



## MINUTES OF THE MEETING OF THE EAST LOTHIAN LOCAL LICENSING FORUM

# 1

3<sup>rd</sup> MARCH 2015

COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON

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**Forum Members Present:**

George Hood (Chair)  
Steven Wray  
Ricky Ross  
John Thayers (MELDAP)  
Bernard Harkins  
Stuart Baxter  
Rudi Fruzynski (LSO)  
PC Heather Bowsher (Police Scotland)  
Kirsten Baird

**Council Officials Present:**

Jim Goodfellow

**Minute Secretary:**

Christine O'Brien

**Visitors Present:**

None

**Apologies:**

None

**1. Election of Officers for the year 2015/2016**

Elections were held for the posts of Chair and Secretary for the year 2015/16.

**Decision**

The Forum agreed: George Hood as Chair for 2015/16  
Christine O'Brien as Secretary 2015/16

**2. Minutes of the Meeting held on 2 December 2014:**

**Amendments required:**

Stuart Baxter was present

Christine O'Brien was present

Apologies Kirstine Macneil should read Kirstie MacNeill

Point 2 of Paragraph 8 should read SALSUS

The Minutes were agreed as a true record after amendments.

**3. Alcohol Deliveries**

Licensing board asked to view an application on 22<sup>nd</sup> January 2015 by Gullane Mini Market for a major variation to the premises licence to slightly increase the alcohol display and to add into the operating plan deliveries of alcohol.

Increase in display area was accepted.

Police objected to the alcohol delivery facility on the basis that such deliveries raised serious concerns that the facility to private addresses could be used by children and young persons to order drink and have older siblings and friends accept delivery of it.

**Decision**

Following debate and representation from Mr McDonald Licence agents on behalf of applicants the application was granted on the condition that the delivery driver used by the shop must hold a personal licence.

The Forum agreed:

It was agreed that a working group would be set up to consider home delivery service and their views on the same and report back to the Board.

**4. Licensing Standards Officer Report**

Rudi Fruzynski reported:

Three Variable applications were granted for the following premises: Aberlady Bowling Club, Gullane Mini Market and Longniddry British Legion.

The Board determined it was appropriate to grant general extensions to the Scottish Golf Open Championship this extension would apply from Monday 6<sup>th</sup> to Sunday 12<sup>th</sup> July

inclusive and would allow an extension of the terminal hours for the sale of alcohol until 1am. These extensions will only apply to on- sale and not to off-sale.

Rudi reported that in the recent period there had been a small number of complaints and gave additional details of the overall business dealt by the Board.

#### **5. Kirstie MacNeill Clerk of the Licencing Board**

Mrs MacNeill sent her apologies. Her report was read by another member of the Forum.

The Annual meeting is to be organised between the Forum and Licensing Board.

The New Air Weapon and Licencing Bill will also be looking at the period of suspension regarding personal licences for those who have not completed their refresher course but at present the 5 year ban is still in place.

It was reported that the charge for Licence Fees are not cost efficient due to administration cost.

#### **6. Police Report**

Heather Bowsher reported that it had been a quiet 2-3 months.

Briefly discussed that over the last 3 week a number of properties had been broken into.

1 premises licence review.

1 premises remains on monitoring list.

The closure of Madison's in Musselburgh had resulted in a huge benefit for police at closing times but there were concerns regarding migration of clientele to other establishments.

Police are looking at test purchasing being carried out under a new approach which will look at whole areas rather than intelligence information.

Heather Bowsher confirmed that any under 18s trying to buy alcohol would be charged by the investigating officer.

Discussion around drunken people entering licence premises, this is an offence and police should be called if refusing to leave but as mentioned it is a grey area regarding drunkenness/drunkenness state. (Refusal book must be kept up to date)

I.D. given out to siblings, friends etc. and confiscated while being used will be returned to issuing agency which could lead to charges if stolen and if not you may have problems in obtaining a replacement as you have given this up voluntarily.

#### **7. Pub Watch R.A.S.P Report**

PC Jeff Howe gave a talk on Terrorism.

3 people added to ban list.

New allergy guide line and poster implemented as new regulation came in on the 13/02/15.

## 8. **Alcohol Focus**

There was a discussion on the lowering of the drink driving limit which came into force on 5<sup>th</sup> December 2014.

Key alcohol findings: the proportion of 13 to 15 year olds who reported drinking alcohol is at its lowest since SALSUS began in 1990.

