

Cunninghame House,
Irvine.

19 June 2014

North Ayrshire Licensing Board

You are requested to attend a meeting of the North Ayrshire Licensing Board to be held in the Council Chambers, 3rd Floor, Cunninghame House, Irvine on **MONDAY 23 JUNE 2014** at **10.00 am** to consider the undernoted business.

Yours faithfully

Clerk to the Licensing Board

1. Minutes

Confirm the Minutes of the Board Meeting held on 28 April 2014.

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

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

3. Personal Licence Refresher Training

Submit report to the Licensing Board to update Members on the current position of Personal Licence Refresher Training

Licensing Board

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

Chair:

Attending:

Apologies:

Meeting Ended:

Agenda Item 2

23 June 2014

North Ayrshire Licensing Board

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

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

Recommendation: That the Licensing Board determines the applications.

1. Introduction

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

2. Current Position

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

Clerk to the Licensing Board

Reference : WO'B/MC

*For further information please contact William O'Brien, Solicitor (Licensing)
, on 01294 324305*

APPENDIX A

Premises Licence Applications or any other Applications requiring a Hearing

Case No.	Licence No.	Applicant/Licence Holder	Premises	Comments
1.	0431	J D Wetherspoon (Scot) Ltd Wetherspoon House Central Park Reeds Crescent Watford WD24 4QL	The Auld Brig Rivergate Shopping Centre Irvine KA12 8EH	Application for Grant of Provisional Premises Licence - Section 45 Application for Variation - Section 29
2.	0327	Greene King Brewing & Retailing Ltd c/o Belhaven Pubs Atrium House 6 Back Walk Stirling FK8 2QA	The Carrick 112-114 High Street Irvine KA12 8AH	Application for Variation of Premises Licence - Section 29
3.	0456	Muhammad Anees 22 Speyburn Place Lawthorn Irvine KA11 2BQ	News Buster 1 Ladyha Court Irvine KA11 1QN	Application for Grant of Provisional Premises Licence - Section 45
4.	0457	Mark Bulloch MacLean 34 Millburn Gardens Largs KA30 9NF	Deli-licious 89 Main Road Fairlie KA29 0AD	Application for Grant of Provisional Premises Licence - Section 45
5.	0458	Crocodeli Ltd 8 Westhaven Westbay Road Millport KA28 0HA	Crocodeli 33 Stuart Street Millport KA28 0AJ	Application for Grant of Provisional Premises Licence - Section 45
6.	0459	Paul Peter Sweeney Law Farm Law Brae West Kilbride KA23 9PB	39 Ritchie Street West Kilbride KA23 9HF	Application for Grant of Provisional Premises Licence - Section 45
7.	0264	Kilbirnie Commercial Ltd 32-34 Holmhead Kilbirnie KA25 6BS	The Commercial 63 Main Street Kilbirnie KA25 7AA	Application for Variation of Premises Licence - Section 29

- | | | | | |
|-----|----------------|--|--|---|
| 8. | 0283 | No. 0 Social Club
99 Main Street
Kilwinning
KA13 6AW | No. 0 Social Club
99 Main Street
Kilwinning
KA13 6AW | Application for
Variation of
Premises Licence -
Section 29 |
| 9. | 0225 | Colin Grant
14 Spalding Drive
Largs
KA30 9BZ | Charlie Smith's Bar
14 Gallowgate Street
Largs
KA30 8LX | Application for
Variation of
Premises Licence -
Section 29 |
| 10. | NA/1716 | David Mark McLean
17 Maxwood Place
Irvine
KA11 1QG | | Application for
Grant of Personal
Licence - Section
74 |
| 11. | NA/SSL/
118 | Craig Black
Dreghorn Parish Loyal
Defenders LOL 218
8 Annick Road
Dreghorn
Irvine
KA11 4EY | | Revocation of
Registration of
Small Society
Lottery
Gambling Act
2005, Schedule 11 |

Application for Grant of Provisional Premises Licence - Section 45
Application for Variation - Section 29

Applicant	J. D. Wetherspoon (Scot) Ltd.
Premises	"The Auld Brig", Rivergate Shopping Centre, Irvine KA12 8EH
Ref.	431

A. Introduction

1. On 26 June 2012 the Board considered a proposal in two parts:

- (a) the bar-restaurant inside the building; and
- (b) a 'pavement cafe' area outside.

The Board granted a PPL for (a), but in relation to (b) continued the application on the basis that that further consideration should take place prior to the PPL being Confirmed.

2. On 23 June 2014 the Board has two matters to deal with: a Minor Variation for (a) and the grant of a PPL for (b).

Construction of the interior is proceeding and the PLH proposes to open (a) on 15 July 2014. The PLH is therefore likely to submit an Application for Confirmation of the PPL shortly after the meeting. If the Board has already granted the PPL for (b), that Application would cover both (a) and (b). Confirmation applications are usually determined by the Clerk under delegated powers, and most cases would be unlikely to come back to the Board.

