (NALB)

This is based on data supplied by Ayrshire and Arran NHS.

It is based on "Intermediate Zones". For the purpose of collecting statistics on many things, the Scottish Neighbourhood Statistics (SNS) programme collects statistics on a wide range of matters,

dividing Scotland into Zones of between 2,500 and 6,000 residents. There are 1,279 "Intermediate Zones" in Scotland and 38 in North Ayrshire.

The document is an EXCEL spreadsheet which shows health data for each of the 38 Intermediate Zones in North Ayrshire. This uses a "Traffic Light" system, colouring each of three health indicators in each North Ayrshire Intermediate Zone:

RED : The value is statistically significantly 'worse' than the Scottish average

AMBER : The value is not significantly different from Scottish average

GREEN : Statistically significantly 'better' than Scottish average

The letters 'g', 'a', 'r' are included for monochrome printers.

For ease of comparison, the data is shown over two periods:

Period 1: 2011/12 - 2013/14 and

Period 2: 2014/15 - 2016/17

The Health Board collects many statistical indicators, and those selected here have been chosen on the basis that they best show the health and other social consequences of alcohol use. The current L.P.S. (2013-2018) uses a similar selection of indicators.

The indicators used here are:

- 1 - Life expectancy - males
- 2 - Life expectancy - females
- 9 - Alcohol related hospital stays

The source data was taken from data published by the "Scottish Public Health Observatory" (ScotPHO), and compares North Ayrshire data with Scotland-wide data.

There is a "Summary" at the bottom of the page, which shows if there has been a change in the RED-AMBER-GREEN arrangement between the two periods.

There has been a general improvement over time, mainly as areas that were RED have become AMBER:

RED indicators have fallen from 42 to 31
AMBER indicators have risen from 54 to 67
GREEN indicators have fallen from 18 to 14.

Doc (c) Monitoring Report 2018 (Alcohol-specific Deaths) (MESAS)

The Reports are EXCEL spreadsheets with several tabs, including:

Tab: "Scotland and E&W":

This compares the numbers of deaths per 100,000 people due to an alcohol-specific condition, comparing Scotland on the one hand and England and Wales on the other. The figures are separately given for men and women. On the basis that the populations are 50/50, the figures are:

	Scotland	E&W
2001	53.5	20.1
2016	43.0	21.5

Although the position in Scotland has improved over 15 years, Scotland still has death statistics twice as bad as England and Wales.

Tab "SIMD":

"SIMD" means "Scottish Index of Multiple Deprivation" - Scotland is divided into many "Intermediate Zones" for the purpose of collecting a wide range of statistics. These are grouped in "deciles" (tenths). This allows identification of a trends between the MOST DEPRIVED areas (the lowest decile of the 10) and the LEAST DEPRIVED areas (the highest decile of the 10).

In 2016, the deaths per 100,000 people in the MOST DEPRIVED Decile were 58.9, over 8 times greater than in the LEAST DEPRIVED Decile (where the figure was 6.8).

Doc (d) Alcohol Related Harm in Scotland 2016 (MESAS)

This gives a visual summary of the situation (an "infographic"):

- In 2016-17, more than 24,000 people were admitted to hospital for an alcohol related cause.
- This includes a graph of alcohol-specific deaths in Scotland, by sex, for 1992-2016. The conclusion is that in 2016 in Scotland alcohol caused 22 deaths per 100,000 people.
- This graph shows that deaths and hospital admissions caused by alcohol are over twice as high for men as for women.
- alcohol-specific deaths in Scotland in 2016 were over 8 times higher in the most deprived communities as compared to the least deprived.

Doc (e) Alcohol Information - North Ayrshire (NHS)

This is another visual summary of the situation (an "infographic"):

- In 2016 1,186 North Ayrshire residents were admitted to hospital due to alcohol. This is the equivalent of 3 residents being admitted to hospital every day for a whole year.
- The average number of deaths related to alcohol is substantially higher in North Ayrshire than in the other Ayrshire Councils.
- The number of deaths in most deprived communities far exceeds that in least deprived areas.

Doc (f) Alcohol Outlet and Harm (NA) (CRESH-AFS)

This contains maps showing the concentration of alcohol outlets, distinguishing off-sales from on-sales.

This concludes:

"Relationship between alcohol outlet availability and harm in North Ayrshire

A significant positive relationship was found between alcohol on-sales outlet density in North Ayrshire and alcohol-related deaths and hospitalisations. No significant relationship was found between off-sales density and alcohol-related harm.

- *Areas with the highest density of on-sales premises had death rates 62% higher than areas with the lowest.*
- *Areas with the highest density of off-sales premises had death rates 35% higher than those areas with the lowest."*

Doc (g) Licensing Indicators (NHS-NALB)

This is an EXCEL spreadsheet prepared by the NHS. It has been slightly edited to assist comparison with data available for the L.P.S. 2013-2018.

The Spreadsheet has several tabs:

Tab "Notes"

This explains the source of the data (the "Scottish Public Health Observatory" (ScotPHO)) and the statistical indicators used.

Tab "Indicators (at 2018)"

This shows a 'traffic-light' (red-amber-green) chart, showing 3 Indicators for each of the 38 Intermediate Zones in North Ayrshire.

The 'Traffic Light' system colours each indicator:

red : Statistically significantly 'worse' than Scottish average
amber : Statistically not significantly different from Scottish average

green : Statistically significantly 'better' than Scottish average

The indicators used are:

Indicator 9: Alcohol related hospital stays
Indicator 1: Life expectancy - males
Indicator 2: Life expectancy - females

To assist comparison with an earlier period, the Board's staff have added corresponding data used in the L.P.S. 2013-2018 - see "Doc (b) TRAFFIC LIGHT chart (NALB)".

Tab "Bar chart 2016"

Taking one of the 3 indicators ("Alcohol related hospital stays"), this shows how North Ayrshire compares with the national average. 14 of the 38 Intermediate Zones in North Ayrshire are red, indicating that they are significantly worse than the Scottish average.

Tab "Changes (ordered)"

With the same indicator ("Alcohol related hospital stays"), this shows how that indicator has changed over time, answering the question:

"for each of the 38 Intermediate Zones in North Ayrshire, has the number of alcohol-related hospital stays increased or decreased?"

The chart shows that most areas have had a decrease (27 areas), but 11 areas have had an increase. These include:

Largs Central and Cumbrae (25% increase)
Largs North (113% increase)
Largs South (33% increase)

Tab "IZ Trends 2011-16"

With the same indicator ("Alcohol related hospital stays"), this has two parts.

Part 1

This contains 38 graphs (one for each of the Intermediate Zones in North Ayrshire) and shows how that indicator has changed over time, in relation to the Scottish average.

The heading of each graph has "traffic light" colours, relating the local figure to the Scottish average.

1. North Coast - 4 of the 6 Intermediate Zones are RED or AMBER. The exceptions are "Skelmorlie and Rural" and "West Kilbride and Seamill". All Intermediate Zones are below the Scottish average, except for "Largs Central and Cumbrae", which is over twice as high as the Scottish average.
2. Three Towns - 8 of the 9 Intermediate Zones are RED or AMBER (some are over twice as high as the Scottish average). The exception is "Ardrossan North West".
3. Kilwinning - 3 of the 4 Intermediate Zones are RED or AMBER. The exception is "Kilwinning Whitehurst Park and Woodside".
4. Irvine and Area - 11 of the 12 Intermediate Zones are RED or AMBER. The exception is "Irvine Perceton and Lawthorn".
5. Garnock Valley - all 6 of the 12 Intermediate Zones are RED or AMBER.
6. Arran - this Intermediate Zone is AMBER, having been above the Scottish average for several years but more recently having fallen slightly below it.

Part 2 (columns DI to DO)

This is a table and for each of the 38 Intermediate Zones in North Ayrshire it shows Traffic Lights for each of 6 years showing how that indicator has changed over time, in relation to the Scottish average.

Tab "Top 8"

It shows the same graphs as in the previous tab, but selects the 8 Intermediate Zones (out of 38) which have the worst figures, compared with the Scottish average:

1. Ardrossan Central
2. Irvine Fullarton
3. Saltcoats Central
4. Largs Central and Cumbrae
5. Stevenston North West
6. Irvine Castlepark South
7. Kilbirnie South and Longbar
8. Stevenston Hayocks

Tab "NA Maps"

These are maps covering the whole of North Ayrshire.

There are two maps, to allow comparison over different time periods:

1. 2011/12 - 2013/14
2. 2014/15 - 2016/17

Each Intermediate Zone is coloured on a scale, starting from white and with progressively deeper shades of red, showing this indicator.

All parts of North Ayrshire have either improved or remained much the same, except for "Largs Central and Cumbrae" which has worsened.

The text includes:

"An overall decrease is evident from the earlier to recent time period, as evidenced by a greater number of areas which are shaded lighter in the second map."

Similar maps are on the next two tabs ("Irvine", "3Towns").

Doc (h) Alcohol Statistics (Scotland and NA)

This is an extract of a document published by the Office of National Statistics: "Liquor licensing statistics (Scotland): 2016-17".

The original document shows figures for the grant of Licences in each of the Boards in Scotland, with the corresponding figures for Scotland.

The extract shows figures for the grant of Licences in North Ayrshire, the corresponding figures for Scotland.

To assist comparison the figures are also shown per 100,000 people:

	Scotland	North Ayrshire
Premises Licence Applications	7.6	11.8
Occasional Licences	435.4	704.0
Personal Licence Applications	115.9	128.9
Licensing Standards Officers	1.1	0.7

Doc (i) Alcohol-related crimes in NA (Police)

This is information supplied by Police Scotland describing crimes in North Ayrshire in the period: January - June 2018. The Police supplied data on particular crimes where alcohol consumption is often a factor:

- Public Nuisance
- Drugs/Substance Misuse
- Disturbance
- Drinking In Public
- Assault
- Damage

The spreadsheet has two Tables:

Table 1 - "Incidents within North Ayrshire Neighbourhood Areas"

For comparison, this gives the rate per 1,000 people in each of the 6 Neighbourhood Areas. The rate of offending is substantially higher than the North Ayrshire average in 2 of these Areas:

Irvine
Three Towns

Table 2 - "Incidents within North Ayrshire Neighbourhood Areas Benchmarked to Ayrshire Local Authorities : Police Scotland"

This compares North Ayrshire figures with those for the whole Ayrshire Division (U Division - East Ayrshire, North Ayrshire and South Ayrshire).

Generally, the figures for North Ayrshire are higher than the Division average, although not substantially higher.

Doc (j) Fires and Alcohol-related incidents (SFRS)

The statistics show that a high proportion of accidental fires where alcohol a factor happen in dwellings, as opposed to other premises.

Over the past 3 years, the total number of fire casualties in North Ayrshire has fallen, but a proportion of these were in incidents where alcohol was identified as a factor. In the most recent year for which figures are available (2017-18) the total number of casualties in accidental fires in North Ayrshire was 20, and of these 45% were in incidents where alcohol was identified as a factor.

	Accidental fires where alcohol a factor	Of these, accidental incidents in dwellings	Number of casualties in fires where alcohol a factor
2015-16	20 (6%)	15 (75%)	12
2016-17	19 (7%)	18 (95%)	7
2017-18	26 (10%)	25 (96%)	9

The SFRS data is recorded over 10 Wards, rather than over the 6 Neighbourhood Areas (Localities).

Doc (k) Premises Licences in North Ayrshire

This is part of the Overprovision Assessment and gives numbers of Premises Licences for the 6 Localities. To assist comparison figures are given assuming a population of 10,000.

4. Consideration of Overprovision during the period 2013-2018

After adopting an Overprovision Policy in 2013 (which itself was a development of the Policy adopted in 2010) the Board was anxious to ensure that the statistical basis of the Policy remained up-to-date. In all cases before the Board (both Applications for grants and Applications for capacity increases) in the period covered by the L.P.S. 2013-2018, the Board considered that the L.P.S. continued to be a reliable guideline, and recalled that extensive statistics, both on health and other matters, had been considered prior to it being adopted.

Some of this data continues to be relevant to the current assessment of overprovision, including:-

"Monitoring and Evaluating Scotland's Alcohol Strategy", Report published by NHS Health Scotland Annual Reports

The Alcohol Focus Scotland Factsheets published earlier in 2018 for North Ayrshire noted that a significant positive relationship was found between outlet density (on-sales premises) and alcohol-related deaths and hospitalisations. It stated:

"Alcohol-related harm

In North Ayrshire as a whole there is:

- An annual average of 35 alcohol-related deaths (26 deaths per 100,000 adults). This is similar to the Scottish average of 25 deaths per 100,000.*
- An average alcohol-related hospitalisation rate ratio of 148. This is 48% higher than the Scottish average of 100."*

**NORTH AYRSHIRE LICENSING BOARD
LICENSING POLICY STATEMENT 2018 - 2022
UNDER THE LICENSING (SCOTLAND) ACT 2005
Applying from 4 November 2018**

Contents

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1. INTRODUCTION

1.1. This Licensing Policy Statement (L.P.S.) is made under Section 6(1) of the Licensing (Scotland) Act 2005 and applies from 4 November 2018. It will last for four years.

1.2. Section 7 of the 2005 Act obliges the Board to include in the L.P.S. a statement as to the extent to which the Board considers there to be Overprovision of Licensed Premises, or Licensed Premises of a particular description, in any locality within the Board's area. This is contained in Appendix E.

1.3. The Board is required to ensure that its policies promote the Licensing Objectives set out in Section 4 of the 2005 Act (see Part 2 of this L.P.S.).

1.4. This L.P.S. sets out the Board's Policy with respect to the exercise of its functions under the Act. It aims to promote transparency and certainty and to indicate to both the Licensed trade and the public the issues that the Board consider important in carrying out its functions. This L.P.S. is partly based on the 2013 L.P.S. but takes account of the Board's decisions and further information obtained since it was adopted.

1.5. In exercising its functions under the Act, the Board is required to have regard to its L.P.S.. This means that the L.P.S. will be considered in many different situations, for example, in Applications for the Grant, Variation, Transfer, or Review of a Premises Licence, or the Grant, Renewal or Review of a Personal Licence. Subject to the promotion of the Licensing Objectives, the Board recognises and supports the contribution which Licensed Premises make to the economy, employment, tourism and vitality of North Ayrshire. If the Board considers that an Application is consistent with the Licensing Objectives and this L.P.S., there is a likelihood that the Application will be granted.

1.6. The Licensing Board will consider any Application on its merits and will give due consideration to an Application whether or not it conforms to any requirements set out in the L.P.S.. Applicants are entitled to submit Applications which deviate from the L.P.S., but if they do they will be expected to address the deviations, both in the Application and at any Board Meeting to determine the Application. Where the L.P.S. states that Applications are 'likely to be refused' in certain circumstances (or uses similar phrases), this means that the Board will consider the Application on the basis that there is a presumption of refusal. The Board does not automatically refuse such Applications, and it will be open to the Applicant to seek to persuade the Board that either the presumption does not apply or that, in the particular circumstances of the Premises, an exception to the L.P.S. should be made. The Board approaches phrases such as 'likely to be granted' in the same way.

