



**POLICE  
SCOTLAND**  
Keeping people safe

**CHIEF CONSTABLE'S REPORT TO THE  
EAST LOTHIAN LICENSING BOARD  
FOR THE PERIOD  
1<sup>ST</sup> April 2014 to 31<sup>ST</sup> March 2015**

**LVRD/ 04/05/2015 V.1**

## **Foreword**

I am pleased to present my Annual Report for 2014/15, in accordance with the requirements of the Licensing (Scotland) Act 2005 (S12A).

This report is set against a backdrop of recorded crime in Scotland reaching a 40 year low and outlines the comprehensive activity which has been undertaken in East Lothian over the last twelve months. Going forward, this report confirms the steps we will take in 2015/16 to ensure we continue to improve on our performance and positively impact upon the lives of people throughout Scotland.

Over the last year, our Licensing focus has centred on prevention, supplemented by intervention and enforcement measures. Collectively, these measures are designed to improve our consistency of approach, reduce violence and positively influence behaviour and cultural attitudes towards alcohol across Scotland.

Working in partnership to deliver results remains at the heart of policing. We continue to seek out new partnership opportunities, whilst maintaining and building upon our existing relationships to support the licensed trade, relevant authorities and local communities.

Police Scotland strives to ensure the safety and wellbeing of people, places and communities across Scotland and our focus remains 'Keeping People Safe'.

Sir Stephen House QPM  
Chief Constable  
Police Scotland

## **Police Scotland Licensing Overview**

### **Licensing 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. This is defined through a national policy unit and local licensing teams.

### **National Perspective**

#### **The National Liquor and Civic Licensing Policy Unit (NLCLPU)**

The NLCLPU is a specialist department within Licensing and Violence Reduction Division (LVRD) which exists to support territorial divisions across Police Scotland.

It consists of a Chief Inspector, Inspector, Sergeant and a Constable and is based at Dalmarnock Police Office, Glasgow.

Working with divisional licensing teams the NLCLPU shape policy and strategy around the police licensing function and provide practical and tactical advice to police licensing practitioners, operational officers, supervisors and policing Commanders.

The NLCLPU seek to ensure that legislation governing the sale and supply of alcohol is applied consistently across the country and that all opportunities are taken to stop the illegal or irresponsible sale, supply or consumption of alcohol. This is with the intention of preventing and reducing violent crime and disorder.

The National policy unit has particular focus on;

- Scrutiny of the most serious incidents of violence and disorder linked to licensed premises.
- Identifying opportunities to impact on serious and organised crime groups who may seek to exploit the licensed trade
- Working closely with partners to identify and address licensed premises issues and inform personal licence holder training.
- Engaging with Major event and festival organisers to agree alcohol management plans that will set out how alcohol sale, supply and risk are to be controlled.
- Support the development of the National Licensing ICT solution "Innkeeper"

### **Local Perspective**

Police Scotland comprises of 14 divisions each of which has a dedicated licensing team within a Divisional Coordination unit which consist of Police officers and members of police staff.

These teams service the statutory obligation placed on the Chief Constable to respond to the 34 Licensing Boards and have oversight of all licensable activity with their division.

Local Licensing teams regularly work in partnership with the licensed trade and any other relevant body, to prevent violent incidents and vulnerability occurring in and around licensed premises.

Where problems are identified local problem solving is adopted, licensing staff generally take an incremental approach and try to agree a proactive and positive way forward to address ongoing issues.

However, on occasions enforcement activity or an application to review a premises licence may be the solution to the problem and local Licensing teams will report to COPFS and/or Local Licensing Boards as necessary.

**Priorities**

Both the National Liquor and Civic policy unit and Divisional Licensing work towards Police Scotland National priorities;

Violence, Disorder and Antisocial behaviour

Serious organised Crime

Counter Terrorism

Protecting people at risk of harm

Road Safety and Road crime

## **PART 1: 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.

### **Senior Officers**

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

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

Mr Paden 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 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 approx. 101,000 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.

There are currently 206 'on sales' and 89 'off sales' premises within East Lothian.