3. When the Board dealt with the case in June 2012, some concern was expressed by the Board about the proposed 'pavement cafe', given that the Premises are in a busy thoroughfare, on the direct route from the Rivergate Mall to the railway station and close to the Taxi stance outside Asda. There was discussion of the barrier to be erected in order to separate the proposed area and the remaining pedestrian area.

4. On 30 April 2014 the Solicitor for the Applicant supplied a photograph of the type of barrier proposed by the Applicant.

The Convenor and one of the Board Members viewed the plans and also the picture of the type of barrier proposed, and accordingly on 23 May 2014 the Clerk made two suggestions to the Applicant's Solicitor:

- (a) the barrier should be around eye-level for a standing adult;
- (b) the barrier should be opaque or covered in adverts so that people outside could not see customers drinking.

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

When the PPL was granted in 2012 the Board agreed to depart from its '11.00 a.m. opening policy' so as to allow the Premises to open at 10.00 a.m..

On-Sales

	<i>Proposal</i>
Monday	10.00 - 24.00
Tuesday	"
Wednesday	"
Thursday	10.00 - 1.00
Friday	"
Saturday	"
Sunday	10.00 - 24.00

Off-sales

	<i>Proposal</i>
Monday	10.00 - 22.00
Tuesday	"
Wednesday	"
Thursday	"
Friday	"
Saturday	"
Sunday	12.30 - 22.00

(b) Activities other than the sale of alcohol

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

Adult entertainment	x
Other activities	
n/a	

(c) Access for Under-18s**(i) Access for 'Children' (aged 0-15)**

Terms (OP 6(b))	Must be with adult. No requirement for meals.
Times (OP 6(d))	Children of all ages allowed until 22.00.
Parts (OP 6(e))	All parts of Premises

(ii) Access for 'Young Persons' (16-17)

Terms (OP 6(b))	No requirement for adult.
Times (OP 6(d))	Until 22.00.
Parts (OP 6(e))	All parts of Premises

C. Issues

In relation to the proposed 'pavement cafe', several reasons for refusal may arise associated with possible inconsistency with the Licensing Objectives. The Board will have to decide whether or not the proposal is inconsistent with those L.O.s.

Reason 1: L.O. (a): 'preventing crime and disorder'

The Board should consider whether or not the proposed barrier separating the 'pavement cafe' from the public pavement is sufficient to stop:

- (i) customers from leaving the Area with drinks (without first re-entering the Premises), breaching the Byelaws about drinking in public;
- (ii) customers supplying alcohol to non-customers;
- (iii) non-customers removing drink from tables.

Reason 2: L.O. (c): 'preventing public nuisance'

The Board's Standard Conditions include conditions about 'Outdoor Drinking Areas', including:

"C.5.1 No loudspeakers, televisions, radios or other devices for amplifying sound shall be positioned at any time in Outdoor Drinking Areas.

C.5.2 No drinks (alcoholic or not) shall be taken into or consumed in such areas earlier than 11.00 a.m. and later than 10.00 pm.."

The Applicant should state whether the proposed area is to contain such devices. Condition C.5.2 prevents drinking outside before 11.00 a.m., even if the Board has agreed to depart from its Policy to permit drinking inside earlier.

Reason 3: L.O. (d): 'protecting & improving public health'

The L.O. expressly states 'improving'. An increase in the number of drinking places cannot be said to improve public health. Opinions may differ as to whether it damages public health, or makes no difference, but it is unlikely to improve it.

D. Variation

The Applicant also lodged a Variation application with a new Layout Plan. These variations do not raise any Licensing Objective issues, and the Variation should be treated as a 'Minor Variation' and accordingly granted.

The changes are: reconfiguration of the toilet accommodation, relocation of the cool store, relocation of the kitchen and office, reconfiguration of the staff facilities and the introduction of a mezzanine level.

E. Licence Conditions

If the PPL for area (b) is granted, it will be subject to the same conditions as the PPL for area (a), i.e. the following parts of the NALB Standard Conditions (Edition 5, made on 1 September 2009, as read with later amendments of the statutory mandatory conditions):

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

Application for Variation of Premises Licence - Section 29

Applicant	Greene King Brewing & Retailing Ltd.
Premises	"The Carrick", 112-114 High Street, Irvine KA12 8AH
Ref.	327

Preliminary

This Report has been prepared provisionally before the end of the Site Notice display period, which ends on 13 June 2014: until the Board has a Certificate of Display, it cannot determine the Application.

1. Summary of Variation Request(s)

No.	Variation
1	Add 'pavement cafe'

2. Objections and Representations

Police	No objection
Community Council	Letter will be handed to Members
Fire	No objection
Health Board	No objection
NAC Planning	Observation
NAC Building Standards	No objection
Others	None

Name	Address	Date Received	Late or OK
Irvine Community Council		17 June	Late

3. Issues

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

Variation 1: Add 'pavement cafe'
Discretionary refusal
Notes:
The proposal is to add an area along the whole frontage of the building, extending out onto the public pavement 1.5 m.. The Applicant estimates that this area would

allow 18 persons, at 6 tables.