1.7. Any Premises Licence or Occasional Licence is granted is subject to the Board's Standard Conditions (see Annex A). These reflect the Board's general expectations of the Licensed trade in North Ayrshire, but the Board may vary, amend or extend these if the circumstances of particular Premises require this (some of the Conditions are automatically applied by the legislation, and the Board cannot alter these). There is a presumption that Standard Conditions will be applied but it is always open to an Applicant or Licence-Holder to seek to persuade the Board not to apply Standard Conditions or to impose different Conditions.

1.10. In addition to applying Conditions when a Premises Licence is Granted, the Board may also reconsider the Conditions appropriate to particular Premises as part of the Variation and Review processes (Sections 30(6) and 39(2)(b) respectively).

1.11. In preparing this L.P.S., the Board has consulted widely and in addition, a notice has been placed on the Board's public website, inviting the public at large to make comments.

1.12. This L.P.S. reflects the Board's views of the legislation. The Board does not warrant that those views will be shared by the Courts and accepts no liability for any action taken on the basis of those views. Licensees and the public should take independent legal advice on the effect of the legislation.

1.13. This L.P.S. takes into account:

- (a) the legislation (primarily the Licensing (Scotland) Act 2005 and related subordinate legislation),
- (b) decisions of Courts, and
- (c) Guidance issued by Scottish Ministers under Section 142.

1.14. The Board has also had regard to the North Ayrshire Council Plan 2015/20 adopted by the Council on 18 March 2015 and the North Ayrshire Community Planning Partnership Localities Outcome Improvement Plan 2017-2022.

2. THE LICENSING OBJECTIVES

2.1. The Board is required to ensure that its policies promote the Licensing Objectives. They are set out in Section 4 and are:

- (a) Preventing crime and disorder;
- (b) Securing public safety;
- (c) Preventing public nuisance;
- (d) Protecting and improving public health;
- (e) Protecting Children and Young Persons from harm.

2.2. If the Board considers that an Application for Grant or Variation of a Premises Licence is inconsistent with any of the Licensing Objectives or if any of the other statutory Grounds for Refusal apply, it must refuse the Application (Section 23(4) for Grant applications; Section 30(4) for Major Variation Applications).

2.3. If a Premises Licence has already been granted, the Board may Review it if it considers that any aspect of the operation is inconsistent with any of the Licensing Objectives, or that any of the Licence Conditions have been breached. A Review may lead to any of the following:

- (a) Revocation - the permanent termination of the Premises Licence;
- (b) Suspension - the Premises Licence becomes ineffective for a period of time;
- (c) Variation - examples: restricting Licensed Hours; removing the Premises Manager; restricting the extent of the Premises (e.g. prohibiting the use of an 'Outdoor Drinking Area' / 'Beer Garden'); alterations to the arrangements for access to all or part of the Premises by under-18s.
- (d) Written Warning - where the Board does not consider that any of the other options are appropriate, it may issue a Written Warning; if the Board later considers another Review then it may take the Written Warning into account;

None of these actions is the automatic result of a Review: the Board may also decide that the Review is established but that no action is appropriate.

2.4. Although the Licensing Objectives are important, these are not the only things the Board can look at. The Board may also take into account the likelihood that an Application for a new Premises Licence (or the Major Variation of an existing Premises Licence) will

promote economic growth,

promote tourism,

create accommodation, or

bring a prominent derelict building back into use.

The Board encourages inclusive growth, as long as this promotes the Licensing Objectives. For example, while new premises may bring immediate jobs, in the longer term increased availability of alcohol is likely to have a detrimental impact on alcohol-related harms, and impact on the objective of 'Protecting and Improving Public Health'. The Board is unlikely to accept the suggestion that it is necessary to include an off-sales alcohol sale facility within a convenience store selling general groceries.

The Licensing Objectives

(a) - "Preventing Crime and Disorder"

2.5. The Board supports a strategy aimed at making North Ayrshire a safe place to live in and visit. The Board is committed to improving the quality of life for the people in the area by ensuring so far as possible that Licensed Premises are run in such a way as not to contribute to crime and disorder. Applicants should be able to demonstrate that they will address the following issues related to the sale of alcohol of:-

- (a) Under-age drinking;
- (b) 'Agency' sales;
- (c) Drunkenness on Licensed Premises;
- (d) Drunkenness in public places;
- (e) Illegal possession and use of drugs;
- (f) Violent behaviour;
- (g) Illegal possession and use of weapons;
- (h) Anti-social behaviour;

2.6. The Board regards under-age drinking as a problem which the whole licensed trade (both on-sale and off-sale) should address. All Premises, whether on-sale or off-sale, are legally required to adopt a “Challenge 25” Policy (This condition does not apply in the special case of Remote Selling). Under the Alcohol etc. (Scotland) Act 2010 it is a Mandatory Condition of both a Premises Licence and an Occasional Licence that the Premises have an “Age Verification Policy” requiring that steps are to be taken to establish the age of a person attempting to buy alcohol if it appears to the seller that the customer may be less than 25 years of age (not just 18).

The Premises' Policy may specify an older age, but the Policy must be at least 25.

2.7. The Board expects Premises (both on-sales and off-sales) to be vigilant to the widespread problem of 'agency' sales, where an adult buys alcohol on behalf of under-18s and therefore commits a criminal offence himself. If staff suspect that a customer has made or is attempting an illegal 'agency' purchase, they should refuse to make the sale, and inform the Police.

2.8. The age restriction is modified in restaurants and other eating establishments. An adult can buy beer, wine, cider or perry for consumption by a 'Young Person' (aged 16 or 17) along with a meal supplied on Licensed Premises.

2.9. If Premises wish to have Children (aged 0-15 years) and/or Young People (16-17), then this must be clearly shown in the Operating Plan, Part 6. If the applicant wants any Children or Young People to be on the Premises (even the children of staff or residents) the Operating Plan must say so. An Applicant is required to state:

- (a) the terms of access (for example, does access depend on both the under-18 being accompanied and supervised, and eating a meal?). The Board is likely to expect that any under-18 on on-sales Premises should be accompanied by and under the supervision of a person of or over 18 (it is unlikely to be acceptable that the only adult supervision is by a member of staff);
- (b) the parts of the premises which under-18s can access, e.g. the Board might refuse to permit access to a part of the premises if it is not satisfied that that part provides a suitable environment.

If the Applicant intends different arrangements for Children as opposed to Young People (or if the proposed different arrangements depend on an age other than 16) this can be specified, but the Applicant should be sure that the answers to (a) and (b) are consistent with each other.

(b) - “Securing Public Safety”

2.10. The Board wishes to ensure that so far as possible the safety of customers, staff and anyone working in the vicinity of Licensed Premises is not compromised. If the Board considers that alterations to the physical layout, the operating hours, or the management of Premises are necessary, it may refuse an Application for a Premises Licence unless these alterations are done. Similarly, it may decline to grant a Variation Application or uphold a Review.

(c) - "Preventing Public Nuisance"

2.11. The Board wishes to protect and maintain the amenity of residents and occupiers of other businesses from any adverse consequences arising from the operation of Licensed Premises. It has adopted Standard Conditions relating to the use of Outdoor Drinking Areas and the use of amplified sound (see Standard Conditions C.4, C.5, C.7 and C.19).

2.12. There are extra requirements when live music, recorded music, or other sound is broadcast after 22.00 hours (see Condition C.4.4).

(d) - "Protecting and Improving Public Health"

2.13. It is widely accepted that there is a clear link between the availability of alcohol and alcohol-related health harms. North Ayrshire figures also demonstrate a clear link between alcohol related harm and deprivation. The greater the availability of alcohol, the greater the expected harm, particularly in more deprived communities. The Board wishes to see Licensed Premises thriving in the area, but this cannot be at the expense of the health and wellbeing of patrons or the wider community. The Board will have regard to the views of public bodies concerned with the protection and improvement of public health in the area, and has had regard to those views in the preparation of the Overprovision Policy set out in Annex D. The Health Board is always consulted in relation to Applications for the Grant or Major Variation of a Premises Licence, and if the Applicant proposes:

- (a) new or increased capacity (in on-sales - number of customers; in off-sales - the display area);
- (b) an increase in licensed hours,

the Board is likely to question whether or not the proposal is consistent with this Licensing Objective.

The Board is unlikely to agree that any Premises regularly exceed Policy hours.

2.14. The Board is conscious of the obligations which may fall on the occupier of Premises under the Equality Act 2010, and applies Standard Condition C.11 regarding Disabled Facilities.

In terms of Section 179 of the Criminal Justice and Licensing (Scotland) Act 2010, applicants for the Grant of a Premises Licence must give the Board a 'Disabled Access and Facilities Statement' (DAFS) when they apply. A form for this is on the Board's website. Existing Premises do not have to produce a DAFS, although they have legal obligations to disabled people under the Equality Act 2010.

2.15. The Board is subject to the "Public Sector Equality Duty" under Equality Act 2010, Section 149(1). This provides:

"149(1) A public authority must, in the exercise of its functions, have due regard to the need to-

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a Relevant Protected Characteristic and persons who do not share it;

(c) foster good relations between persons who share a Relevant Protected Characteristic and persons who do not share it."

The Relevant Protected Characteristics are defined by Section 149(7):

age;
disability;
gender reassignment;
pregnancy and maternity;
race;
religion or belief;
sex;
sexual orientation.

When the Clerk prepares a Report for the Board on an Application, any specific equalities impacts will be detailed, particularly where these impact on the Licensing Objectives.

2.16. Where existing facilities are to be altered or upgraded it is recommended that Building Standards are consulted.

(e) - "Protecting children and young people from harm"

2.17. In the 2005 Act, "children" means people aged 0-15 years. People of 16 or 17 are "young people", and are not "children" for the purpose of the legislation.

When the 2005 Act was enacted, this L.O. related only to "children", not "young people". It was extended to "young people" by an Act in 2015.

2.18. The Board wishes to see family-friendly Premises thriving in the area. The Board expects Applicants to appreciate that this places additional responsibilities upon them, while recognising that parents and other adults accompanying under-18s also have responsibilities. The Board also takes very seriously the issue of under-age drinking and expects Licensees and their staff to comply with the legislation relating to the sale to under-18s.

2.19. In order to protect children and young persons from harm, the Board is unlikely to permit off-sales associated with prepared food sales where 'home delivery' is proposed.

Home Delivery

2.20. Where alcohol (whether with or without food or any other goods or services) is supplied by delivery away from Licensed Premises (e.g. if a customer orders it by telephone) then:

- (a) alcohol can only be sold within Licensed Hours, which cannot be outside the period 10 a.m. to 10.00 p.m. (Section 65) and might be shorter if the Board specifically directs this in relation to the particular Premises;
- (b) alcohol can be delivered outside those hours, but cannot be delivered between 12 midnight and 6.00 a.m. (Section 120);
- (c) the Board is likely to regard a delivery operation as being inconsistent with both the 'crime and disorder' and 'protecting children and young people from harm' Licensing Objectives if alcohol is supplied unless:
 - (i) the supplier on arrival at the delivery address first carries out the same checks about the recipient's age as would be appropriate to a sale (see Section 102);
 - (ii) the supplier refuses delivery unless and until such evidence of age is produced.
- (d) under Section 119, two records must be made before the Alcohol leaves the Premises:
 - (i) in a Day Book kept on the Premises; and
 - (ii) in a Delivery Book or Invoice carried by the person delivering the Alcohol.
- (e) The information to be recorded in both cases is:
 - (i) the quantity, description and price of the Alcohol, and
 - (ii) the name and address of the person to whom it is to be delivered.
- (f) It is illegal to deliver Alcohol to an address which is not recorded in both records. The records must be shown to a Police Constable or Licensing Standards Officer on request.

Special Event Vehicles

2.21. This applies where Alcohol is to be sold on or from a moving vehicle (whether motorised or not), e.g. limousines for 'hen nights' etc. and other 'special event vehicles':

- (a) the vehicle needs a Premises Licence or Occasional Licence: Section 118;

- (b) any person dispensing Alcohol must either hold a Personal Licence or have the same level of training as would be expected of staff working in ordinary Licensed Premises;
- (c) Alcohol can only be sold during the Licensed Hours permitted by the Board. The Board is legally obliged to refuse an Application for a 24-hour Licence in the absence of exceptional circumstances: Section 64. The Board is unlikely to regard the fact that a vehicle is to be operated outside the Policy hours appropriate to on-sales premises (such as Public Houses) as being 'exceptional';
- (d) The Board is likely to regard a vehicle operation as being inconsistent with both the 'crime and disorder' and 'protecting children and young people from harm' Licensing Objectives if alcohol is supplied without the supplier first carrying out the same checks about the recipient's age as would be appropriate to a sale, and refusing supply if the recipient is not at least 18 (see Section 102);
- (e) the Board expects that:
 - (i) the person booking the vehicle or in charge of the party, should be 18 or more, and
 - (ii) no Alcohol will be supplied where any person in the party is under 18 (whether or not the person receiving or consuming is 18 or older).

3. PREMISES LICENCES

3.1. Premises that wish to sell alcohol regularly require to have a Premises Licence. This applies whether the alcohol is for consumption on or off the Premises (or both).

If the sale of alcohol is not regular, an 'Occasional Licence' may be appropriate - see Part 8.

A Premises Licence will state what Parts of the Board's Standard Conditions apply (see Annex A). The Licence will also state if the Board has made any direction for the individual Licence, e.g. that the wording of one of the conditions has been varied.

3.2. The Premises Licence includes:

- (a) the hours of operation;
- (b) the activities that may be carried out (e.g. playing of music);
- (c) the arrangements for access by under-18s.

Each Licence is tailored to the type of Premises in question. There must be a description of the Premises, an Operating Plan (O.P.) and a Layout Plan of the Premises.

It is recommended that the Premises Licence Holder ('P.L.H.') should review the Operating Plan at least once a year to ensure that it covers everything the Premises want to do, and if necessary the P.L.H. should ask the Board to authorise a Variation.

3.3. It is important for Licensees to note that activities (such as the playing of music, dancing and the playing of games such as darts or pool) are only permitted:

(a) if the Board has agreed to an O.P. describing them. If a particular activity is not mentioned in the O.P., that activity cannot take place on those Premises until the O.P. is varied; and

(b) in the areas shown in the Layout Plan.

If a Licensee wants to have an activity which is not on the Plans (even if the activity will happen rarely, like a Christmas event) the Board should be asked to permit a Variation, and only if and when the Variation is granted can the new activity happen.

Regarding darts or pool: see also paragraphs 3.17-18.

3.4. It is important that a buyer checks both the O.P. and the Layout Plan to satisfy himself/herself that whatever is planned is already covered by the Licence. If not, he/she should seek a Variation as well as a Transfer (he/she will usually be seeking at least one Variation anyway, to substitute a new Premises Manager).