There was discussion about alcoholic availability facts and figures this can be found at [www.alcohol-focus-scotland.org.uk](http://www.alcohol-focus-scotland.org.uk) during discussion it was noted that the figures in the eyes of the Forum were not a true reflection as the supermarket industry who have one of the largest volume of sales within East Lothian refuse to divulge facts and figures of their alcoholic sales.

## 9. **Any Other Business**

There was discussion around the location of future Forum meetings to try and improve attendance figures. Queen Margaret University offered to host one of the meetings which would give younger people an opportunity to attend possibly a September or December meeting.

Date of next meeting: - Tuesday 2 June 2015 at 7.00pm in the Council Chamber, Townhouse, Haddington



**POLICE  
SCOTLAND**

Keeping people safe

CHIEF CONSTABLE'S REPORT TO THE  
EAST LOTHIAN LICENSING BOARD  
FOR THE PERIOD  
1<sup>ST</sup> April 2013 to 31<sup>ST</sup> March 2014

## **Foreword**

It gives me great pleasure to present my Annual Report for 2013/14, in accordance with section 12 A Licensing (Scotland) Act 2005.

Since April 2013 Police Scotland has faced and overcome many challenges set against a backdrop of competing demands, budget constraints and organisational change. However, throughout this period we have remained focussed on delivering a local service that addresses local issues and needs, balanced against national priorities.

To date our success speaks for itself with crimes of violence now at it lowest recorded level in 38 years, in addition to a reduction in disorder and antisocial related offences. This is welcome news and means that there are now fewer victims of crime living and working in Scotland. However, there is no room for complacency and what is evident is that the link between alcohol misuse with incidents of crime and offending; victimisation and health related harm continues to negatively impact on individuals, families and communities on a daily basis.

Police Scotland can, however, continue to make a difference and working collaboratively with the licensed trade, partners and local communities we will continue to strive towards improved standards and compliance across the licensed trade; address business practices that result in excess alcohol consumption and vulnerability; address the sale and supply of alcohol to children and young people and identify and tackle localities most affected by the misuse of alcohol and related incidents of crime and offending. In addition, Police Scotland will continue to support both our partners, in terms of health promotion and improvement, and legitimate local traders who make a positive contribution to local economies and communities.

Throughout 2013/14 Police Scotland has been working steadily towards harmonising our approach towards licensing, balanced against the need to deliver a local service that reflects and addresses local issues and concerns. Our focus has centred on enforcement activity, complemented and supplemented by a number of supportive prevention and intervention measures, designed to improve licensing standards, reduce violence and positively influence behaviour and cultural attitudes across Scotland.

This report outlines what activity has been undertaken over the last twelve months for East Lothian and what steps we will take in 2014/5 to ensure we continue to improve on our performance and positively improve the lives of the people of Scotland - keeping people safe.

Sir Stephen House QPM  
Chief Constable  
Police Scotland

## **Police Scotland Licensing Overview**

### **Structure**

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

A national licensing policy unit (NLPU) which sits within Licensing and Violence Reduction Division has overall responsibility for determining and delivering national licensing strategy and policy. The NLPU also provides advice and support to Divisional Licensing teams as well as other specialist functions.

Dedicated Licensing teams are located in each of the 14 local Divisions and are responsible for the day to day management of licensing administration, complying with statutory requirements as well as addressing any issues that may arise within licensed premises within their local area.

### **National perspective**

Licensing and Violence Reduction Division.

Licensing and Violence Reduction Division (LVRD) is a specialist division which, as stated, exists to support each of the 14 divisions across Police Scotland. Working with divisional licensing teams we shape the policy and strategy around the police licensing function.

The licensing policy unit provide practical and tactical advice and support to operational officers, supervisors, commanders and police licensing practitioners on actions that can contribute to the safe and legitimate operation of premises licensed to sell alcohol.

We seek to ensure that legislation governing the sale and supply of alcohol is applied consistently across each division and that all opportunities are taken to address the illegal or irresponsible sale, supply or consumption of alcohol. This is with the intention of preventing violent crime and disorder. The application of alcohol legislation continues to evolve through case law and statutory instruments. As such policing tactics require to be continually developing to keep pace with these changes.

All of this activity is done in support of the National Police Scotland priorities;

**National Priorities:**

Reduce violence, disorder and antisocial behaviour  
Protect the public  
Increase road safety and reduce road crime  
Tackle serious and organised crime and terrorism  
Effectively police major events and threats  
Maintain high levels of public confidence in policing  
Deliver our equality and diversity outcomes

The licensing policy unit currently has a focus on the following priorities;

**Effectively police major events and threats**

Events and festivals around the country where alcohol is supplied are placing increasing demands on policing. As we strive to protect the public it is recognised that the management of alcohol consumption is a crucial part of event management.