The Applicant has confirmed:

- the area will not be used for the consumption of drink, alcoholic or not, before 11.00 a.m. or after 10.00 p.m. (this would be required by Board Condition C.5.2)
- the area will be used by Carrick customers who are seated - there will be no external 'vertical drinking'
- the area will be delineated by a removable barrier, which will be designed to allow access & exit for disabled persons
- the PLH will have management controls, supervision and other measures to ensure that use of the area by customers does not have an adverse impact on the locality
- all bottles and glasses will be cleared from the tables when the area closes, which will be no later than 10.00 p.m.

The NAC Roads Authority has granted consent. That consent is not binding on the Board.

Section 30(4) and 30(5) of the Licensing (Scotland) Act 2005 provide:

"(4) Where a Hearing is held under subsection (3), the Board must consider whether any of the grounds for refusal applies and—

- (a) if none of them applies, the Board must grant the Application,*
- (b) if any of them applies, the Board must refuse the Application.*

(5) The grounds for refusal are—

- (a) ...*
- (b) that the Licensing Board considers that the granting of the Application would be inconsistent with one or more of the Licensing Objectives,*
- (c) that, having regard to—*
 - (i) the nature of the activities carried on or proposed to be carried on in the Subject Premises,*
 - (ii) the location, character and condition of the Premises, and*
 - (iii) the persons likely to frequent the Premises,*

the Board considers that the Premises are unsuitable for use for the sale of Alcohol in accordance with the proposed Variation,

(d) ..."

Section 4(1) is:

"For the purposes of this Act, the Licensing Objectives are—

(a) preventing crime and disorder,

(b) securing public safety,

(c) preventing public nuisance,

(d) protecting and improving public health, and

(e) protecting Children from harm."

The Application relates to a pavement near Irvine Cross, which is one of the busiest areas for pedestrian traffic in Irvine. The proposal is unique in North Ayrshire, in that the consumption of alcohol on pavements has not been permitted.

If the Board consider that the "grounds for refusal" in Sections 30(5)(b) and/or (c) may exist, the Board might continue the Application without limit of time and instruct the Clerk to gather evidence so that an assessment might be made by the Board of the extent (if any) that the proposal might lead to congestion for pedestrians. The Board should not determine the Application without having such evidence and having made such an assessment.

Barrier

Where the Board has considered permitting an Outdoor Drinking Area adjacent to a public walkway, it has sought a permanent barrier, not a removable one, although the Applicant's proposals are consistent with the Board's Licensing Policy Statement (an extract is set out below).

Generally

The Applicant's attention is drawn to the Board's Standard Conditions:

"C.5.1 No loudspeakers, televisions, radios or other devices for amplifying sound shall be positioned at any time in Outdoor Drinking Areas.

C.5.2 No drinks (alcoholic or not) shall be taken into or consumed in such areas earlier than 11.00 a.m. and later than 10.00 pm.."

If the Board allows Outdoor Drinking, and is later satisfied that this is inconsistent with any L.O. or that any Licence condition has been breached, it has the right to Vary the Licence so as to limit or remove the permission.

Note to Applicant: this is not an issue for the Licensing Board, but NAC Planning (the 'Planning Authority') advises that Planning Permission may be required for the use of the public highway as an outdoor drinking area. This Permission is

separate from the Consent which the Applicant already has from the 'Roads Authority'.

3. Licence Conditions

No variation of the Conditions is appropriate.

The LPS includes:

"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 to 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) 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."*

Application for Grant of Provisional Premises Licence - Section 45

Applicant	Muhammed Anees
Premises	News Buster, 1 Ladyha Court, Irvine, KA11 1QN
Ref.	456

Preliminary

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

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

1. Summary of Proposal

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

The proposal is for an off sales capacity within a convenience store.

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

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

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

2. Objections and Representations

Police	No objection
Community Council	Letter will be handed to Members
Fire	No objection
Health Board	Letter will be handed to Members
NAC Planning	No objection
Others	None

Name	Address	Date Received	Late or OK
Irvine Community Council		17 June	Late

3. Detailed proposal

(a) Licensed Hours

The Premises sell off-sales only.

The request is for 10.00 - 22.00, 7 days a week. This is the maximum permitted by the legislation and is within NALB Policy.

(b) Capacity

Off-Sales (sq. mtr.s)	24.6 square meters
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4. Issues

The Board has a discretion to grant or refuse the Application. The Board should consider all the potential Grounds of Refusal set out below. If any apply, the Board must refuse. If none apply, the Board must grant: Section 23(4)-(5).

However, the Board is obliged to grant the Application if the Applicant accepts a suitable modification to the Operating Plan or Layout Plan (or both), where that modification deals with the potential ground for refusal: Section 23(7).

(1) Licensing Objectives

In all Applications, whether or not there are third-party objections, the Board must consider whether or not the Application is inconsistent with any of the Licensing Objectives. The Application does not appear to be inconsistent with any of the Licensing Objectives

(2) Other considerations

In addition, the Board must consider two other potential grounds of refusal:

- (a) whether or not the premises are unsuitable for the sale of alcohol.
- (b) whether or not overprovision would arise if the premises were licensed.