Variation

3.5. The legislation distinguishes between Variations which are 'Minor Variations' and those which are not. The list of 'Minor Variations' is set by the legislation (Section 29(6) and "The Licensing (Minor Variations) (Scotland) Regulations 2011", S.S.I. 2011-151), and the Board cannot change that list. Some changes which might be called 'minor' in ordinary language might not be 'minor' for the purpose of the legislation. The legislation does not give a title to the other variations, but for convenience the Board calls them 'Major Variations'.

For the avoidance of doubt, the Board considers that any change in Entertainment or activities provided is a Major Variation.

3.6. Minor Variations are:

(a) any Variation of the Layout Plan, if the Variation does not result in any inconsistency with the O.P. (a reduction of hours or capacity is a Minor Variation, but an increase is a Major Variation); An Applicant seeking a Minor Variation of the Layout Plan should give the Board four copies of the proposed new Layout Plan;

(b) any Variation reflecting any restriction of the terms on which under-18s are allowed entry to the Premises, (e.g. increasing the minimum age, or excluding them from certain areas);

- (c) any Variation of the information contained in the Licence relating to the Premises Manager (including a Variation so as to substitute a new Premises Manager);
- (d) any change in the Premises' name;
- (e) any variation resulting in the cessation of the provision of live or recorded music at a decibel level exceeding 85 decibels;
- (f) any variation to provide that, when the premises are fully occupied, more customers are likely to be seated than standing.

Any other change is a Major Variation.

3.7. With the exception of Premises Manager ('P.M.') variations, variations only take effect if and when the Board agrees to the request - it is not enough for the Licensee to lodge an application.

- (a) 'Minor Variations' can be granted quickly and the fee is currently either £20 or £31;
- (b) 'Major Variations' require a procedure which is similar to the application procedure for the original Premises Licence. The Fee is the same as the Annual Fee (£180 - £900, depending on the particular Premises); there is the same need for neighbour notification and display of a Site Notice; there is the same possibility of objections; and the Board itself decides the Application at a Meeting (after hearing from the P.L.H. and any objectors): the decision cannot be delegated to Board officers. This means that the decision is likely to be a number of weeks after the Licensee has requested the variation.

3.8. A licensee proposing to make a change to the Licence should take independent legal advice, or speak to the L.S.O. or Board staff first. It is in the Licensee's interests to make sure that the Variation application contains all the variations he/she wants - this means that he/she will only have to pay a single fee (the highest of the Major Variation or Minor Variation fees).

Premises Manager

3.9. An important Variation is to change a Premises Manager ('P.M.'). All Premises (with one exception) must have a Premises Manager. If they do not, the Premises can be closed down by the Police and anyone selling alcohol faces prosecution.

3.10. The exception is a Members Club which is entitled to Special Treatment under Section 125 (some Clubs have chosen to give up the Special Treatment, which means that they need Premises Managers - see Part 9).

3.11. There are special rules to deal with the situation where there needs to be a change of Premises Manager (for example, if the existing Premises Manager leaves the job, or his/her own Personal Licence is revoked or suspended, or he/she dies): Section 54.

In that situation, the Licensee should do two things:

- (a) not later than 7 days after the occurrence of the event (e.g. the existing Premises Manager leaving), he must inform the Board; and
- (b) within the period of 6 weeks beginning with the day on which the event occurs, the licensee should apply for a Variation to substitute another individual as the Premises Manager (the 6 weeks is counted from the event, and not from the date of the notification in (a)).

It is not enough to do only one of these: if the P.L.H. does only one of these, he/she could be charged by the Police if the Premises operate without a Premises Manager, and the Police might close the Premises.

3.12. During this 6-week period, while the P.L.H. is looking for a permanent replacement P.M., he/she might engage another P.M. who works elsewhere and himself has a Personal Licence. This might be acceptable to the Police in the short-term, but it would be important that the new person actually managed the Premises. He/she does not have to be present every minute of the day, but he/she must be exercising effective supervision. If not, the Police might have a complaint.

3.13. That arrangement cannot be long-term. When the P.L.H. applies for a Minor Variation, the proposed new P.M. cannot already be the P.M. of other Premises (Section 19(2)).

Death, insolvency etc. of Licence Holder

3.14. If the Premises Licence Holder dies, or becomes insolvent, or if a Company which holds the Premises Licence goes into Administration or Liquidation, then the Licence automatically expires 28 days later: Section 28.

There is a strict time limit: unless an Application for Transfer is made within that 28 day period by the Executor, Administrator or other representative, the Licence expires and the Police are likely to close the Premises and prosecute the operator.

Layout Plan

3.15. In the same way, the Layout Plan must match the physical layout of the Premises.

There are Regulations specifying what a Layout Plan needs to contain (The Premises Licence (Scotland) Regulations 2007 No. 452, Reg. 5). See the Regulations, but generally the Layout Plan requires a lot of detail and should be drawn at a scale of 1:100. In practice Layout Plans are often drawn by architects, surveyors or similar professionals. It is not enough to provide a sketch plan.

3.16. As well as the Layout Plan, if the Application is for:

- (a) the grant of a new Licence,
- (b) a physical extension of the Premises, or
- (c) a change of use (e.g. the use of an outside area for drinking)

the Board asks to see a Location Plan at 1:1,500. This is so that the Board can see where the Premises are in relation to surrounding streets and other premises such as houses, schools and hospitals - the Board needs to be able to assess whether or not the proposal is consistent with the Licensing Objectives and whether or not the Premises will be suitable for the sale of alcohol if the Application is granted. For example, if the proposal is for an Outdoor Drinking Area ('beer garden'), the Board might consider that it was not consistent with the 'preventing public nuisance' L.O. if the proposed area was near dwelling-houses.

Darts, Pool, Snooker and other games

3.17. One of the Licensing Objectives is "protecting children and young people from harm".

The Board's Standard Conditions include:

"C.10.3 In the area(s) of the Premises to which children are admitted: ...

(d) The playing of darts, pool, snooker or any other game is prohibited;

(e) There shall be no dartboard, pool table or other facilities for such activities in those area(s); ..."

In the Conditions, "Children" means people under 16, not people of 16 or 17.

The reasoning behind these conditions is the concern that children might be at risk of injury if they are in a place where darts, pool and similar games are being played. Those requirements are not Mandatory Conditions which the Board is obliged to apply, so it is always possible for applicants to seek to persuade the Board to make an exception or vary them on a case-by-case basis.

3.18. Instead of expecting businesses to incur the cost in time and money involved in seeking an exception, the Board has amended C.10.3 by adding:

"Where the Board is satisfied that requirements of Condition C.10.3 (d) and (e) (darts, pool and similar games) are not necessary in the particular circumstances of the Premises, the Board may, on the written Application of the Licence-Holder or Premises Manager, issue a written Notice dispensing with those requirements. From time to time, on one or more occasions, the Board may reconsider the question of dispensation and may withdraw or vary it."

Related to this, the Board has amended its Scheme of Delegations so that the Clerk and the Solicitor (Licensing) are authorised to exercise that discretion and make a dispensation, and to review from time to time a dispensation previously allowed so as to vary it.

Notification of Applications, Objections and Representations

3.19. The Licensing Board must give notice of a Premises Licence Application (and an Application for a Major Variation) to:

- (a) each person living or owning property within 4 metres;
- (b) the local Community Council;
- (c) North Ayrshire Council;
- (d) the Police;
- (e) the Fire Authority; and
- (f) the Health Board.

3.20. As well as intimation, the following public notifications procedures are required:

- (a) the Licence Applicant is responsible for displaying a Site Notice on or near the Premises for at least 21 days, and
- (b) during that time the Board places a Notice describing the Application on its public website.

Applicants should note (a) - the Board cannot decide on the Application unless the Applicant provides a Certificate confirming that proper notice has been given. Without evidence that the Site Notice has been displayed for the full 21 days, the Board will continue the case to a future meeting.

3.21. Any person may submit an objection or representation to the Board. Objections should be relevant to the application, to the sale of alcohol (including connected purposes) and the Licensing Objectives. Any objection:

- (a) on the general basis of opposing alcohol consumption,
- (b) not related to the particular Premises, or
- (c) to the principle of Sunday trading,

is likely to be rejected as frivolous by the Licensing Board and if so, will not be considered.

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3.22. The Licensing Board will assess each Premises Licence Application on its own merits. The Board is likely to consider:

- (a) the nature of the Premises, its capacity, the style and type of use, the potential number and profile of the customers likely to attend the Premises;
- (b) the proposed hours of operation;
- (c) the means of access and exit from the Premises including the location of customer entrances and emergency exits;
- (d) food safety and cleanliness issues;
- (e) the provision of toilet facilities;
- (f) whether 'Children' (aged 0-15 years) and/or 'Young Persons' (aged 16-17) are to have access to the Premises or parts of Premises and on what terms and times.

For example, the Board is likely to :

- (1) expect there to be supervision by an adult (18 or over), or
- (2) limit access to the consumption of meals or the attendance at a function such as a wedding;

Different arrangements may be appropriate for 'Children' and 'Young Persons';

- (g) the need for door supervisors;
- (h) areas or activities which may have potential for Crime and Disorder, or Public Nuisance, including noise and any measures to mitigate those issues.

The Board will take account of any information supplied by the Police or Departments of the Council like Building Control, Environmental Health or Planning. The Board or its L.S.O. may wish to inspect the Premises before deciding on the Application (see Section 137).

3.23. Applicants cannot assume that the absence of objections will automatically lead to a decision to grant:

- (a) In Grant Applications, the Board can ask the Police to supply a Report detailing Anti-Social Behaviour incidents in the vicinity in the past year;
- (b) In both Grant and Major Variation Applications increasing capacity, the Board is obliged to consider the question of Overprovision (see Annex D);
- (c) in all cases, the Board must consider the Licensing Objectives;

- (d) the legislation itself states some automatic grounds for refusal, and the Board must decide whether or not any of these apply.

It is therefore possible that the Board might refuse an Application even if there are no third party objections.

4. MANAGEMENT OF PREMISES

4.1. The Board expects Licensees and their staff to act consistently with the five Licensing Objectives. There are various aspects of running Licensed Premises which are of particular concern to the Board. The Board has therefore determined to implement policies in these areas, as follows:

Noise

4.2. Licensees are expected to be aware of the impact on neighbours of noise from their Premises and are expected to apply best practicable means to prevent noise nuisance. There are several Licence conditions about this.

Steps to be taken may include:

- (a) sound tests;
- (b) installation and use of a sound limiter; the position of any control equipment, or on/off switch should be available only to staff;
- (c) soundproofing;
- (d) keeping doors and windows closed (there is an extra condition after 22.00 - see below);
- (e) door staff to ensure patrons leave quickly and quietly;
- (f) notices at exits asking patrons to leave quietly.

4.3. If the Premises have after 22.00 any of these:

Live performances
Dancing
Theatre
Films
Radio, Television or Jukebox.

then all windows and doors (both external and internal) must be kept closed, except that doors may be opened from time to time to permit the immediate passage of people provided that they are then again closed (Condition C.4.4(a)).

4.4. After 22.00 it is a Licence Condition that where equipment is used for the amplification, relaying or making of sound, the Premises shall, at the request of an Officer authorised by the Council, use sound limiter equipment set so that the equipment does not operate beyond sound levels agreed (Condition C.4.4(b)). If such equipment is to be used after 22.00, Licensees should discuss their proposals in advance with the Council's Environmental Health Department.

4.5. If the Board considers that a nuisance exists, it is entitled, following a review to do some or all of these:

- (a) restrict the times when noisy entertainment is provided;
- (b) restrict the parts of the Premises where such entertainment happens;
- (c) restrict the times when such entertainment happens;
- (d) prohibit such entertainment altogether;
- (e) restrict the opening hours of the whole Premises.

Vertical Drinking

4.6. The Licensing Board is concerned about so-called 'vertical drinking' establishments. Particular attention will be paid to any Applications for a Premises Licence where large numbers of patrons will have only standing accommodation. The Licensing Board is likely to expect on-sales Premises to accommodate patrons with a minimum of 25% of occupant capacity provided as seating space.

The Board may lower this percentage in the case of Premises where both:

- (a) the sale of alcohol is ancillary to a primary purpose of entertainment, and
- (b) where that entertainment reasonably requires greater than 75% of non-seated space in the Premises.

Children and Young Persons on Licensed Premises

4.7. The legislation distinguishes between 'Children' (aged 0 to 15 years) and 'Young People' (aged 16 or 17 years). The Layout Plan must identify areas:

- (a) set aside specifically for the use of Children and Young Persons; and
- (b) to which Children and Young Persons will have access.

4.8. The Board has a long-standing interest in encouraging family-friendly Premises within North Ayrshire and wishes to continue to ensure that Premises which seek to accommodate under-18s are run in such a way that they are suitable. Premises which:

- (a) are small and enclosed, or
- (b) which have few facilities,

are unlikely to be accepted as able to provide the appropriate environment.

4.9. Standard Condition C.10 is applied to all on-sales. Parts of this condition apply to darts, pool: paragraphs C.10.3(d) and (e). See paragraphs 3.17-18 of the L.P.S..

"(1) The Licensee shall apply best practicable means to ensure that adults accompanying Children or Young Persons take reasonable steps to protect them from harm at all times.

(2) No Child shall be permitted to operate any amusement-with-prizes machine or video/DVD/electronic machine which is in the Premises, except mobile telephones or other hand-held electronic devices owned by the Child.

(3) In the area(s) of the Premises to which Children are admitted:

- (a) All heating appliances must be adequately guarded;*
- (b) All electrical sockets must be fitted with a safety cover when not in use;*
- (c) Where meals are provided a Children's menu must be available at all times, or alternatively the main menu must show that half portions are available for Children;*
- (d) The playing of darts, pool, snooker or any other game is prohibited;*
- (e) There shall be no dartboard, pool table or other facilities for such activities in those area(s);*
- (f) There must be available (for sale or supply) for consumption by Children meals and beverages other than alcohol;*
- (g) Drinks supplied to Children under 12 must be served in non-glass containers;*
- (h) Straws must also be available to Children free of cost;*

(4) Where the Operating Plan permits a person aged under 16 to be admitted to any part of the Premises, that person shall only be allowed to enter or remain on the parts of the Premises which are described by the Operating Plan or Layout Plan as permitting such persons, and then only if all the following conditions are fulfilled:

- (a) the person shall only be on the Premises (or part) if accompanied by a person of or over 18;*

(b) all other conditions as to entry stated in the Licence must be fulfilled.

(5) *If Children under the age of 5 are admitted to the Premises:*

(a) not less than two safe high chairs shall be available to customers with Children;

(b) provision must be made for heating Children's food at no extra cost;

(c) a separate container for the disposal of soiled nappies must be provided."

4.10. The Licensing Board may refuse a Premises Licence or Occasional Licence where Children would have access to a place containing pool tables, dart boards, gaming machines or glass doors, unless appropriate changes are made to the Application, and will only consider Varying the relevant Conditions on a case-by-case basis after being satisfied that the Variation would not be inconsistent with the Licensing Objective.