Experiences from events have informed the view that there should be a move towards agreed alcohol management plans which set out how alcohol sale and supply and alcohol risk are to be controlled.

It is intended that these plans should be made available to the licensing board and will form the basis of any enquiry the board make following an application. This will allow the board to set expectations around public safety and reduce the impact some events might have on the wider community.

**Reduce violence, disorder and antisocial behaviour**

LVRD will scrutinise the most serious incidents of violence and disorder linked to licensed premises to inform the tactics the police might develop and use to solve the underlying problems causing these incidents. Engagement with the affected licensed premises whilst attempts are made to identify the solutions to identified problems. This activity is reported to the Chief Constable on a weekly basis.

The NLPU are currently developing partnerships, which will assist in a better understanding of the challenges faced by the licensed trade. Where possible there will be engagement with premises and companies which rarely come to the attention of the police. This is with the intention of identifying good practice and the hope that this can be shared across the trade. This approach will enable Police Scotland to further work together with local communities and key partners preventing alcohol related crime and offences



### **Tackle serious organised crime and terrorism**

LVRD identifies opportunities to impact on serious and organised crime groups who may seek to exploit the licensed trade, either by making attempts to become involved in the running of, or ownership of 'legitimate' enterprises, or by seeking to influence or intimidate legitimate operators in furtherance of their criminal enterprises.

The licensing policy unit has identified that there are considerable opportunities to impact on organised crime groups in our communities. There has been a concerted effort made to research and engage key stakeholders involved with the regulation of businesses such as HMRC and the Insolvency Service in order to map out how information gleaned by each agency can be fused together towards a focussed joined up disruption against SOCG licensed businesses.

Working in collaboration with the Police Scotland, Organised Crime and Counter Terrorism Interventions Unit, ways to deter serious and organised crime groups from gaining access to legitimate licensed premises have been identified as have methods of disrupting them within or depriving them of already established businesses.

To this end the Licensing Policy Unit has developed staff in terms of Intelligence and Financial Investigation disciplines in order to develop intelligence about organised crime groups involved in licensing and also to initiate money laundering enquiries where unlawful conduct and recoverable assets are identified through the licensing process. There is close liaison with the Civil Recovery Unit at the Crown Office where licensed premises have in the process of enquiries been identified as a vehicle for unlawful conduct and fraud.

### **Strategic Focus 2014 - 2015**

With the intention of harmonising licensing practice across the country, Police Scotland has introduced training and seminars, which will ensure there is continuous professional development for staff in licensing departments.

Inn Keeper software has been purchased by Police Scotland and will be available for use across Scotland from late spring in 2015.

The licensing policy unit will continue to support the operational activity of licensing teams across Scotland as we look to develop a consistent standard in relation to reporting to licensing boards and the application of the Licensing (Scotland) Act 2005.

### **East Lothian Licensing Board Area.**

The Licensing Board area is policed by J Division, the Lothian's and Scottish Borders Division, which includes West, Mid, East Lothian and the Scottish Borders.

Chief Superintendent Imery is the Divisional Commander who has the responsibility for all day-to-day policing functions.

The Local Area Commander Chief Inspector Andrew Clark is based at Haddington. He is responsible for performance management, community engagement, partnership working and the daily management of local personnel.

Mr Clark is supported by two sector Inspectors, Andrew Harborow who is based at Tranent and Alan Hogarth who is based at Haddington.

The East Lothian Licensing Boards are attended by either Inspector Harborow or Inspector Hogarth.

### **Local Policing Priorities**

Following our public consultation process, the policing priorities for East Lothian, as set out in our Local Policing Plan 2014 are as follows;

- Reducing Antisocial Behaviour
- Tackling Substance Misuse
- Reducing Violence
- Protecting People
- Tackling Serious & Organised Crime
- Making our Roads Safer
- Reducing Housebreaking

The Command Area of East Lothian serves 101,360 local residents along 40 miles of coastline and in an area covering 262 square miles. The policing headquarters sit in the historic market town of Haddington.

## NOT PROTECTIVELY MARKED

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

The Licensing Department in East Lothian consists of one Constable based at Haddington Police Station.

A Sergeant, Inspector and Chief Inspector are based at Dalkeith Police Station and provide additional licensing support.