(a) The Premises are unsuitable for the sale of Alcohol

It is the Clerk's opinion that there are no issues arising in this respect however Board may wish to inspect the Premises or have a LSO report before determining this Application.

(b) Overprovision may result if the Application is granted

There is a rebuttable presumption of refusal due to Scottish Government guidance

and the Board's own Licensing Policy Statement (LPS 2013-2016, Annex E). It is not necessary, for the presumption of refusal to apply, for there to be any objection made by a third party.

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

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

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

The Board will expect Applicants who are seeking the grant of a 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.

This report to the Board supplies the following information:

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

(a) the Locality of the Premises

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

The Subject Premises are in Locality 4 : Irvine and Area (Irvine, Bourtreehill, Cunninghamhead, Dreghorn, Gateside, Girdle Toll, Springside & Torranyard).

(b) the Function Type of the Premises

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

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

(c) Additional Factors

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

- (1) Locality: the Premises are in one of 4 Localities where Applications are especially unlikely to be granted (regardless of the Function Type) - "Three Towns"; "Kilwinning"; "Irvine etc."; or "Garnock Valley";
- (2) Function Type: any Application for Premises in FT 1 (Off-sales) is especially unlikely to be granted (regardless of the Locality).

5. Licence Conditions

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

- A (All Premises)
- B (Off-Sales)

Application for Grant of Provisional Premises Licence - Section 45

Applicant	Mark Bulloch Maclean
Premises	"Deli-licious", 89 Main Road, Fairlie KA29 0AD
Ref.	457

Preliminary

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

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

1. Summary of Proposal

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

The proposal is for a delicatessen shop selling a variety of hot and cold food, newspapers, fruit and vegetables, wines, beers and spirits. The shop will also sell hampers containing alcohol.

On 28 April 2014 the Board refused a similar Application from the same Applicant for the same Premises, but at the same time made a Direction under Section 25. That Section prohibits a repeat Application within one year, in the absence of either a material change of circumstances or a Board Direction. Since a Direction was granted, the present Application is competent.

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

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

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

2. Objections and Representations

Police	No objection
Community Council	Letter will be handed to Members
Fire	No objection
Health Board	Letter will be handed to Members
NAC Planning	No objection
Others	None

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

The Premises sell off-sales only. The request is for 10.00 - 22.00, 7 days a week. This is the maximum permitted by the legislation and is within NALB Policy.

(b) Capacity

Off-Sales (sq. mtr.s) *	6.78
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** Note: this figure has been calculated by Board staff. Applicant has failed to include this in the mandatory Operating Plan, and this figure will be added to O.P. 7 if the Licence is granted. Regulations require locations and dimensions of all Off-sales display areas. Dimensions required are length and height.*

4. Issues

The Board has a discretion to grant or refuse the Application. It is the Clerk's opinion that there are no statutory reasons to refuse, and there is no breach of Board Policy other than the issue of Overprovision.

There are other issues which may be dealt with if the Applicant clarifies aspects of the proposal.

(A) Overprovision may result if the Application is granted

(B) Hampers

(C) Layout

Issue (A) - Overprovision may result if the Application is granted

There is a rebuttable presumption of refusal due to Scottish Government guidance and the Board's own Licensing Policy Statement (LPS 2013-2016, Annex E). It is not necessary, for the presumption of refusal to apply, for there to be any objection made by a third party.

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

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

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

The Board will expect Applicants who are seeking the grant of a 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.

This report to the Board supplies the following information:

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

(a) the Locality of the Premises

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

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

(b) the Function Type of the Premises

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

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

(c) Additional Factors

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

(1) Locality: the Premises are not in one of 4 Localities where Applications are especially unlikely to be granted (regardless of the Function Type - "Three Towns"; "Kilwinning"; "Irvine etc."; or "Garnock Valley") so the Additional Factor related to Locality does not apply;

(2) Function Type: any Application for Premises in FT 1 (Off-sales) is especially unlikely to be granted (regardless of the Locality);

(d) other similar premises in the Locality

In the whole 'North Coast' Locality, there are several premises of the same Function Type as the Subject Premises, but there are no similar Premises in Fairlie. If the Board wishes to investigate the issue, a suitable further report will be prepared and copied to the Applicant.

Issue (B) - Hampers

The proposal includes the supply of hampers including alcohol. If these are only to be delivered to customers within the Premises, then suitable age-checks can be carried out (the usual 'Challenge 25' rule would apply). However, the Board may be concerned if customers can order a hamper for delivery away from the Premises, and to that extent the Application would be inconsistent with L.O. (a): 'preventing crime and disorder',

The NALB Licensing Policy Statement (2013-16) states:

"Home Delivery

2.23. *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: ...*

(c) *the Board is likely to regard a delivery operation as being inconsistent with both the 'crime and disorder' and 'protecting children 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."*

The Applicant should describe the arrangements.