CCTV

4.11. The use of CCTV on Licensed Premises can be an important measure in complying with the Licensing Objectives, particularly (a) preventing crime and disorder and (c) preventing public nuisance.

4.12. In the case of Premises licensed for Off-sale but not On-sale (e.g. 'off-Licences') the Board has a Condition requiring the use of internal CCTV.

4.13. Although the Board does not automatically require other Premises to have CCTV, the Board supports the use of such systems and would encourage Licensees to make use of these.

4.14. In the case of all Premises, if the Board considers that:

(a) there is a risk of disorder, crime or nuisance arising in or outside particular Premises, or that the use of CCTV would otherwise promote the Licensing Objectives;

(b) there is a possibility of Licensed Premises or the area immediately outside the Premises becoming a gathering point for people to congregate, with potential for issues of crime, disorder or nuisance to arise,

the Board may require the installation of an effective CCTV system covering the interior, exterior or both;

Where used, such systems must be kept in proper working order at all times, staff on the Premises must be able to operate the system, and images should be kept for at least one month and made available to the Police on request.

Prevention of discriminatory conduct

4.15. The Licensing Board is aware of wide public concern within its area and elsewhere in Scotland surrounding sectarian conduct which focuses on the religious divide between Christian denominations, racial prejudice or other discriminatory conduct.

4.16. If a Licensee behaves in such a fashion, or condones such behaviour by others, he may cause offence. Members of the public may consider themselves excluded from the Premises by reason of their religious beliefs or affiliations or racial identity or possession of Protected Characteristics under the Equality Act 2010. Such conduct can also intimidate, incite religious or sectarian hatred, and constitute a threat to public order or safety. Several Licensing Objectives are engaged:

'Preventing Crime and Disorder'

'Securing Public Safety'

'Preventing Public Nuisance'.

4.17. See Standard Condition A.15:

“(1) The Licensee shall not engage in, or permit, conduct or activities on the Premises:

(a) which cause offence, or

(b) which are likely to cause offence to a reasonable person, or

(c) which constitute a threat to public order or safety, or

(d) which are likely to discourage a particular part of the community from using the Premises,

on racial, religious, sectarian or other discriminatory grounds.

(2) The Licensee shall take reasonable steps to prevent any other person from engaging in such conduct or activities.

(3) The association of any Licensed Premises with a particular football club or the display of football programmes or football memorabilia within the Licensed Premises shall not of itself breach this condition: provided that any such material displayed does not contain any design, insignia, word or groups of words which discriminate on the basis of race, religion or are sectarian or which could reasonably be construed as being discriminatory or inciting racial, religious or sectarian hatred or violence.”

Radiolink, Pubwatch and Bottle-marking

4.18. In those areas where it is available, Radiolink and Pubwatch can be of assistance to Licensees and their staff in preventing crime and disorder and undue public nuisance. Off-sales may also participate in the bottle-marking scheme. The Board supports the use of such schemes and would encourage Licensees to join these in areas where these are available.

Dispersal of Patrons

4.19. Many occurrences of crime, disorder and public nuisance occur at or immediately after the terminal hour for the supply of alcohol. Licensees should ensure that they and their staff have sufficient measures in place to ensure patrons exit the Premises in good order and as quietly as possible. Measures may include:

- (a) limiting the amount of alcohol sold just before the terminal hour, e.g. only permitting a group to purchase one round, not two;
- (b) making sure all patrons know well in advance the last time for purchasing alcohol is approaching;
- (c) raising the lighting level and inspecting all parts of the Premises for patrons.

Door Supervision

4.20. Licensees in on-sales should review the need for door supervision, having regard to the Licensing Objectives of 'preventing crime and disorder', 'securing public safety', and 'preventing public nuisance'. Door supervisors must be registered with the Security Industry Authority under the Private Security Act 2001. To employ a door supervisor who is not registered is a criminal offence, and may itself lead to a Review by the Board of the Premises Licence. Licensees involved in what is termed 'Manned Guarding', whether or not door supervisors are used, may themselves have to be registered. Applicants should contact the Police and Security Industry Authority for more information.

Participation in Games and Entertainment

4.21. Where entertainment involves the participation of patrons in games, physical activities, or their exposure to substances (e.g. hypnosis and foam parties), the Applicant may be asked for a Risk Assessment showing adequate controls to avoid the risk of injury to participants. Licensees should be aware that an authorisation from the Council for any exhibition, demonstration or performance of hypnotism may be required under the Hypnotism Act 1952, and that it is illegal to hypnotise anyone under 18.

Gambling

4.22. Certain types of gambling in Licensed Premises may not require a Gambling Act Licence (e.g. cards or dominoes played by patrons).

Considering the 'Public Health' Licensing Objective, the Board would be concerned if games were played, with or without a Gambling Act Licence, for such high stakes that they constituted an inducement to persons to resort to Licensed Premises primarily for the purpose of taking part in such games.

The limits on stakes per game, total stakes that may be staked in any one period of 24 hours, prizes, and roll-over, are set by Regulations. The limits depend on the type of game and the type of Premises, e.g. the rules for pubs are different from the rules for clubs, and the rules for poker are different from the rules for other games. Licensees should contact the Gambling Commission or consult its website, and should observe the Codes of Practice produced by the Commission.

The Commission's website has many advice documents on Gambling Law:

www.gamblingcommission.gov.uk

Annex E contains a summary of entitlements.

Race Nights

4.23. The Board also has concerns that the provision of 'race nights' or similar entertainment for the commercial gain of the Licence Holder or staff may have a major impact on the character of the Premises. Indeed this is likely to be a criminal offence, unless the Premises are separately Licensed under the Gambling Act 2005. Accordingly the Board has imposed a condition to the effect that no race night or similar entertainment shall be provided for the commercial gain of the Licence Holder or staff.

4.24. However, this does not prevent a Race Night where the whole proceeds of the event are paid (without deduction for any costs, such as organising the event or accommodating it) to a charity or good cause. The whole proceeds must be paid within 14 days of the event, and the receipt must be displayed to the Board or the L.S.O. on request. "Proceeds" does not include the cost of alcohol sold.

4.25. Licensees who propose any form of gaming or race nights are advised to contact the Board in advance to discuss what additional Licences may be needed.

Management of Outside Drinking Areas

4.26. Since the operation of areas outside buildings (e.g. 'Beer Gardens') may be a particular source of noise nuisance, the Board expects that such areas will not be used for the consumption of drink, alcoholic or not, before 11.00 or after 22.00. They can still be used for other purposes, e.g. as smoking areas, although in particular cases the Board may consider that a complete prohibition is necessary.

4.27. Where a Layout Plan shows such an area:

- (a) that area can be used by customers only.
- (b) if the area is not enclosed by a wall, fence or other permanent structure, the Board expects that the area should be delineated by a removable barrier, in which case the barrier must be designed to allow access and exit for disabled persons;
- (c) Licensees should have management controls, supervision and other measures, to ensure that the use of such areas by patrons does not have an adverse impact on the locality, particularly to occupiers of Premises in the vicinity of the Premises;
- (d) all bottles and glasses must be cleared from the tables when the area closes (which can be no later than 10.00 p.m.).

4.28. Where the proposed outdoor area is situated on a public footway:

- (a) the Licensing Board expects Applicants applying for outdoor areas to have obtained consent from the Council's Roads Service under Section 59 of the Roads (Scotland) Act 1984, and to comply with any conditions attached to that consent;
- (b) seated such outdoor areas should only be used for the consumption of alcohol by those seated in the area - no external 'vertical drinking' should take place on a public footway.

5. ADULT ENTERTAINMENT

5.1. 'Adult Entertainment' is defined as:

"any form of entertainment which—

- (a) involves a person performing an act of an erotic or sexually explicit nature; and*
- (b) is provided wholly or mainly for the sexual gratification or titillation of the audience."*

(See: 'Licensing Conditions (Late Opening Premises) (Scotland) Regulations, 2007-336').

5.2. The Board considers that there are other activities which, although not necessarily falling within the formal definition of 'Adult Entertainment', are nonetheless undesirable. Examples are strippers and 'Anne Summers parties'.

5.3. It should be clearly understood that the Board is strongly opposed to any form of Adult Entertainment, and is likely to regard any activity involving nudity or sexually suggestive behaviour as inappropriate. The Board is aware of the limits on the powers of a Licensing Board implied by

the decision of the Court of Session in Brightcrew Ltd. v City of Glasgow Licensing Board, [2011] CSIH 46, but regards such activities as inconsistent with the Licensing Objectives of

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

5.4. The Holder of an Occasional or Premises Licence is expected to prohibit any such activity, whether it is arranged by the Holder, the Premises Manager, staff or by a customer. However, if a customer arranges an event without the prior knowledge of the Premises Licence Holder, Premises Manager or staff, staff are expected to prevent entry to the Premises, or part of the Premises where the event is taking place, by persons under 18 until the event ends.

5.5. If such activity is permitted then, unless expressly licensed by the Board, it is likely to be regarded by the Board as inconsistent with the Licensing Objectives, and the Board is likely to consider Revoking or Suspending the Premises Licence and, where a Personal Licence Holder is involved (e.g. the Premises Manager and/or a staff member), Revoking, Suspending or Endorsing that.

5.6. As with any other activity, it is important that the Operating Plan describes all the activities which the Licence-Holder proposes are to be carried out on the Premises, and that it specifically describes the nature, location, times and frequency of any such activities (whether or not within the statutory definition of "Adult Entertainment"). The Operating Plan should also detail the arrangements for excluding persons under the age of 18 from any part of the Premises where such activities are to occur.

5.7. When Premises propose Adult Entertainment, the Operating Plan should:

- (a) state expressly at Question 5(e) ('Adult Entertainment') that this activity will be carried out;
- (b) state the arrangements for excluding under-18s at Questions 6(b) and 6(d).

5.8. Whether or not the proposed activity

- is within the statutory definition of "Adult Entertainment", or
- needs a Sexual Entertainments Venue Licence under the Civic Government (Scotland) Act 1982,

the Operating Plan should:

- (a) state a full description of the activity, the parts of the Premises proposed, and the frequency and timing of the activity at Question 5(f) ('Other Activities');
- (b) state the arrangements for excluding under-18s at Questions 6(b) and 6(d);
- (c) the conditions of the Premises Licence will include those in Paragraph 5.9.

5.9. The conditions are:

- (a) The Licensed Premises must be appropriately stewarded by personnel who are Licensed by the Security Industry Authority in terms of the Private Security Industry Act 2001;
- (b) Licensed stewards must be provided in all public areas in addition to the entrances to the Premises;
- (c) All performance areas, and all public areas (including entrances) must be monitored constantly whilst the Premises are open to the public via the use of CCTV (Standard Condition X.1 shall be observed).

6. PLASTIC GLASSES IN LATE OPENING PREMISES

6.1. The Board is aware:

- (a) that it is widely acknowledged that violent crime, particular that involving glasses and bottles in Licensed Premises, tends to be spontaneous and to involve a link with the consumption of alcohol;
- (b) that individuals using glasses and bottles as weapons have caused a significant number of serious injuries sustained in or around Licensed Premises;
- (c) that the incidence of 'glassing attacks' is considerably greater in 'Late Opening Premises', such as nightclubs, as opposed to other Licensed Premises which do not operate into the early hours of the morning.

6.2. Against this background, the Licensing Board considers it desirable to have in place a Policy in order to reduce, as far as possible, bottles and other receptacles being used as weapons during any incidents of disorder. The Board therefore adopts the following Policy having regard to the Licensing Objectives:

- (a) preventing crime and disorder,
- (b) securing public safety,

- (d) protecting and improving public health.

Policy

6.3. The following applies to Premises Licence (for Occasional Licences, see Part 8, especially Paragraph 8.25).

Unless an exemption in Paragraph 6.4 applies:

- (a) After 1.00 am on any night (except where the Premises are only open after 1.00 a.m. due to a grant of Extended Hours):
 - (i) all drinks (alcoholic or not) should be served in drinks containers made of plastic or toughened glass should be used, and
 - (ii) no conventional glass bottles, whether open or sealed, and whether they contain alcohol or not, should be given to patrons, whether at the bar or by staff service to any area away from the bar;
- (b) Where the Licensee of Late Opening Premises is unable to source and use non-conventional glass bottles, such as plastic Ready-to-Drink containers (RTDs), all drinks (alcoholic or not) should be decanted into containers made of plastic or toughened glass before supply to consumers.
- (c) all receptacles must still be in proper form to ensure accurate measurement of drink (e.g. draught beer and cider glasses must bear either a Crown stamp or CE mark).

Exemptions

6.4. The Policy does not always apply:

- (a) Premises which:
 - (i) operate principally as hotels and which include at least four apartments set apart exclusively for the sleeping accommodation of travellers (in the Premises or in an associated building), in which the sale or supply of alcoholic liquor is solely to persons resident that accommodation; or
 - (ii) operate exclusively as a restaurant, or in which the sale or supply of alcoholic liquor is solely to persons taking table meals there, or as an ancillary to the table meals;are exempt from the Policy. Exemption (ii) also applies to any part of Premises which is set aside permanently and exclusively for use as a hotel or restaurant, subject to the same conditions;
- (b) On a case-by-case basis the Board may agree to a written exemption from the Policy requirements:

- (i) in relation to any Premises or part thereof;
- (ii) for certain types of receptacle or bottle.

Where an exemption applies to part only of the Premises, the P.L.H. shall ensure that no drink (alcoholic or not) is taken from the exempt area to any other part of the Premises, unless that drink is contained in plastic receptacles.

6.5. The Board may withdraw or vary any exemption, and might do so if it considers that this would promote the Licensing Objectives, e.g. having regard to incidents involving injury to patrons or crime or disorder occurring in or near the Premises (e.g. this Policy might be applied to different hours).

6.6. Where the Policy does not apply (either while the Premises operate before the times, or where the Premises or part are within the exemption), it is for the individual P.L.H. to determine what practices should be put in place with regard to the safe operation of the Premises.

6.7. The Policy does not apply to Premises which have the usual Policy hours (such as is common with public houses).

6.8. The Policy does apply to "Late Opening Premises" (meaning Premises where the Operating Plan specifies that the Premises will, on any occasion, be open for a continuous period beginning on one day and ending after 1.00 am on the following day, unless an Exemption applies (see above)).

7. LICENSED HOURS AND EXTENDED HOURS

7.1. While each Application is assessed on its own merits, the following sets out the Licensing Board's Policy on Licensing Hours. While there is a presumption that these hours will be allowed the Board reserves the right to reduce these depending on the circumstances of individual premises. Equally, applicants may seek to persuade the Board that additional requested hours are appropriate in the circumstances.