The Licensing Officer is responsible for processing all correspondence received from the Licensing Board. The officer reviews applications on behalf of the Chief Constable as part of the consultation process in conjunction with the Area Commander.

This consultation process forms part of the Police support of the Licensing Objectives.

This section concentrates on how the Act has been applied to support the Licensing Objectives and the Local Policing Plan for East Lothian.

#### Summary

The following objections/representations and reviews have been submitted.

Objections / Representations & Licence Reviews		Total
Section 22 Objections / Representations		49
Premises Licence (Sec 36)	On Sale	0
	Off Sale	1
Personal Licences (Sec84A)	On Sale	0
	Off Sale	1

In East Lothian there were 527 reported incidents in licensed premises between 1<sup>st</sup> April 2013 and 31<sup>st</sup> March 2014, this is a decrease on previous years. The proactive use of exclusion orders and anti social behaviour legislation has contributed hugely to this reduction.

During this period there was 1 Premises Licence Review and 1 Personal Licence Review following an incident, which involved the sale of alcohol to a minor in the Wallyford area. The Boards decision to suspend the licence in this case sent a clear message to the licensed trade that this type of irresponsible sale would not be tolerated in East Lothian.

There was another premises closed due to the company holding the premises licence being dissolved. This resulted in 3 persons being charged with a contravention of Section 1 of the Licensing Scotland Act 2005 and a report being submitted to the Procurator Fiscal.

## **East Lothian Licensing Board Statement of Licensing Policy (2013-2016)**

The East Lothian Licensing Board Statement of Licensing Policy was also updated during this reporting year to include a statement in relation to overprovision in East Lothian. After consultation the Board took the decision that East Lothian had sufficient on and off sales outlets and that there should be a rebuttable presumption against the grant of an application for a new premises licence or the increase in capacity of an existing premises licence within the Board's area as a whole. Police Scotland has welcomed the Board's decision in relation to overprovision.

### **Problem Solving**

A great deal of work is undertaken to prevent crimes and offences occurring in and around licensed premises. Police Scotland are actively working with the licensed trade to problem solve issues before there is any need for an application to be made for a review of a premises licence.

Police Scotland utilise an intervention process as part of our operational policing toolkit. An intervention is a formal agreement entered into between the licensing department and premises licence holder, designed to assist premises management to reduce alcohol fuelled violence and other incidents of note which are directly linked to their premises. The process involves meeting with those responsible for the premises and agreeing an action plan with crime prevention/reduction recommendations provided by the licensing department in close consultation with the licence holder. This is recorded on an intervention form, a copy of which is given to the licence holder, with the original copy kept for future reference. Every intervention agreement follows SMART objective settings:

Specific  
Measurable  
Achievable  
Realistic  
Timed

The premises would then become 'monitored'. At the conclusion of a mutually agreed period, if there are no further issues identified then the intervention agreement will have been deemed to be complied with and there will be no further requirement for police action. If further incidents of note occur within the premises, or if the licence holder has failed to implement the terms of the intervention, they can expect that the next incident may lead to an application for a review of a premises licence. The intervention document may be presented as evidence as part of an application for a premises licence review. Pending a review hearing the premises would then become 'problematic'.

## **NOT PROTECTIVELY MARKED**

During the period 1<sup>st</sup> April 2013 – 31<sup>st</sup> March 2014 there were  
12 Monitored Premises and  
1 Problematic Premises  
in the East Lothian area.

### **Partnerships**

#### **Events Planning Operations Group (SAG)**

A SAG is a partnership group, which includes representatives from the Police, Council, Fire and Rescue Service, Scottish Ambulance Service as well as the organising agency.

During this reporting year there was a successful SAG in relation to the very high profile event of the 142<sup>nd</sup> Open Golf Championship 2013 at Muirfield, Gullane, which welcomed 142,036 spectators over the course of a week.

The East Lothian licensing officer played an active role in these meetings and was involved in the policing of the licensed bars within the event.

#### **Best Bar None (BBN)**

BBN is a national award scheme supported by the Home Office and aimed at promoting responsible management and operation of alcohol licensed premises. The aim of BBN is to reduce alcohol related crime and disorder in a town centre by building a positive relationship between the licensed trade, police and local authorities.

The process of becoming recognised by BBN includes meeting minimum standards and culminates with an award night with category winners and an overall winner. Responsible operators are recognised and able to share good practice with others.

January 2014 saw two licensed premises in Musselburgh attaining a silver award.