Issue (C) - Layout

The mandatory condition as to display (Schedule 3, Paragraph 13) permits a maximum of:

- (1) one area which is 'inaccessible to public', and
- (2) one area which is 'accessible to public'.

The Layout Plan submitted shows two areas, numbered 1 and 2. Area 1 is accessible to public. The mandatory condition is complied with on the assumption that the public part of the shop is on one side of the 'hatched entrance' and that the public are not permitted on the other side (which contains Area 2). Applicant should clarify the Layout Plan.

5. Licence Conditions

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

- A (All Premises)
- B (Off-Sales)

Application for Grant of Provisional Premises Licence - Section 45

Applicant	Crocodeli Limited
Premises	Crocodeli, 33 Stuart Street, Millport, KA28 0AJ
Ref.	458

Preliminary

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

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

1. Summary of Proposal

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

The proposal is for a ground floor delicatessen. The business is primarily a deli providing a range of non-alcoholic goods.

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

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

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

2. Objections and Representations

Police	No objection
Community Council	No response
Fire	No objection
Health Board	Letter will be handed to Members
NAC Planning	No objection
NAC Building Standards	No objection
Others	None

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

The Premises sell off-sales only.

The request is for 10.00 - 22.00, 7 days a week. This is the maximum permitted by the legislation and is within NALB Policy.

(b) Capacity

Off-Sales (sq. mtr.s)	4.8 square metres
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4. Issues

The Board has a discretion to grant or refuse the Application. The Board should consider all the potential Grounds of Refusal set out below. If any apply, the Board must refuse. If none apply, the Board must grant: Section 23(4)-(5).

However, the Board is obliged to grant the Application if the Applicant accepts a suitable modification to the Operating Plan or Layout Plan (or both), where that modification deals with the potential ground for refusal: Section 23(7).

(1) Licensing Objectives

In all Applications, whether or not there are third-party objections, the Board must consider whether or not the Application is inconsistent with any of the Licensing Objectives. The Application does not appear to be inconsistent with any of the Licensing Objectives.

(2) Other considerations

In addition, the Board must consider two other potential grounds of refusal:

- (a) whether or not the premises are unsuitable for the sale of alcohol.
- (b) whether or not overprovision would arise if the premises were licensed.

(a) The Premises are unsuitable for the sale of Alcohol

It is the Clerk's opinion that there are no issues arising in this respect however Board may wish to inspect the Premises or have a LSO report before determining this Application.

(b) Overprovision may result if the Application is granted

There is a rebuttable presumption of refusal due to Scottish Government guidance and the Board's own Licensing Policy Statement (LPS 2013-2016, Annex E). It is not necessary, for the presumption of refusal to apply, for there to be any objection

made by a third party.

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

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

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

The Board will expect Applicants who are seeking the grant of a 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.

This report to the Board supplies the following information:

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

(a) the Locality of the Premises

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

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

(b) the Function Type of the Premises

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

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

(c) Additional Factors

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

(1) Locality: the Premises are not in one of 4 Localities where Applications are especially unlikely to be granted (regardless of the Function Type - "Three Towns"; "Kilwinning"; "Irvine etc."; or "Garnock Valley") so the Additional Factor related to Locality does not apply;

(2) Function Type: any Application for Premises in FT 1 (Off-sales) is especially unlikely to be granted (regardless of the Locality);

5. Licence Conditions

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

- A (All Premises)
- B (Off-Sales)

Application for Grant of Provisional Premises Licence - Section 45

Applicant	Paul Peter Sweeney
Premises	39 Ritchie Street, West Kilbride, KA23 9HF
Ref.	459

Preliminary

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

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

This Report was prepared provisionally before the end of the Site Notice display period which ends on 13th June 2014. Any objections received prior to the 13th June 2014 will be copied to the Applicant and all letters will be handed to Members at the Meeting.

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

1. Summary of Proposal

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

The proposal is for a restaurant with a delicatessen section and food take away section.

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

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

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

2. Objections and Representations

N.B. the following information was correct at the date of completing this report.

Police	No objection
Community Council	No objection
Fire	No objection
Health Board	Letter will be handed to Members
NAC Building Standards	No objection
NAC Planning	No objection
Others	See below

Name	Address	Date Received	Late or OK
The Occupiers	41 Ritchie St.	13 June	OK
Mr. M. & Mrs. R. Bennison	38 Ritchie St.	13 June	OK

3. Detailed proposal

(a) Licensed Hours

The Premises sell on-sales only

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

	<i>Proposal</i>	<i>Policy</i>
Monday	12.00 - 23.00	OK
Tuesday	12.00 - 23.00	OK
Wednesday	12.00 - 23.00	OK
Thursday	12.00 - 23.00	OK
Friday	12.00 - 24.00	OK
Saturday	12.00 - 24.00	OK
Sunday	12.00 - 23.00	OK

(b) Capacity

On-Sales (persons)	Total Capacity : 22
Standing / Seated	4 / 18 (18% / 82%)
Off-Sales (sq. mtr.s)	N/A

(c) Activities other than the sale of alcohol

	<i>Proposed</i>
Accommodation	
Conference facilities	
Restaurant facilities	x
Bar meals	
Receptions (including weddings, funerals, birthdays, retirements, etc.)	