7.2. The Board's Policy on Licensed Hours is based on placing individual Premises (there are about 400 in North Ayrshire of all types) in one of six 'Function Types'. The allocation is based on the function of the Premises and is roughly based on the types of Licence under the 1976 Act:

1. Off-sales Premises: the Board usually allows the maximum permitted on each day (10.00 - 22.00, 7 days a week). This applies both to Premises where Off-sales are a substantial part of the business (e.g. shops) and where Off-sales are only ancillary to On-sales (e.g. where a public house sells from its gantry). The Board has no discretion to permit Licensed Hours outwith these times (1976 Act: 'Off-sales Licence');
2. On-sales Premises whose principal function is the provision of entertainment ('Entertainment Licence'); This category typically includes nightclubs. Such Premises are usually subject to a curfew condition, preventing any customers from entering after 00.30;
3. On-sales Premises (other than (2)) (this includes Public Houses and Hotels);
4. On-sales Premises whose principal function is the provision of accommodation, meals or non-alcoholic refreshment and the supply of alcohol for consumption is only ancillary to that purpose; 'meal' means a substantial meal eaten at a table, counter or other structure which serves the purpose of a table, and is available at all times until 45 minutes before the terminal licensed hour. Snacks and crisps are not considered to constitute 'meals' ('Restricted Hotel Licence', 'Restaurant Licence' or 'Refreshment Licence');
5. Members' Clubs which are entitled to the Special Treatment allowed by Section 125;
6. Members' Clubs which have chosen to give up their entitlement to the Special Treatment allowed by Section 125 (and are subject to Part K of the Board's Standard Conditions).

The same division is used for the purpose of the Overprovision Assessment (see Annex D). (by statute, Premises in Function Type 5 are not included in the Overprovision Assessment).

7.3. Taking into account:

- (a) the five Licensing Objectives;
- (b) the presumption against 24-hour drinking;

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(c) the Guidance for Licensing Boards and Local Authorities issued by the Scottish Government,

the Licensing Board has adopted a Policy for the terminal hour beyond which alcohol must not be sold on the Premises or parts of Premises.

7.4. The Policy for each Function Type 1 to 6 is:

	Mon	Tue	Wed	Thu	Fri	Sat	Sun
1	22.00	22.00	22.00	22.00	22.00	22.00	22.00
2	1.00	1.00	1.00	2.30	2.30	2.30	1.00
3	24.00	24.00	24.00	1.00	1.00	1.00	24.00
4	24.00	24.00	24.00	1.00	1.00	1.00	24.00
5	1.00	1.00	1.00	1.00	1.00	1.00	1.00
6	1.00	1.00	1.00	1.00	1.00	1.00	1.00

The "Function Type" of Premises is the same as in the Overprovision Policy (see Annex D).

The Policy on Licensed Hours is different for Occasional Extensions (Extended Hours): see Paragraphs 7.12 to 7.19.

On-sales - Early-opening

7.5. The Board considers that the commencement of On-sales of alcohol before 11.00 a.m. is likely to be inconsistent with the Licensing Objective "protecting and improving public health", regardless of whether a meal is provided.

On a case-by-case basis the Board may agree to the hours starting at or after 10.00 a.m. if the Licence Holder satisfies the Board that there is a need for this, arising from the particular circumstances of the Premises. The Board would expect evidence, and not simply anecdotal evidence, that there is an actual need for the hours already licensed.

7.6. Where Applicants seek the grant or variation of Premises Licence to permit On-sales before 11.00 a.m.:

(a) The Operating Plan will have to indicate an intention to provide certain facilities, e.g. the provision of cooked meals throughout the early opening period (snacks and crisps are not considered to constitute 'meals');

(b) The Applicant will require to satisfy the Board that there is a demonstrable demand from patrons to provide those facilities. It is not sufficient to refer generally to 'customer demand'. What is required is evidence that there is a quantifiable demand.

7.7. If the Board is later satisfied that early-opening is not appropriate in particular Premises, it may seek to Review the Premises Licence on the basis that early-opening is not consistent with that Licensing Objective.

7.8. Although the normal earliest opening time permitted is 11.00 a.m., the Board might permit a temporary Occasional Extension ("Extended Hours") to allow early-opening if the request relates to:

- (a) the activities of customers of the Premises associated with a sporting event, for example the participation of customers in a sports tournament,
- (b) the meeting of customers prior to travelling to a sporting event such as an 'away' football match;
- (c) the live TV broadcast of a major sporting event in a different time zone where the broadcast is outside hours already licensed.

7.9. Regardless of any decision about early hours, any Outside Drinking Areas associated with the Licensed Premises cannot operate before 11.00 a.m. or after 10.00 p.m..

On-Sales - Closing Hours conditions

7.10. The Board operates a 00.30 a.m. curfew: no member of the public shall be admitted to On-sales Premises after 00.30 am (whether on payment or not). On a case-by-case basis the Board may allow particular Premises to permit customers who have already entered the Premises to leave temporarily and re-enter after smoking, but the numbers of such customers must be limited, and the Premises must take all reasonable steps to ensure that the only customers who enter after 00.30 a.m. are those who have previously been on the Premises.

7.11. Premises open after 1.00 a.m. are subject to additional Mandatory conditions. As these are imposed under the 2005 Act, the Board cannot vary or disapply them.

Policy on Hours: 'Extended Hours' Applications

7.12. The Licensing Board may extend the Licensed Hours in respect of particular Premises by such period as the Board considers appropriate. The Board can only do so in connection with

- (a) a special event or occasion to be catered for on the Premises, or
- (b) a special event of local or national significance.

7.13. If Premises intend 'seasonal opening' (e.g. opening during the Festive Period), Premises must indicate this intention in the Operating Plan Question 4. Even if the Operating Plan states this

intention, the Premises cannot open outside the usual trading hours stated in the Operating Plan unless they apply for and are granted Extended Hours. The Board does not grant general extensions over part or all of its area under the Section 67 Determination procedure.

7.14. Premises can only apply for the addition of 'Extended Hours' to the beginning of or 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'.

Events

7.15. The Board has approved a list of events which are likely to be accepted as appropriate for a grant of Extended Hours. An event which is not on the list may still be allowed Extended Hours if the Board is satisfied that it falls within the legislation. The list is:

(a) 'special event or occasion'

This includes a birthday, christening or funeral, or the opening night of Licensed Premises which are opening after being closed during construction or renovation (no more than seven consecutive days may be included as 'opening nights').

(b) 'special event of local or national significance'

This includes:

- (a) Festive Period: each year the Board determines a Policy for Extended Hours for the next Christmas/New Year Period, and may decide to impose a 00.30 curfew, and may make special provision for certain days falling on weekends; the exact Policy is agreed in October or November;
- (b) Marymass;
- (c) Public Holidays widely observed in North Ayrshire (e.g. the May Day Holidays and the September Weekend); holidays observed mainly outside Scotland and observed in only a few Licensed Premises in North Ayrshire are not included;
- (d) Arran Folk Festival, Largs Viking Festival, Largs Regatta Week and Millport Country & Western Festival;
- (e) major sporting events such as the Olympic Games, Commonwealth Games or football World Cup Finals;
- (f) Hallowe'en.

[

Amend the list so that local holidays only allow local premises to seek EH:

(b) becomes "Marymass (for Licensed Premises in Irvine)"

(d) becomes "Arran Folk Festival (for Licensed Premises on Arran)"

(e) Largs Viking Festival or Largs Regatta Week (for Licensed Premises in Largs)

(f) Millport Country & Western Festival (for Licensed Premises on Cumbrae)

and the list is re-numbered

]

The Board does not consider that the following are appropriate for Extended Hours:

- (a) the Easter weekend;
- (b) Local Holidays other than Marymass;
- (c) Guy Fawkes Night.

Applicants seeking Extended Hours on those days should expect that their Applications will be referred to a Board Meeting.

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

7.17. An Applications should be made at least 28 days before the proposed event if it is within Board Policy (see the Board's "Statement of Practice" at Annex C, and "Occasional Licences for Junior Football" at Annex F).

If the Application is outside Policy then the Applicant is recommended to apply at least 56 days in advance.

This is because

- (a) if the Application is within Policy and there are no adverse comments from either the Police or L.S.O., the Application is likely to be granted under 'delegated powers' (it can be granted quickly by the Clerk or another Board officer, without having to wait until the next Board Meeting, perhaps weeks away), but
- (b) if the Application is outside Policy then it may have to be decided by a Board Meeting. These meetings are held at intervals of at least 6 weeks, so an Applicant who does not apply early may find that either there is not enough time to put the case on the meeting Agenda or that any Board decision comes only days before the date requested.

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7.18. Where the hours sought are outside the Board's Policy, the Applicant will have to demonstrate that the hours requested are appropriate in the circumstances. The Applicant should provide the Board with sufficient information to enable a decision to be made. This will include:-

- (a) the hours sought;
- (b) the description of the special event or occasion;
- (c) what activities are proposed to take place during those hours;
- (d) when each activity will take place;
- (e) why the event or occasion is considered to be special, and
- (f) why the event or occasion cannot take place within the Policy Hours.

Policy on Extended Hours

**

[ADD

"7.19. The Board has a special Policy for Extended Hours for Premises in Irvine on Marymass Saturday (see Paragraph 7.20 below). Otherwise, the"
]

7.19. Policy on Extended Hours is: one hour at the end of 'normal' hours, except that Function Type 2 (nightclubs) only have 30" extra on Thursday - Saturday. The Policy for each Function Type 1 to 6 is:

	Mon	Tue	Wed	Thu	Fri	Sat	Sun
1	-	-	-	-	-	-	-
2	2.00	2.00	2.00	3.00	3.00	3.00	2.00
3	1.00	1.00	1.00	2.00	2.00	2.00	1.00
4	1.00	1.00	1.00	2.00	2.00	2.00	1.00
5	2.00	2.00	2.00	2.00	2.00	2.00	2.00
6	2.00	2.00	2.00	2.00	2.00	2.00	2.00

**

[ADD text

"Marymass Saturday

7.20. In general, the Board will agree to Licensed Hours for on-sales for Premises in Irvine any period

- *starting on or after 8.00 a.m. on Marymass Saturday and*
- *ending on or before 2.00 a.m. on the following Sunday.*

Note:

- (a) *this applies to Premises in the Irvine Locality only;*
- (b) *This is not a Determination under Section 67 ("Power for Licensing Board to grant general extensions of Licensed Hours"). It will still be for individual Licensed Premises to apply for Extended Hours (under Section 68) and the Application will be determined on a case-by-case basis according to the particular circumstances. For example, a Public House might apply for an extension to 2.00 a.m. but the Board might refuse the particular application if the Police said that the application was inconsistent with any of the Licensing Objectives (such as "preventing crime and disorder", "securing public safety" or "preventing public nuisance").*
- (c) *It is not legally possible to license off-sales before 10.00 a.m. or after 10.00 p.m. and the Board would have to refuse an Occasional Licence Application or an Extended Hours Application asking for off-sales outside these hours: Section 65(2)."*

J

8. OCCASIONAL LICENCES

8.1. It is possible to make an Application for an Occasional Licence (O.L.) authorising the sale of alcohol on Premises which are not otherwise Licensed Premises (such as church halls or community centres). The Application may be made by:-

- (a) the holder of a Premises Licence,
- (b) the holder of a Personal Licence, or
- (c) a representative of any Voluntary Organisation, or
- (d) a 'Section 125' Club.

8.2. The 'occasion' must be identified, e.g. a birthday, christening or funeral. For the convenience of Licensees, the Board accepts 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 days would cost £40. An O.L. can only last up to a maximum of 14 days.

Although the Board is entitled to grant O.L.s for over one day, if the Applicant seeks a single O.L. to cover more than one day then there should be a common event connecting each of the days. For example, if Premises hold birthday parties for four different people on four successive nights, these will be regarded as four distinct 'occasions', so four separate O.L.s will be needed, costing £40 in total. This would not be treated as a single occasion lasting 4 days, with a single O.L. costing £10.

8.3. The Board has Policy guidelines as to events which are, and are not, considered suitable for granting an O.L.. If there is a request for an event which is outside the Policy, it may be necessary for the Applicant to attend and seek to persuade a Hearing of the Board as to why the Policy guidelines should not be followed in the particular circumstances of their event.

Suitable for Occasional Licence

8.4. These include: dances; discos; dinner-dances; wedding receptions; and parties where a disco or band is provided.

Not Suitable for Occasional Licence

8.5. Private parties where there is no significant entertainment are not regarded as suitable for the grant of an O.L..

8.6. The Board considers that O.L.s should be used only for genuine 'occasions', and should not be used for the operation of commercial Premises.

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There is one exception: where Premises which were licensed have within the past 12 months ceased to be so, and have not been used for any other purpose since, the Board will consider granting one or more O.L.s, totalling not more than three months, provided:

- (a) the operator of the Premises has applied, or confirmed that he will be applying, for a full Premises Licence

*****Possible addition:***

***[
"(not a Provisional Premises Licence) and the Application has not been determined"
]***

, and

- (b) the Board is satisfied that that new Application is likely to call at a scheduled meeting of the Board within that period.

Any exception allowed on one occasion is without prejudice to any future decision.

Limits

8.7. At the time of adopting this L.P.S., the legislation permits holders of a Premises Licence or Personal Licence to make an unlimited number of Applications. However, the Scottish Government may change this, under the Alcohol (Scotland) Act 2010.

In any case, if there are regular Applications from the same person (or persons representing the same organisation) for the same Premises, then the Board may expect the Applicant to seek a Premises Licence instead, and refuse the O.L. Application).

8.8. There are restrictions on the number of Applications a Voluntary Organisation or Section 125 Club can make.

The limitations are: in any period of 12 months, there can be no more than

- (a) 4 O.L.s (where each has a duration of 4 days or more), and
- (b) 12 O.L.s (where each has a duration of 1 - 3 days),

provided that, in any period of 12 months, the total number of days does not exceed 56.

Contact Sports

8.9. Events involving contact sports, such as boxing, karate or other martial arts tournaments, might be granted O.L.s, but, since all five of the Licensing Objectives are relevant here, the Board will only permit O.L.s for contact sports where:

- (a) the organiser is part of a recognised sporting association, and
- (b) the event is conducted according to the rules of the association.

Accordingly the Board will not just be seeking information about who is to run the bar, but about who is running the event itself. The Board may require the Applicant for the O.L. to give information and documents about the event, the association, and insurance. The Board may attach special Licence conditions requiring proper medical attention on-site (not simply First Aid), insurance and parental consent for participants under-16.

Any Application for an O.L. where there are to be contact sports will be referred to the Convenor or another Member of the Board, who may direct that any O.L. should be subject to additional conditions. It may be decided that the Board's general practice on plastic or toughened glass should not apply (see Para. 8.25), and accordingly the Board may impose requirements that:

- (a) for all drinks (alcoholic or not) containers made of plastic or toughened glass should be used,
- (b) all drinks (alcoholic or not) should be decanted into containers made of these materials before supply to consumers,
- (c) all receptacles must still be in proper form to ensure accurate measurement of drink (e.g. draught beer and cider glasses must bear either a Crown stamp or CE mark).
- (d) no conventional glass bottles, whether open or sealed, and whether they contain alcohol or not, should be given to patrons, whether at the bar or by staff service to any area away from the bar,

8.10. Apart from Licensing issues, there may be a need for other consents or permissions, e.g. some staging or boxing rings may be regarded as "raised structures" requiring prior consent from the Council's Building Standards office. Some use of Premises may require Planning Permission.