#### **Pub Watch**

Pub watch is an initiative run by local pubs/clubs to tackle crime and antisocial behaviour in and around their premises. The schemes are run by local licensees but are advised by local community police officers.

## **NOT PROTECTIVELY MARKED**

There are a number of pub watch schemes operating in East Lothian all of which are working well and have achieved their goal of reducing risk and maintaining a safe and secure social environment for staff and customers.

RASP – a pub watch scheme covering the Tranent & Musselburgh area is also working with Anti Social Behaviour Teams at East Lothian Council to discuss the possible use of Anti Social Behaviour Orders (ASBO's) against people who persistently flout barring orders imposed by the pub watch.

### **East Lothian Council Anti Social Behaviour Teams (ASBO)**

In April 2013, Police Scotland in conjunction with East Lothian Councils ASB Team saw a Musselburgh resident becoming the first in the county to receive an ASBO barring him from all 'on sales' licensed premises in East Lothian following a series of violent offences committed in and around licensed premises.

Police Scotland is committed to keeping people safe and improving the quality of life for residents in East Lothian.

The following licensing offences have been reported to the COPFS

<b>Number of offences reported to COPFS</b>	<b>Total</b>
Section 1 (Unlicensed sale of alcohol)	<b>2</b>
Section 63 (allowing consumption out with permitted hours)	<b>1</b>
Section 102 (sale of alcohol to a child)	<b>2</b>
Section 105 (sale on behalf of a child)	<b>8</b>
Section 111 (Drunk persons within licensed premises)	<b>0</b>
Section 114 (DPM not to be drunk)	<b>0</b>
Section 115 (Disorderly conduct within licensed premises)	<b>7</b>
Section 116 (Refusal to leave licensed premises)	<b>7</b>

### **Who Are You**

December 2013 saw the introduction of an input by licensing officers, to local pub watches and persons involved in the licensed trade, this related to Rape & Sexual Violence linked to the night time economy and excessive supply of alcohol.

The film was made by an organisation 'Who are you' from New Zealand and is used with their permission and full support.

It is a very worthwhile, ongoing programme that was well received by the licensed trade in East Lothian with a large number participating.

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

Police Scotland can make a positive impact on the future outcomes for children and families, by addressing the sale and supply of alcohol to young persons and working with our partners, taking the appropriate action to address both the potential and actual misuse of alcohol within the early years.

### **Activity**

Intelligence suggests that children are no longer buying alcohol themselves but utilising 'agents' to purchase alcohol for them or alternatively accessing it from home.

It has become increasingly difficult for children to walk into any 'off sale' premises and purchase alcohol.

The introduction of a 'Challenge 25' policy from 1<sup>st</sup> October 2011 encourages anyone who is over 18 but looks under 25 to carry acceptable ID when they want to buy alcohol. It is a criminal offence to use false or borrowed ID to gain entry to licensed premises or to buy alcohol.

Officers will continue to routinely proactively visit premises licensed for 'off sales' to ensure that they are aware of their responsibilities under the 2005 Act and in particular in the run up to school holidays.

Likewise officers will continue to routinely proactively visit premises licensed for 'on sales' to ensure that management have taken all appropriate measures to prevent the sale or supply of alcohol to young people under age.

The provision of 'Test Purchasing', in terms of Section 105 of the principal legislation, is a tactic that is used where there is an underlying body of evidence to suggest alcohol is being sold from a particular off sales premises to a person under age. Police Scotland, East Lothian Command Area, will continue to consider the use of this tactic as and when required.

There were no Test Purchase operations carried out in East Lothian during the reporting year.

**TACKLING SERIOUS AND ORGANISE CRIME (SOCG)**

Serious and organised crime has far reaching consequences that affect a large proportion of society and the economy. Those involved have spread their activity into an increased variety of criminal enterprises including illegal drugs, money laundering, fraud, human trafficking, fake goods, and the licensed trade.

It is important to highlight that all applications submitted in respect of the Licensing (Scotland) Act 2005 are scrutinised in terms of the applicant (whether individuals or companies), the premises and the activity applied for; to ensure that granting the application will not be a contravention of the Act, Board Policy Statement or detrimental in relation to any of the five Licensing Objectives and any connection to Serious and Organised Crime.

This process includes interrogation of police computer systems, checks with external databases e.g. Companies House and, if relevant, scrutiny of financial arrangements. The police licensing officer will thereafter interview individuals. Where the application falls short in respect of any of the aforementioned areas, an objection or representation will be submitted to the East Lothian Licensing Board for consideration.