Club or other group meetings	
Recorded music	x
Live performances	
Dance facilities	
Theatre	
Films	
Gaming	
Indoor/Outdoor sports	
Televised sport	
Outdoor Drinking	
Adult entertainment	

(i) Access for 'Children' (aged 0-15)

Terms (OP 6(b))	Must be accompanied by an adult.
Times (OP 6(d))	Children of all ages allowed until 19.30.
Parts (OP 6(e))	All public areas of the premises.

(ii) Access for 'Young Persons' (16-17)

Terms (OP 6(b))	No requirement to be accompanied by an adult.
Times (OP 6(d))	All opening times.
Parts (OP 6(e))	All public areas of the premises.

4. Issues

The Board has a discretion to grant or refuse the Application. The Board should consider all the potential Grounds of Refusal set out below. If any apply, the Board must refuse. If none apply, the Board must grant: Section 23(4)-(5).

However, the Board is obliged to grant the Application if the Applicant accepts a suitable modification to the Operating Plan or Layout Plan (or both), where that modification deals with the potential ground for refusal: Section 23(7).

(1) Licensing Objectives

In all Applications, whether or not there are third-party objections, the Board must consider whether or not the Application is inconsistent with any of the Licensing Objectives. The Application does not appear to be inconsistent with any of the Licensing Objectives.

(2) Other considerations

In addition, the Board must consider two other potential grounds of refusal:

- (a) whether or not the premises are unsuitable for the sale of alcohol.
- (b) whether or not overprovision would arise if the premises were licensed.

(a) The Premises are unsuitable for the sale of Alcohol

It is the Clerk's opinion that there are no issues arising in this respect however Board may wish to inspect the Premises or have a LSO report before determining this Application.

(b) Overprovision may result if the Application is granted

There is a rebuttable presumption of refusal due to Scottish Government guidance and the Board's own Licensing Policy Statement (LPS 2013-2016, Annex E). It is not necessary, for the presumption of refusal to apply, for there to be any objection made by a third party.

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

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

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

The Board will expect Applicants who are seeking the grant of a 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.

This report to the Board supplies the following information:

- (a) the Locality of the Premises
- (b) the Function Type of the Premises
- (c) any Additional Factors

(a) the Locality of the Premises

The Board has determined that there are 6 'localities' in its area (coinciding with the

6 'Neighbourhood Areas' used by the North Ayrshire Community Planning Partnership).

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

(b) the Function Type of the Premises

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

The Subject Premises are in: Function Type 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. Snacks and crisps are not considered to constitute 'meals'.)

(c) Additional Factors

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

(1) Locality: the Premises are not in one of 4 Localities where Applications are especially unlikely to be granted (regardless of the Function Type - "Three Towns"; "Kilwinning"; "Irvine etc."; or "Garnock Valley") so the Additional Factor related to Locality does not apply;

(2) Function Type: the Premises are in FT4 (On-Sales Premises whose principal function is the provision of accommodation, meals or non-alcoholic refreshment), so the Board is entitled to refuse the Application but is not bound to do so by its Overprovision Policy.

5. Licence Conditions

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

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

Application for Variation of Premises Licence - Section 29

Applicant	Kilbirnie Commercial Ltd
Premises	The Commercial, 63 Main Street, Kilbirnie, KA25 7AA
Ref.	264

Preliminary

This Report has been prepared provisionally before the end of the Site Notice display period, which ends on 13th June 2013:

1. no details of comments from third parties are given here. If there any, the Applicant will be advised and copies will be handed to Members.

1. Summary of Variation Request(s)

No.	Variation
1	Extend Terminal Hours on Thursday, Friday and Saturday
2	Add 'playing pool'

2. Changes**Variation of Hours - On-Sales**

	Current	Proposed
Monday	11.00 – 23.00	11.00 - 23.00
Tuesday	11.00 – 23.00	11.00 - 23.00
Wednesday	11.00 – 24.00	11.00 - 24.00
Thursday	11.00 – 23.00	11.00 - 1.00
Friday	11.00 – 23.00	11.00 - 1.00
Saturday	11.00 – 24.00	11.00 - 1.00
Sunday	12.30 – 24.00	12.30 - 24.00

Variation of activities

	Current	Proposed
Accommodation		
Conference facilities		
Restaurant facilities		
Bar meals		
Receptions (including weddings, funerals, birthdays, retirements, etc.)	x	x
Club or other group meetings	x	x
Recorded music	x	x
Live performances	x	x
Dance facilities	x	x
Theatre		

Films		
Gaming	X	X
Indoor/Outdoor sports	X	X
Televised sport	X	X
Outdoor Drinking		
Adult entertainment		

	Other activities
Current	Karaoke and Quiz Nights
Proposed	Karaoke and Quiz Nights; <i>Playing of Pool</i>

3. Issues

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

Variation 1: *Extend Terminal Hours on Thursday, Friday and Saturday*

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

Variation 2: *Add 'playing pool'*

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

Note: Premises do not allow under-18s, so it is not necessary to consider the safety of children where pool is played.