Voluntary Organisation

8.11. There is no statutory definition of what a 'Voluntary Organisation' is, but the Board will expect to be satisfied of two matters about the Applicant:

- (a) it has objects which are social, cultural, educational, charitable (e.g. fund-raising for a good cause);
- (b) it operates on a not-for-profit basis: all proceeds from the sale of alcohol, beyond necessary costs, will be applied to the objects, and no office-bearer or anyone else will receive any benefit from the proceeds;

8.12. A 'Voluntary Organisation' might have some or all of these features:

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- (a) a continuing purpose (it is not simply formed for the event for which it seeks the O.L.);
- (b) a written Constitution;
- (c) office-bearers, such as Convenor and Secretary;
- (d) its own Premises;
- (e) it has an OSCR number (i.e. registered on the Scottish Charity Register);
- (f) it is a Company Limited by Guarantee;
- (g) it is treated as a Charity by the Inland Revenue;
- (h) it receives relief from Council Rates.

8.13. It is recommended that, at the same time as a Voluntary Organisation lodges an Application for an O.L., it also lodges with the Board written evidence of these matters. If the Board staff doubt whether or not 'Voluntary Organisation' status applies, the Application may be referred to a Board Meeting for a decision. Since it is possible that the next scheduled Board Meeting would fall after the date of the proposed event, so that the event would remain unlicensed, it is important that Applicants provide all evidence at the earliest opportunity.

Application Process

[Add recommendation of 56 days, as well as retaining the existing L.P.S. stating the minimum period of 28 days per the Board's Statement of Practice.

"8.14. Applicants are recommended to apply for O.L.s at least 56 days before the date of the function or event. This is not a requirement of either the Law or Board Policy, but it would help the Applicant because it is always possible that an O.L. Application will have to be considered by the full Board at a scheduled meeting. Since there are only about five scheduled meetings in the year, it is possible that there might not be enough time to arrange a meeting before the function or event, which means that there would be no Licence in place.

8.15. As a minimum, the Board expects to receive O.L. Applications at least 28 days before the date of the function or event (see the Board's "Statement of Practice" in Annex C, and the Board's Policy on "Occasional Licences for Junior Football" in Annex F).

8.16. The period of 28 days was chosen to allow all the steps of the statutory procedure to be followed. When an O.L. Application is made, the Board must:

- (a) tell the Police;
- (b) tell the Board's L.S.O.;
- (c) put an advertisement on its website so that members of the public know of the Application and can object.

The details are in Section 59 - up to 28 days can pass between the date the Application is lodged and the report from the Police and L.S.O.. In many cases the reports are provided much quicker, but no Applicant can assume that this will happen in any particular case.

8.17. The vast majority of O.L. Applications are granted by the Clerk or other officers of the Board under what are called 'delegated powers', without a Hearing before the Licensing Board. An important factor in this system working is that Applicants follow the Board's advice about early Application. The Application can be granted under delegated powers only if all of these apply:

- (a) where there are responses from both Police and L.S.O.;
- (b) both are 'clear';
- (c) there are no objections; and
- (d) the Application is within Board Policy (e.g. as to hours).

8.18. If there are any unfavourable circumstances, the Application cannot be determined under delegated powers, but must instead be referred to a Meeting of the full Licensing Board (the particular case may be able to use the special procedure, but Applicants cannot assume that this will be available)..

If the Application is lodged at least 28 days in advance, it may be possible to put it before the Board, so that the Board can hear both Applicant and any Objector, and make a decision, all before the date of the event. If the Application is made later, there is a chance that the Hearing would not be until after the date of the proposed event, meaning that the event would be unlicensed.

Occasional Licences - Other Licences

8.19. Applicants should also be aware that, as well as an Occasional Licence granted by the Board, they may also require a Public Entertainment Licence and/or a Late Night Catering Licence issued by North Ayrshire Council under the Civic Government (Scotland) Act 1982.

8.20. If the Licences relate to a large event, such as a rock concert where 500 or more people are expected, then six months is the practical minimum notice, since the management of large numbers of people may involve co-ordination with the Police and other Emergency Services, other agencies outside the Council, as well as several Council Departments. An Applicant proposing such an event should:

(a) supply details, including a risk assessment, to the Council's Chief Executive's Department; and

(b) ensure that all interested parties are fully informed about the proposals,

at least 6 months in advance.

**** Add for info**

[

"8.21 If Premises already have an Occasional Licence, they cannot ask for Extended Hours: Section 68(6). A person who wants an O.L. must state the whole Licensed Hours at the outset."

]

Policy on Hours for Occasional Licences

**** Possible Addition: (a) is from the current L.P.S. but (b) and (c) are new.**

[

8.22. Although the normal earliest opening time permitted is 11.00:

(a) the Board may permit hours before 11.00 a.m. if the request relates to the activities of customers of the Premises associated with a sporting event, in the same circumstances where early Extended Hours would be allowed (see above), and

(b) the Board will permit on-sales in Irvine on Marymass Saturday starting at 8.00 a.m.

(c) there are special rules for Junior Football (see Annex H - "Occasional Licences for Junior Football").

]

8.23. The maximum terminal hour (after which alcohol must not be sold on the Premises):

(a) On-Sales:

In the following Table:

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Row (i) is the Policy for the period outside the 'festive period' for Extended Hours Applications (such as Christmas, New Year, certain public holidays - see Paragraph 7.15 ("special event of local or national significance")).

Row (ii) is the Policy for the 'festive period'.

	Mon	Tue	Wed	Thu	Fri	Sat	Sun
(i)	24.00	24.00	24.00	1.00	1.00	1.00	24.00
(ii)	1.00	1.00	1.00	2.00	2.00	2.00	1.00

(b) Off-sales:

10.00 - 10.00 p.m. seven days a week (by Law the Board cannot grant off-sales outside these times).

Conditions

8.24. Part H of the Board's Standard Conditions applies to all Occasional Licences. If these Conditions are not observed then:

- (a) future Applications for Occasional Licences may be refused, and
- (b) the Police may act on the basis that the current event is unlicensed.

Part H includes:

"H.7 Temporary Structures

H.7.1 In this condition "temporary structure" includes marquee or tent.

H.7.2 Where a temporary structure is used:

(a) Alcohol must only be consumed within

(1) the temporary structure or

(2) a roped area beside it reserved exclusively for this purpose;

(these two areas are together the licensed area). 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.

H.9 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 L.S.O. 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."

Plastic 'glasses'

8.25. The Board Policy depends on what the function or event is:

(a) for contact sports such as boxing, karate or other martial arts tournaments - see Para. 8.6;

(b) for Junior Football - one of the conditions of the O.L. is Condition M.2(c):

"No glasses shall be used. All drinks (alcoholic or not) shall be decanted into paper or plastic containers."

(see Annex F of this L.P.S.);

(c) Otherwise, there is no need to use drinks containers made of plastic or toughened glass, or to decant alcohol into containers made of these materials, at events which are covered by an O.L..

9. MEMBERS CLUBS

9.1. Members Clubs require a Premises Licence granted by the Board.

9.2. Members Clubs are of two types. The majority are entitled to the 'special status' given by Section 125 of the 2005 Act, which means:

- (a) they have lower Licence fees than commercial premises,
- (b) they do not require to have baby-changing facilities, and
- (c) they do not require to have a Premises Manager.

9.3. To qualify for the 'special status', Members Clubs must:

- (a) be non-profit making; and
- (b) have a constitution and rules as detailed in the Licensing (Clubs) (Scotland) Regulations 2007, No. 76.

The Club must produce its constitution and rules to the Board, which advises Clubs if these qualify.

9.4. However, this special status has a potential disadvantage - a limitation on the number of Occasional Licences - and a few Clubs have chosen to ask the Board to give up the 'special status'. The Board has introduced a procedure under which the organisation will become 'ordinary' Licensed Premises but continue to operate as a 'Club', in the sense that it will normally restrict the use of its facilities to its members, as opposed to the public at large, except where the Premises are used for a bona fide pre-booked function such as a wedding reception or birthday party, when persons other than Members can use the facilities of the part of the Premises where the function is taking place, and buy or consume alcohol there.

9.5. A Club which opts to surrender the special status becomes

*****Add explanation for the name***

***[
"subject to Part K of the Board's Standard Conditions, so is referred to as "
]***

a 'Part K Club', and like other 'ordinary' Licensed Premises must:

- (a) have a Premises Manager

- (b) pay the higher Annual Fee based on Rateable Value (rather than the reduced fee paid by 'special status clubs')
- (c) comply with the condition requiring baby-changing facilities.

9.6. To make the change the Organisation:

- (a) signs a document (prepared by the Board) acknowledging the consequences of the change - this document is part of the Variation Application;
- (b) nominates a Premises Manager.

When the Variation is granted, it becomes subject to a different part of the Standard Conditions from that appropriate to 'ordinary' Clubs.

9.7. Whether they have the 'special status' or not, Clubs must keep their constitutions updated and, when revised, submit a copy of the revised constitution to the Board. Clubs must also ensure their constitution, accounts and entry book are available for inspection by the L.S.O. and the Police at all reasonable times.

9.8. The Overprovision rules apply differently, depending on whether or not the Club has the 'special status':

- (a) a Club which has 'special status' is not counted for Overprovision purposes (in the Board's Function Type scheme, the Premises are "FT5");
- (b) a "Part K" Club does not have 'special status', so is counted for Overprovision purposes (the Premises are Function Type "FT6").

10. PERSONAL LICENCES

10.1. It is important that at least one member of staff should have a Personal Licence. This is because one of the mandatory Licence conditions is:

“Every sale of Alcohol made on the Premises must be authorised (whether generally or specifically) by—

(a) the Premises Manager, or

(b) another person who holds a Personal Licence.”

(2005 Act, Schedule 3, Paragraph 5)

This is so important that the Board recommends that Premises have at least two Personal Licence Holders, to allow for lengthy absences due to holidays or illness.

**** Add:**

[

"There is a lot of advice about how to get and renew a Personal Licence on the Board's website:

<https://www.north-ayrshire.gov.uk/business/licences-and-permits/food-alcohol-gambling-licences/personal-licence.aspx>

This includes an Advice Note for renewal "Answers to Frequently Asked Questions". "

]

Training - initial

10.2. Before a person can apply for a Personal Licence, he needs to obtain a training qualification. This is called “Scottish Certificate for Personal Licence Holders” (SCPLH).

[Add to explain that this is now the only one.

"10.3. That is the only qualification that can be used. These qualifications cannot be used:

- Scottish Certificate for Personal Licence Holders (On-Sales)***
- Scottish Certificate for Personal Licence Holders (Off-Sales)***
- The Scottish Certificate for Personal Licence Holders (Refresher)"***

]

10.4. The Board does not itself provide training and the person would have to get it himself: some colleges offer suitable courses, as do:

BII (Scotland) (formerly the “British Institute of Innkeeping”), and

AFS/Servewise (“Alcohol Focus Scotland”).

When choosing a training provider, make sure that they offer a Scottish qualification. The Licensing legislation in England and Wales (Licensing Act 2003) also has Personal Licences, but the system there is quite different from Scotland, so a qualification or Licence from south of the Border would be no use here.

Training - Refresher

Reword the original text to emphasise that there are TWO requirements.

[

"10.5. Once a Personal Licence is granted, the Holder must do two things:

(a) the Holder must be retrained every 5 years (not 10 years), and

(b) the Holder must give the Board evidence within 3 months of the retraining qualification. The retraining can be provided by the same organisations that give Personal Licence training.

Requirement (b) is important. Even if you get the refresher training, you must show the Board the Refresher Training certificate within 3 months of the end of the 5-year period. If you don't show the Board at all, or if you show it to the Board after the 3-month period, the Board is legally required to revoke your Licence - even if you in fact have a Refresher Certificate. There is no Board Hearing and you have no right of Appeal.

10.6. Anyone holding a Personal Licence should book the retraining well in advance of the 5 year limit. If the booking is made but the retraining does not in fact happen on schedule (e.g. because the Holder misses the course due to illness or emergency, or the course is cancelled), then the Licence is still Revoked.

10.7. The certificate you need at this point is:

- Scottish Certificate for Personal Licence Holders (Refresher)***

This is not the same certificate used to get the Personal Licence in the first place. When booking a training place, the holder should make sure that it leads to the right qualification. Although the former Licence Holder could still work on Licensed Premises (since the qualification he had already obtained would be sufficient to meet the staff training obligation) he/she would cease to be qualified to act as a Premises Manager.

]

Review

10.8. Where a Personal Licence has already been granted, the Board can review it in 3 situations:

- (a) where the Holder is convicted of any 'relevant or foreign offence' (Section 83(7);
- (b) where the Board is dealing with a Premises Licence Review, and in the course of that the Board considers that a Personal Licence Holder acted against the Licensing Objectives (Section 84);
- (c) following a report from the Chief Constable stating that the Personal Licence Holder has acted in a manner which is inconsistent with any of the Licensing Objectives (Section 84A);

10.9. In any of these cases, the Board can decide to Revoke, Suspend or Endorse the Personal Licence. If the Personal Licence was granted by a Board elsewhere in Scotland, NALB will report to that other Board.

Example: Police make a complaint about Licensed Premises in North Ayrshire. In the course of the Review into the Premises Licence, NALB decides that a member of staff (e.g. the Premises Manager) acted against the Licensing Objectives. NALB can take action against that person's Personal Licence. If it was granted by another Board, NALB informs that other Board afterwards.

10.9. Endorsement means that the outcome of the Review is noted on the Personal Licence. An Endorsement lasts 5 years. If, in that time, the Licence Holder gets a total of 3 Endorsements, the Board must consider whether or not to Revoke or Suspend the Licence (Section 86).

Updating

10.9. A person who holds a Personal Licence must tell the Board within one month of any change of circumstances:

- (a) if he is convicted by a Court of a Relevant or Foreign Offence (Section 82)
- (b) any change in the Licence Holder's name or address (Section 88)

At the same time as giving the information, he must give the Board the original Licence. This is so that the Board can update it and re-issue it.

Failure to supply the information or to provide the Licence for updating is a criminal offence and can lead to prosecution.

Training for Other Staff

10.10. All staff on Licensed Premises require a minimum of two hours training, if they do not themselves hold a Personal Licence.

The training records must be shown to the L.S.O..

The training can be given by a Personal Licence Holder (for example, the P.M.), and can be provided by the same organisations that give Personal Licence training.

10.11. Whether staff hold Personal Licences themselves or have only the basic statutory training, the Board may regard misconduct by them as reflecting on the Premises Manager and on the Premises Licence Holder. For example, where a staff member sells alcohol to a person under 18 then the Board may consider that, as well as the personal fault of the individual concerned, inadequate training or supervision was an issue.