4. Licence Conditions

No variation of the Conditions is appropriate.

Application for Variation of Premises Licence - Section 29

Applicant	No 0. Social Club
Premises	No 0. Social Club, 99 Main Street, Kilwinning
Ref.	283

Preliminary

This Report has been prepared provisionally before the end of the Site Notice display period, which ends on 13th June 2014:

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

1. Summary of Variation Request(s)

No.	Variation
1	Children and Young Persons to be allowed to remain on the Premises for the duration of a private function

2. Changes**Variation of Access terms for Under-18s**

	Current	Proposed
Terms (OP 6(b))	Children and Young Persons allowed to attend private functions in upstairs hall when accompanied by an adult but no access to bar areas permitted	No change
Times (OP 6(d))	0 – 14 years: 21.00. 15 – 17 years: until terminal hour of function	Children of all ages until terminal hour of function
Parts (OP 6(e))	Function suite, upstairs toilet and access routes thereto, but no access to bar areas permitted	No change

3. Issues

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

Variation 1: Increased access for Children**Discretionary Refusal**

The Board always requires to be satisfied that a proposed variation is consistent with the Licensing Objective, e.g. "protecting children from harm" (where 'children' are under 16; people of 16-17 are 'Young People', and at present they are not covered by that L.O.).

4. Licence Conditions

No variation of the Conditions is appropriate.

Application for Variation of Premises Licence - Section 29

Applicant	Colin Grant
Premises	Charlie Smith's Bar, 14 Gallowgate Street, Largs, KA30 8LX
Ref.	225

Preliminary

This Report has been prepared provisionally before the end of the Site Notice display period, which ends on 13th June 2014:

- 1. Until the Board has a Certificate of Display, it cannot determine the Application.*
- 2. At the time of preparing this Report comment from one third party has been received. The Applicant will be advised of any further comments received and copies will be handed to Members.*

1. Summary of Variation Request(s)

No.	Variation
1	<i>Change the name of the Premises from "Charlie Smith's Bar" to "The Three Reasons".</i>
2	<i>Allow Children of all ages until 8.00 pm when accompanied by an Adult for either (i) a meal or (ii) to watch sport.</i>

2. Objections and Representations

Health Board	Letter will be handed to Members
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3. Changes

The Premises apply the same limitations to 'Young Persons' of 16-17 as they do to 'Children' under 16.

	Current	Proposed
Terms (OP 6(b))	No children under 5 allowed. Children 5 - 15 allowed, if accompanied by an adult, for a meal or to watch sport.	Children of all ages allowed if accompanied by an adult for a meal or to watch sport
Times (OP 6(d))	Children 5 – 15 allowed until 20.00.	Children of all ages allowed until 20.00.
Parts (OP 6(e))	All seated areas and toilets	All seated areas and toilets

3. Issues

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

Variation 1: *Change of Name*

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

Variation 2: *Access for Children of All Ages*

Discretionary refusal

The Board may consider that the Application is not consistent with one of the Licensing Objectives:

L.O. (e): 'protecting Children from harm'

This L.O. relates to Children aged 0-15 years, and not to older 'Young Persons' (aged 16-17).

4. Licence Conditions

No variation of the Conditions is appropriate.

Application for Grant of Personal Licence - Section 74

Applicant	David McLean 17 Maxwood Place, Irvine, KA11 1QG DOB: 03.12.1988
Ref.	1716

1. Summary

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

A copy of the letter will be given to Members.

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

The information was not supplied by the Applicant, who wrote 'none' in response to the inquiry on the form.

2. Police Recommendation

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

3. Procedure

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

At the Hearing, the Board must have regard to

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

4. Board's Powers

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

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

5. Subsequently

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

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

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

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

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

**Revocation of Registration of Small Society Lottery
Gambling Act 2005, Schedule 11**

Society	Dreghorn Parish Loyal Defenders LOL 218
Address	8 Annick Road, Dreghorn KA11 4EH
Ref.	118

1. In Scotland, the Board is the "local authority" for the purposes of Schedule 11.
2. A Lottery is exempt from the usual regulation under the Act if it is one of the types of "Exempt Lottery" described in Schedule 11. One of these types of Lottery is the "Small Society Lottery" ("SSL"). It is an offence to carry out a SSL without a Board Registration (Section 262).
3. Registration is open to a "Non-Commercial Society", which is a society established and conducted—
 - (a) for charitable purposes,
 - (b) for the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity, or
 - (c) for any other non-commercial purpose other than that of private gain (Section 19).

It is the Lottery that is 'small', not the 'Society': the distinction is between 'Small Lottery' and 'Large Lottery' (Para. 31). Generally, a Lottery is a 'Small Lottery' if its proceeds cannot exceed £20,000.