Training: Occasional Licences

10.12. In the case of Occasional Licences, Standard Condition H.9 requires the Licence Holder to ensure that:

- (a) all staff who sell or serve alcohol either hold a Personal Licence or have received the same training as is required of staff in Licensed Premises;
- (b) the Personal Licence or training record is produced to a L.S.O. on request;
- (c) either he or that trained member of staff is present at the Premises throughout the duration of the Licence.

Annexes

Annex A - Standard Conditions for Premises and Occasional Licences

The Board's Standard Conditions consist of:

- (1) the Statutory Conditions which are applied by Statute (and which the Board cannot vary or dis-apply) and also
- (2) the Conditions applied by the Board under Sections 27(6) and 60(4) (except where the Board decides to exclude or modify a Condition in any particular case).

The Statutory Conditions are the Mandatory Conditions:

- (a) which apply to all Premises Licences (see Schedule 3, 2005 Act),
- (b) which apply to all Occasional Licences (see Schedule 4, 2005 Act), and
- (c) which apply to Late Opening Premises (see The Licensing Conditions (Late Opening Premises) (Scotland) Regulations 2007, No. 336).

Where the Mandatory Conditions are amended, the Standard Conditions are held to be amended accordingly.

The Standard Conditions are issued in several Editions. This is because they have been reviewed and amended from time to time since they were first adopted in 2008. On each occasion, a new Edition has been prepared. The Standard Conditions were adopted by the Board on 20 May 2008, before the Board started to grant Premises Licences under the 2005 Act.

The five Editions are:

- 1 - the original;
- 2 - after amendment on 2 December 2008;
- 3 - after amendment on 10 February 2009;
- 4 - after amendment on 23 June 2009;
- 5 - after amendment on 1st September 2009.

All five Editions are on the Board's website:

<http://www.north-ayrshire.gov.uk/LawAndLicensing/LicencesPermitsAndPermissions/Licences-Alcohol/Licences-Premises/Licences-Premises.aspx>

Only one Edition ever applies to particular Premises. If a Premises Licence was granted with one Edition, it is not affected if the Board later approves a new Edition. This means that the Board's

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website requires to maintain several copies of the Standard Conditions, because the earlier Editions continue to be relevant to Premises which had Licences granted earlier.

When the Board informs an Applicant that the Premises Licence Application will be considered at a Meeting on a particular date, the Board also informs the Applicant that any Premises Licence to be granted will be subject to specified Parts of the Standard Conditions. The Applicant should read this as a reference to the most recent Edition.

Where the Board later wishes to apply the newest Edition to older Licences, this is done during the statutory Variation procedure. The individual Licence Holder has the right to make representations to the Board as to whether or not the Variation should be applied.

It is possible that the Board may apply additional Conditions, in addition to the Standard Conditions, to deal with the circumstances of particular Premises, and that further Editions will be adopted.

Annex B - Local Licensing Forum

The Forum is a consultative and advisory body separate from the Board. It should aim to include representatives of —

- (a) holders of Premises Licences and Personal Licences;
- (b) the Police;
- (c) persons having functions relating to health, education or social work;
- (d) young people; and
- (e) residents.

In North Ayrshire the Forum also includes a L.S.O..

The Forum meets at least four times a year and has an annual joint meeting with the Board itself.

It is important to note that the Forum is separate from the Board and does not decide on individual cases: decisions are made by the Board. The Forum is supposed to monitor the operation of the legislation and to give the Board advice and recommendations. The Board must have regard to any advice or recommendation from the Forum, but is not obliged to follow either.

The Forum is not entitled to comment on a particular case: the Forum would be entitled to comment generally on the application of Board Policy or the use of a Licence Condition throughout North Ayrshire, but it would not be entitled to advise the Board what action it should take during a Premises Licence Review relating to particular Premises.

Annex C - Statement of Practice for Occasional Licences and Extended Hours

****ADD:**

**[
"If you are applying for an Occasional Licence for Junior Football, see also Annex F."
]**

The Statement of Practice is:

"North Ayrshire Licensing Board is concerned that Applications are sometimes lodged without leaving enough time for the legal procedure to be followed, and on 25 May 2010 approved the following Statement of Practice. It applies to all Applications made on or after Tuesday 29 June 2010.

1. This Statement of Practice does not apply where the only reason for the Application is to cater for a funeral;
2. The Board's advice to Applicants remains that an Application should be made at least 28 days before the date, or the earliest date, requested;
3. An Application will not be accepted if it is not made at least 14 days before the date, or the earliest date, requested;
4. Where an Application is lodged giving over 14 days, but less than 28 days, notice (a 'Late Application'):
 - (a) 'three strikes' rule: If an Applicant makes a Late Application and within the period of two years immediately preceding the date requested has had two or more events where Occasional Licences or Extended Hours (or any combination of them) were granted following Late Applications, the Application is to be rejected;
 - (b) in any other case, the Late Application will be accepted and will be granted (assuming that there is no adverse comment from Police, L.S.O., or (in an Occasional Licence) an objector). However, the '28 day' advice is to be repeated in a covering letter when the Licence is issued, and a record of the lateness is to be kept.
5. The Clerk should decline to grant an Application where Board staff have contacted the Applicant to clarify some issue and the Applicant has failed, within 7 days of that contact, to supply clarification to the reasonable satisfaction of the Clerk;
6. The Convenor (whom failing the Vice-Convenor, and whom failing any Member of the Board) may authorise departure on a case-by-case basis from the Board's Policy on hours or any other matter;
7. The Clerk is entitled to disregard the fact that the Applicant has failed to do anything required of him by this Statement of Practice, where in the opinion of the Clerk the failure is justified by exceptional circumstances;

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8. When an Application is rejected for any of these reasons, the Applicant will be informed of the reason. The Police will be told of the Application anyway;
9. In this Statement of Practice, 'Clerk' includes any officer of the Board authorised by the Clerk."

Annex D - Overprovision

Summary of the Policy

The Policy in 2018-22 is consistent with that of the 2013-2018 L.P.S..

The application of the Board's Policy in a particular case is affected by two issues:

- (a) the 'Locality' of the Premises (there are 6):
- (b) the 'Function Type' of the Premises (there are 6).

(a) 'Locality'

The Board has determined that there are 6 'Localities' in their area, coinciding with the 6 'Locality Areas' used by the North Ayrshire Community Planning Partnership). These are:

- (1) "North Coast" (Skelmorlie, Largs, Isles of Cumbrae, Fairlie, Seamill & West Kilbride);
- (2) "Three Towns" (Ardrossan, Saltcoats & Stevenston);
- (3) "Kilwinning" (including Pennyburn, Blacklands, Whitehurst Park, Woodside);
- (4) "Irvine and Area" (Irvine, Bourtreehill, Cunninghamhead, Dreghorn, Gateside, Girdle Toll, Springside & Torrance);
- (5) "Garnock Valley" (Auchentiber, Barmill, Beith, Dalry, Glengarnock, Kilbirnie);
- (6) "Isle of Arran";

A map showing the specific boundaries of each Locality can be found at:-

<http://www.northayrshire.community/wp-content/uploads/sites/60/2018/11/Locality-Boundaries-2018-pdf.pdf>

(b) 'Function Type'

- (1) Off-sales Premises;
- (2) Nightclubs (or parts of Premises which operate as nightclubs);
- (3) Other On-sales Premises (for example, Public Houses);
- (4) Hotels, Restaurants and other On-sales Premises whose principal function is the provision of accommodation, meals or non-alcoholic refreshment and the supply of alcohol for consumption is only ancillary to that purpose- 'meal' means a substantial meal eaten at a table, counter or other structure which serves the purpose of a table, and is available at all times until 45 minutes before the terminal licensed hour.
- (5) Members' Clubs which are entitled to the Special Treatment allowed by Section 125;
- (6) Members' Clubs which have chosen to give up their entitlement to that Special Treatment (these are sometimes called "Part K Clubs")

By statute, Premises in Function Type 5 are not included in the Overprovision Assessment.

The Board's 2013-2018 Overprovision Policy is as follows:

- (1) Everywhere in North Ayrshire is overprovided, so if there is an Application for a new Licence, or for an increase in capacity, there is always a presumption of refusal, no matter which 'Function Type' is involved.
- (2) Effect of 'Locality' : The presumption of refusal is stronger if the Premises are in a 'Locality' where Applications are especially unlikely to be granted (all of North Ayrshire, apart from "North Coast" and "Isle of Arran").
- (3) Effect of 'Function Type' : The presumption of refusal is stronger if the Premises have any 'Function Type' except for 4 (Hotels and restaurants), but even if the Premises are in hotels or restaurants the Board can still refuse due to its Overprovision Policy);
- (4) If both (2) and (3) apply, the presumption of refusal is especially strong. For example, it is unlikely that the Board would allow a new Off-sales in the Garnock Valley Locality.

These are all presumptions, not rigid rules, so refusal is not automatic. While the L.P.S. creates a rebuttable presumption that a case should be determined in a certain way, it will always be open to applicants or objectors to persuade the Board that the Policy should not be followed in the individual circumstances of a particular case.

The details of the Policy follow. The Policy in 2018-2022 is similar to that which operated in the period 2013-2018. The further steps which the Board took in that earlier period to ensure that the Policy remained a reliable guideline are detailed below (4.8 "Consideration of Overprovision during the period 2013-2018").

Details of the Policy

1. Introduction

1.1. Section 7 obliges the Board to include in the L.P.S. a statement as to the extent to which the Board considers there to be Overprovision of Licensed Premises, or Licensed Premises of a particular description, in any Locality within the Board's area.

1.2. The issue of Overprovision arises when the Board is considering whether or not to grant applications for either a new Premises Licence or a Major Variation of an existing Licence, including an application for increased capacity. It is not relevant when dealing with Occasional Licences (Sections 7(5), 23(9) and 30(8)).

1.3. In applications for a new Premises Licence, Section 23(5)(e) provides for the following ground of refusal:

"that the Board considers that, if the Application were to be granted, there would, as a result, be Overprovision of Licensed Premises, or Licensed Premises of the same or similar description as the subject premises, in the Locality."

1.4. In applications for a Major Variation, Section 30(5)(d) is similar.

2. The Board's approach

2.1. Section 7(2) of the 20056 Act states:

"It is for the Licensing Board to determine the "localities" within the Board's area for the purposes of this Act and in doing so the Board may determine that the whole of the Board's area is a Locality."

The Board's Overprovision Policy covers its whole area, although the Board has determined that there are 6 'Localities' in its area (coinciding with the 6 'Localities' used by the North Ayrshire Community Planning Partnership (CPP)):

1. North Coast (Skelmorlie, Largs, Isle of Cumbrae, Fairlie, Seamill & West Kilbride)
2. Three Towns (Ardrossan, Saltcoats & Stevenston)
3. Kilwinning (including Pennyburn, Blackland, Whitehurst Park, Woodside)
4. Irvine and Area (Irvine, Bourtreehill, Cunninghamhead, Dreghorn, Gateside, Girdle Toll, Springside & Torran yard)
5. Garnock Valley (Auchentiber, Barmill, Beith, Dalry, Glengarnock, Kilbirnie & Lugton)
6. Arran

These Areas contain a total of 38 Intermediate Zones ('IZs'). IZs are the areas commonly used to gather a wide range of government statistics.

2.2. The Assessment recognises that there are 6 Premises 'Function Types':

1. Off-sales
2. Entertainment venues (e.g. nightclubs)
3. Other On-sales (e.g. public houses)
4. Accommodation, meals, or refreshment
5. Clubs with "Special Treatment" under Section 125
6. Clubs without "Special Treatment" (what the Board calls 'Part K' Clubs)

Overprovision applies to all Function Types except FT5 (since Clubs which are eligible for "Special Treatment" under Section 125 are exempt from Overprovision : Section 125(2)(c).)

2.3. The 2005 Act introduced a single 'Premises Licence' in place of:

- (a) the seven separate types of Licence under the 1976 Act (e.g. 'Public House'), and
- (b) the separate status of Registered Clubs (under the 1976 Act, Clubs were registered at the Sheriff Court instead of being Licensed by the Board).

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For the purpose of determining the type of premises to which an Overprovision policy should apply, it is the Board's view that the 1976 Act types are still relevant, as:-

- (a) the six Function Types reflect the different functions of Licensed Premises;
- (b) the vast majority of Premises which presently hold Licences under the 2005 Act already had Licences under the 1976 Act (and so would already have been in a particular Function Type) and when these Premises applied for a 2005 Act Licence they did so (without exception) on a 'like for like' basis - the Board was satisfied that in each case the Operating Plans and Layout Plans reflected substantially the existing Licensed activity;

2.4. The Board considers that its approach to the categorisation of different Premises is consistent with Paragraph 52 of the Guidance, e.g. a feature of the previous system was that the 'Public House Licence' covered both:

- (a) Premises that concentrated on vertical drinking, and
- (b) Premises where a substantial part of the business was the supply of food.

The Board will be open to the suggestion that particular Premises may not fit easily into a single Function Type.

2.5. Data provided to the Board in relation to the impact on health of alcohol in North Ayrshire demonstrates limited changes in health and other indicators since the Board's previous Overprovision Assessment in 2013. For example a number of indicators in Largs have deteriorated and a number in Irvine have improved. However across the main three alcohol-related health indicators of life expectancy in males and females, and alcohol-related hospital stays, the broad picture across each locality remains similar to that of the 2013 Overprovision Assessment. The data for North Ayrshire is below the national average for the whole of Scotland, which itself is a low benchmark. For that reason the Board considers there is Overprovision across all Localities of North Ayrshire. This is stronger in Localities with poorer health statistics, namely Irvine, Kilwinning, the Three Towns and Garnock Valley.

2.6 Data provided to the Board in relation to alcohol-related crimes demonstrate that:-

- (a) there is a direct link between alcohol and many crimes (e.g. national data indicates that in 42% of violent crime, the victim said the offender was under the influence of alcohol) and
- (b) alcohol related crime is higher in most areas of North Ayrshire than U Division (Ayrshire Division, covering North Ayrshire, South Ayrshire and East Ayrshire) as a whole - which in turn is likely to be higher than the Scottish average;
- (c) alcohol-related crimes were higher in town centres, but otherwise paint the same picture as health data of a direct correlation between areas of deprivation and alcohol related crime. This accords with the conclusions of the Sheffield University study, as considered by the Supreme Court in relation to minimum pricing, that alcohol disproportionately impacts on the poor. On that basis the crime figures substantiate the Board's proposed approach to Overprovision based on the Public Health Licensing Objective. Accordingly the statistical

indicators which the Board has taken into account in formulating its Policy on Overprovision include such statistics.

See the supporting document:

Doc (i) Alcohol-related crimes in NA (Police)

3. Application of the Overprovision Assessment

3.1 The Board's approach is consistent with the Guidance (Paragraphs 54 to 57):

*“54. Where a Licensing Board's Policy statement has concluded that in a particular locality there is an overprovision of licensed premises, or licensed premises of a particular description, an application for a new premises Licence or for the variation of an existing Licence in that locality **should normally be refused** on the ground provided by Section 23(5)(e) of the Act, either:*

- because it would simply add to the number of licensed premises; or*
- because it would increase the number of premises of the relevant description,*

depending on the approach which the Licensing Board has taken in the Policy statement.

55. The application need not be the subject of an objection.

*56. The effect of the Policy is to create **a rebuttable presumption** against the grant of an application. Each application still requires to be determined on its own merits and there may be exceptional cases in which an applicant is able to demonstrate that grant of the application would not undermine the Licensing objectives, or those objectives would not be undermined if the applicant's operating plan were to be modified or the grant of the Licence made subject to appropriate conditions.*

*57. Because the application of the Policy must leave room for exceptions, the Policy statement should not set a numerical quota of licensed premises or premises of a particular description for any locality.” (emphasis added **thus**)*

Policy on Overprovision

3.2. The Board has considered the information contained in the background documents:

- Doc (a) Alcohol Facts and figures (AFS)
- Doc (b) TRAFFIC LIGHT chart (NALB)
- Doc (c) Monitoring Report 2018 (Alcohol-specific Deaths) (MESAS)
- Doc (d) Alcohol Related Harm in Scotland 2016 (MESAS)
- Doc (e) Alcohol Information - North Ayrshire (NHS)
- Doc (f) Alcohol Outlet and Harm (NA) (CRESH-AFS)
- Doc (g) Licensing Indicators (NHS-NALB)
- Doc (h) Alcohol Statistics (Scotland and NA)

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Doc (i) Alcohol-related crimes in NA (Police)
Doc (j) Fires and Alcohol-related incidents (SFRS)
Doc (k) Premises Licences in North Ayrshire
Doc (l) NHSAA - Response to LPS consultation [GEN32 LPS]
Doc (m) AFS - Response to LPS consultation [GEN32 LPS]
Doc (n) AFS - alcohol outlet availability and harm in north ayrshire [GEN32 LPS]
Doc (o) LLF - Response to LPS consultation [GEN32 LPS]

and has had regard to the fact that the existing number of Premises largely reflects the number of Premises which applied for 2005 Act Premises Licences during the Transitional Period (and which had held Licences under the 1976 Act).

The Board considers that there is Overprovision in all Localities of its area, and not only in the Localities which are predominantly 'red' in the 'traffic light' scheme. The present number of Licences reflects the Board's historical willingness to permit the number of Licensed Premises in the tourist areas of Arran, and to a lesser extent, the North Coast, to exceed the average for the rest of the Board's area. The Board takes the view that such an excess is not consistent with the Licensing Objective "protecting and improving public health".

The Overprovision Policy covers the whole of the Board's area, as the Board considers that the whole area is already overprovided. The Policy already makes a rational distinction, based on the evidence, between areas suffer substantial health and social problems as a result of the consumption of alcohol (4 Neighbourhood Areas) and areas which are not as bad.

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[ADD

The Policy adopted in 2018 is similar to that adopted in 2013, which was a development of the Policy adopted in 2010. The data that the Board has collected indicates that there have been improvements in health and other indicators over that time, but the Board is concerned that in many cases data for North Ayrshire is below the national average for the whole of Scotland, which itself is a low benchmark. The Board considers that the general trend of the earlier Policies should be continued.

]

The Board considers that it is reasonable to apply the Overprovision Policy even to Localities which are, relatively, not as bad as others, given that it is likely that customers from one Locality will travel to another. The Board is unlikely to permit an increase in capacity in one Locality where there might be a draw of customers from any of those 4 Localities.

3.3. When the Board requires to consider an Application for:

- (a) a new Premises Licence (including a Provisional Premises Licence) or
- (b) a Major Variation which would lead to an increase in capacity in an existing Premises Licence,

the Board will proceed as follows.

3.4. Procedure.

- (a) The Board will start by identifying the Locality containing the Premises and the Function Type;
- (b) it will then consider whether or not any of the 'Additional Factors' (listed in Paragraph 4.5 below) apply;
- (c) It will have a report stating which Locality and Function Type apply to the Premises, and (where relevant) stating which of the 'Additional Factors' may apply;
- (d) It will consider any submissions made by the Applicant and any interested party, and take into account those submissions and the presumptions listed in Paragraph 4.6 below.

3.5. 'Additional Factors'

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

(a) Locality:

Given the level of alcohol related health and crime impacts in 4 of the 6 Localities ("Three Towns"; "Kilwinning"; "Irvine and Area."; or "Garnock Valley"), an Application in these 4 Localities is especially unlikely to be granted (regardless of the Function Type);

(b) Function Type 1:

The Board is aware:

- that a substantial proportion of alcohol is bought from off-sales shops and consumed in an unregulated environment (unlike a public house, there are no checks on the rate consumed, volume consumed, the consumer's state of intoxication, or the age of the consumer);
- that disorder in or near on-sales is often contributed to by customers 'front-loading' by drinking at home or in public places;

Accordingly any Application for Premises in Function Type 1 is especially unlikely to be granted (regardless of the Locality);

(c) Function Types 2, 3, 6:

The Board is concerned with what may be characterised as the 'night-time economy', with members of the public visiting Premises, and travelling between Premises, where

the consumption of alcohol is a substantial element of the night's events. Thus the presumption of refusal would apply to pubs, nightclubs, and 'Part K' Clubs (Function Types 2, 3 and 6);

(d) Function Type 4:

Where the Premises are in Function Type 4 (On-Sales Premises whose principal function is the provision of accommodation, meals or non-alcoholic refreshment), the Board may regard the grant of a new Licence (or Variation of an existing one) as not calling for refusal, on the view that such Premises may not be a significant contributor to overall disorder.

However, since the Board:

- accepts that the consumption of alcohol in any circumstances has the potential to injure health, and
- endorses the view that "alcohol is not an ordinary commodity",

it may refuse the Application here also. 'Meal' means a substantial meal eaten at a table, counter or other structure which serves the purpose of a table, and is available at all times until 45 minutes before the terminal licensed hour.

3.6. 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.

It would not be necessary, for the presumption of refusal to apply, for there to be any objection made by a third party.

It would always be open to the particular Applicant to seek to persuade the Board that the Application should be granted. The Assessment does not set rigid quotas.

The Board will expect Applicants who are seeking the grant of a new Premises Licence or 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.

3.7. Subsequent Events

It does not follow that, where one Licence ceases to be in force or there is a reduction in capacity, the Board will proceed on the basis that there is now 'surplus' capacity which can be filled without doing harm to the Licensing Objectives or the Overprovision Policy.

The Assessment should be regarded as varied as a result of subsequent events:

- (a) If the Board sees fit to depart from the Policy in an individual case, then the Assessment should be regarded as varied, and the Board will take into account the fact that it has already been departed from;

for example:

Suppose that the original Assessment notes that there are 1,000 customers in a particular Locality; if the Board later grants an Application which increases the capacity to 1,100, a second Application for Premises in the same Locality will be approached by the Board on the view

- (i) that the Board has already changed its position;
 - (ii) that the maximum appropriate level is 1,100,
 - (iii) that the second Application is even more likely to lead to Overprovision;
- (b) If capacity is reduced, as by the closure of Licensed Premises or the variation of an existing Licence; in the same example, if the Capacity in the locality fell to 900, the Board would approach a new Application on the basis that that the maximum appropriate level was 900 and that the Locality was already at its Overprovision limit.

Annex E - Gambling: Summary of Gaming Entitlements for Clubs and Pubs

The legislation about Gaming and the use of Gambling Machines is separate from the Licensing (Scotland) Act 2005. It is dealt with by the Licensing Board.

The Gambling Act 2005 also has "Premises Licences" but these are not the same as the "Premises Licences" granted by the Board to sell alcohol.

There are rules about stakes and prizes, but generally small-scale gaming and machines are allowed on on-sales Premises.

There are special rules for Clubs.

If Premises want more machines than the "Automatic Entitlement" allows, then they can apply to the Board for separate Permits. These have fees and have to be renewed periodically.

(a) Gaming

Poker and other card games, bingo, cribbage, backgammon and dominoes ("Equal Chance Gaming") is allowed in on-sales Licensed Premises without a Licence or Permit under the Gambling Act, so long as the rules about stakes and prizes are observed.

(b) Gaming Machines

The Regulations place machines in "Categories", with different rules as to stakes and prizes. The Categories are A to D. Category B is divided into five sub-categories, B1, B2, B3, B3A and B4. Generally, Category D machines are aimed at children, and have low stakes and prizes. Other categories have progressively higher stakes and prizes. For example, the "Fixed-Odds Betting Terminals" are in Betting Shops are B2 machines. The Category rules are linked to the numerous different types of Premises, which have Licences or Permits.

On-Sales Premises with alcohol licences (not off-sales) have an "Automatic Entitlement". This means that they can have up to 2 machines, each of Category C or D. The "Automatic Entitlement" only applies if the Premises Licence Holder gives the Board written notice of his/her intention to make gaming machines available under it, and pays £50. The P.L.H. must comply with the Gambling Commission Code of Practice about the location and operation of Gaming Machines. The notification lasts indefinitely and does not need to be renewed.

The rules are summarised in these Tables:

(a) Summary of gaming entitlements for clubs and alcohol-licensed premises

	Members'	Members'	Members'	Bridge	Alcohol-
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	club, commercial club or MW institute <u>without</u> a "Club Gaming Permit" or "Club Machine Permit"	club or commercial club <u>with</u> "Club Machine Permit"	club or MW institute <u>with</u> "Club Gaming Permit"	or whist club	licensed premises
Equal chance gaming	Yes	Yes	Yes	Bridge and/or whist only	Yes
Limits on stakes	Poker £1,000 per week £250 per day £10 per person per game Other gaming No limit	Poker £1,000 per week £250 per day £10 per person per game Other gaming No limit	No limit	No limit	Poker £100 per premises per day £5 per person per game Other gaming £5 per person per game Cribbage & dominoes No limit
Limits on prizes	Poker £250 per game Other gaming No limit	Poker £250 per game Other gaming No limit	No limit	No limit	Poker £100 per game Other gaming No limit
Maximum participation fees – per person per day	Bridge and/or Whist ¹ £18 Other gaming £1	Bridge and/or whist ³ £18 Other gaming £3 (commercial	Bridge and/or whist ³ £20 Other gaming £3	£18 (<u>without</u> Club Gaming Permit) £20 (<u>with</u> Club Gaming	None permitted

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		club) £1 (members' club)		Permit)	
Bankers or unequal chance gaming	None permitted	None permitted	Pontoon Chemin de fer	None permitted	None permitted
Limits on bingo	Maximum of £2,000 per week in stakes/prizes. If more then will need an Operating Licence.	Maximum of £2,000 per week in stakes/prizes. If more then will need an Operating Licence.	Maximum of £2,000 per week in stakes/prizes. If more then will need an Operating Licence.	No bingo permitted	Maximum of £2,000 per week in stakes/prizes. If more then will need an Operating Licence.

This Table is taken from a Gambling Commission document "Code of practice for equal chance gaming in clubs and premises with an alcohol licence" (August 2014 edition).

"MW institute" means "Miners' Welfare Institute".

"Operating Licence" is a Licence granted by the Gambling Commission, not by the local Licensing Board.

(b) Gaming machine entitlements

Category of machine	Max stake/prize	Betting premises (other than track)	Bingo premises [3]	Adult gaming centres [4]	Pubs
B2	£100/£500	Up to 4 machines	n/a	n/a	n/a
B3	£2/£500		20% of total machines on premises	20% of total machines on premises	n/a
B4	£1/£250				
C	£1/£100		Unlimited	Unlimited	Up to 2 machines [5]

Notes:

"3 - Bingo Premises Licences granted before 13 July 2011 may provide either eight category B machines (restricted to sub-category B3 or B4) or 20% of the total machines on the premises, whichever is greater.

4 - AGC Premises Licences granted before 13 July 2011 may provide either four category B machines (restricted to sub-category B3 or B4) or 20% of the total machines on the premises, whichever is greater.

5 - Additional Cat C and or Cat D machines may be provided as specified by Gaming Machine Permit granted by the local licensing authority."

This Table is from Annex A ("Summary of regulatory framework") to the Gambling Commission document "Controlling where gaming machines may be played - Amendments to Licence conditions and codes of practice (LCCP) and Guidance to licensing authorities - Responses" (July 2016) available at:

<https://www.gamblingcommission.gov.uk/PDF/consultations/Controlling-where-gaming-machines-may-be-played-Response.pdf>

"AGC" means "Adult Gaming Centre", which is a gaming establishment with a "Premises Licence" from the Board under the Gambling Act 2005 (not a "Premises Licence" to sell alcohol under the Licensing (Scotland) Act 2005).

Annex F - Occasional Licences for Junior Football

There are special arrangements for Junior Football:

- (a) Policy
- (b) Replays and rearranged matches
- (c) Licence Conditions

(a) Policy

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 on 5 September 2016 adopted a Policy.

This Policy applies to any Occasional Licence granted for Premises linked to the playing of Junior Football. The Policy was reviewed, amended and confirmed by the Board on 12 December 2016.

Occasional Licences are automatically granted 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").

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, and the names of the competing teams. The Board specifically rejected the proposal that a Club might say "over the remainder of the season, we will play Clubs X, Y and Z. We can't yet say which Club will be played on which date."

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, 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 and Young People 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, 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.

11. The Licence will permit the sale of alcohol for no more than:

- one hour before the kick-off;
- 15 minutes during half-time;
- one hour after the end of the match;

(b) Replays and rearranged matches

This applies to

- (a) cup replay matches
- (b) matches which are being re-arranged at short notice having been recently postponed,
- (c) matches replacing fixtures cancelled due to inclement weather and subsequently re-arranged for another date in the near future;

The second fixture would need a separate Licence Application - the original Licence would only have covered a particular date and time. The Board has no power to amend these details after issue.

If a second Application for an Occasional Licence is made to cover such a fixture the Board will look favourably on second applications lodged with less than 14 days' notice, provided that the original fixture:

- (a) met all of the Occasional Licence requirements (at least 14 days' notice),
- (b) was granted a Licence, and
- (c) involved the same teams and venue.

(c) Licence Conditions

As well as the Licence Conditions that would apply to any O.L., there are extra Conditions applying to Junior Football. These are in Part M of the Board's Standard Conditions:

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

All Occasional Licences in Scotland are automatically subject to Mandatory Conditions set out in Schedule 4 to the Act. In addition, in North Ayrshire 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, the period for sale or consumption is not extended),
- (b) 15 minutes during half-time;
- (c) one hour immediately after the end of the match.

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

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 to a person under 18, but the person must immediately leave the Designated Area after the drink is 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
 - (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. Policing

The club should agree with Police Scotland the policing resources required at the fixture prior to the grant of a Licence."