4. To be exempt, both the promoting Society and the Lottery itself must meet conditions:
 - (a) The Society must be registered with the Board (para. 38); Registration costs £40 initially for one year, and can be renewed each year for a fee of £20;
 - (b) The Lottery:
 - (i) must be a Small Lottery (proceeds under £20,000)
 - (ii) at least 20% of the proceeds are applied to the society's purpose (para. 33);
 - (iii) the maximum prize cannot exceed £25,000 (para. 34).
5. In addition, the Society must lodge a Statement with the Board signed by two office-bearers within three months of each Lottery the draw (para. 39). The Board must retain that Statement for 18 months and make it public (para. 55).
6. Once granted, Registration lasts for as long as the Society pays its Annual Fee of £20. If that is not paid then the Board may cancel the Society's registration (Para. 54(3)).
7. The Board may revoke a Registration. Para. 50(1) is:

"A local authority may revoke a registration under this Part if they think that they would be obliged or permitted to refuse an application for the registration were it being made anew."
8. The phrase "permitted to refuse" refers to Para. 48, which relates to the Board's functions in dealing with the original application for registration:

"A local authority may refuse an application for registration if they think that—"

(a) the applicant is not a Non-Commercial Society,

(b) a person who will or may be connected with the promotion of the Lottery has been convicted of a Relevant Offence, or

(c) information provided in or with the application for registration is false or misleading."

9. In (b), "Relevant Offence" has the meaning given by Schedule 7.

10. The Society is Registered and has given Notice of Continuing Registration. The Chief Constable has provided information about the person applying on behalf of the Society, i.e. "a person who will or may be connected with the promotion of the Lottery". Copies of the Police letter will be given to Members.

11. The Board requires to decide whether or not the Registration should be revoked.

12. If it is not revoked, the Registration would continue for another year.

13. If the Board decides to revoke, a further question arises. Para. 50(2) is:

"Where a local authority revoke a registration under this Part they shall specify that the revocation takes effect—

(a) immediately, or

(b) at the end of such period, beginning with the day of the revocation and not exceeding two months, as they may specify."

14. If the Registration is revoked, the Society can appeal to the Sheriff (Para. 51(4)).

Report to North Ayrshire Licensing Board

by

Solicitor (Licensing)

Subject	Personal Licence Refresher Training
Purpose	To update Members on the current position
Recommendation	That Members note the position

1. All Personal Licence Holders must be trained initially, and must obtain refresher training at intervals of five years.
2. The required refresher qualification is "the Scottish Certificate for Personal Licence Holders (Refresher) at SCQF Level 6".
3. Each holder must, no later than 3 months after that 5 year period expires, give the Board the original or copy of that Certificate.
4. Many Personal Licences were granted as part of the Transition, and took effect on 1 September 2009. This means:
 - (a) the refresher training must be done by 31 August 2014, and
 - (b) the Board must be told by 30 November 2014.
5. If both these things are not done, the Board is legally required to revoke the Licence: Section 87(3).
6. There is no hearing before the Licence is revoked, the Board has no discretion and cannot allow more time. For example, in these cases the Licence would be revoked:
 - (a) holder books training by 31 August but does not in fact do the course until afterwards;
 - (b) holder books course but misses it due to illness;
 - (c) holder books course but it is oversubscribed and he has to go on a later course after 31 August;
 - (d) holder fails and the re-test is after 31 August;
 - (e) holder does the training by 31 August but does not tell the Board by 30 November 2014.
7. There is no appeal to the Sheriff Court. If the Board revokes the Licence the holder cannot re-apply for five years.

8. If the holder is the Premises Manager, then he can no longer act as such. The Premises Licence Holder must do two things (Section 54):

- (a) within 7 days of the revocation, the PLH must notify the Board;
- (b) within 6 weeks of the revocation, the PLH must apply for a Variation to appoint someone else (not the previous Premises Manager). The PLH should request that the Variation should have 'immediate effect'.

9. If both these things are not done, the Premises:

- (a) will no longer have a Premises Manager,
- (b) will be breaking a Mandatory Licence Condition, and
- (c) are likely to be closed by the Police.

Current Position

10. At the date of preparing this report (13 June 2014), the position with North Ayrshire in relation to Personal Licences which were effective on 1 September 2009 is:

Holders who require Refresher Training: 869

Holders who have obtained Refresher Training: 127

i.e. approximately 15% of affected Holders have not satisfied legal requirements.

11. The situation across Scotland is similar and has been widely publicised. To alert the licensed trade North Ayrshire Licensing Board has:

- (a) written to Premises Licence Holders, on the view that they will either hold Personal Licences themselves or employ holders;
- (b) issued mandatory reminder letters to Personal Licence holders;
- (c) included suitable information in the Licensing Policy Statement adopted on 19 November 2013:

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

(see Part 10, especially Paragraph 10.4);

(d) included information about retraining deadlines in the covering letter sent when the Licence was originally issued (from 2008 on);

(e) included suitable information in the Clerk's Report where Applications for Grant have been referred to Board Meetings for determination.