East Lothian Licensing Board Statement of Licensing Policy Nov 2013 – Oct 2016 includes an overprovision statement, declaring that East Lothian has sufficient on and off sales outlets and that there should be a rebuttable presumption against the grant of an application for any new premises licence or increase in capacity of an existing premises licence within the Boards area as a whole.

During this reporting year there have been 2 new Provisional Premises Licences granted by the Board and no refusals.

**PART 2: 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.

<b>Objections / Representations &amp; Licence Reviews</b>		<b>Total</b>
Section 22 Objections / Representations		<b>52</b>
Premises Licence (Sec 36)	On Sale	<b>2</b>
	Off Sale	<b>0</b>
Personal Licences (Sec84A)	On Sale	<b>1</b>
	Off Sale	<b>0</b>
Closure Orders (Sec 97)	On Sales	<b>1</b>

In East Lothian there were 440 reported incidents in licensed premises between 1<sup>st</sup> April 2014 and 31<sup>st</sup> March 2015, this is a decrease on previous years. The proactive use of exclusion orders and anti social behaviour legislation continues to contribute hugely to this reduction.

During this period there were 2 Premises Licence Reviews and 1 Personal Licence Review.

The premises, which were reviewed twice in this reporting period was the Elphinstone Arms, Elphinstone, Tranent. This was following a number of serious incidents including an assault on the owner of the premises, masked males attending at the premises and two fire raising incidents. There was also a Closure Order requested following the first fire raising incident. The Closure Order was the first of it's kind in East Lothian, requested by Police Scotland.

Board Decision:

The first Review resulted in a 6 months suspension of the premises licence, the Closure Order was supported by the Licensing Board and the second Review is still pending due to be heard at the Board in September 2015.

The Personal Licence Review related to a Designated Premises Manager being charged and convicted of two drink driving offences. On both occasions she was seen by police driving away from the premises she managed in Haddington.

Board Decision:

The Board revoked her Personal Licence.

The Board decisions in these cases were welcomed by Police Scotland and sends a clear message to the licensed trade that there is a high standard of management expected and that premises licence holders are expected to operate in a manner that is consistent with the licensing objectives.

## **Partnerships**

### **Licensing Standards Officer (LSO)**

In East Lothian the Police Licensing Officer works closely with the LSO, sharing information and carrying out joint visits to licensed premises, dealing with any noise complaints or antisocial behaviour issues. This unified approach has resulted in a number of successful resolutions.

More recently the Police Licensing Officer and LSO carried out a joint inspection at a Musselburgh premises, which had been on the 'monitored' list for some time. There were a number of serious concerns and issues raised by both the LSO and the Police, regarding the condition and management of the premises. This was fed back to the licence holders, who after some negotiation closed the premises earlier than planned with the intention of refurbishing it and re opening at some point in the future, under new management and a predominately food led operation.

This joint approach had a huge and beneficial impact on the closure of a, problematic premises.

### **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.

March 2015 saw three licensed premises in Musselburgh, Ormiston and North Berwick attaining a Silver Award, a premises in Dunbar attaining a Gold Award and narrowly missing out on a National 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.

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 use Anti Social Behaviour Orders (ASBO's) against people who persistently flout barring orders imposed by the pub watch.

## **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'.

During the period 1<sup>st</sup> April 2014 – 31<sup>st</sup> March 2015 there were

6 Monitored Premises and

1 Problematic Premises

in the East Lothian area, a reduction on the previous year.

### **Exclusion Orders - Section 94 of the Licensing (Scotland) Act 2005**

When a person has been charged with a violent offence within or in the immediate vicinity of any licensed premises a request for an exclusion order is included in the 'remarks' section of the police report. Exclusion Orders are granted by the courts, 'on conviction', and can exclude a person from specific licensed premises for between 3 months and up to 2 years. The Police Licensing Officer proactively drives the use of exclusion orders whenever there is an incident in or in the immediate vicinity of licensed premises.

Over the last couple of years there has been a decrease in reported incidents in licensed premises. The proactive use of exclusion orders has contributed hugely to this reduction. The use of exclusion orders is fast becoming second nature to officers working in East Lothian and has had a huge impact on reducing violent incidents in and around our licensed premises. Persistent offenders can also be dealt with under the Anti Social Behaviour legislation.

We are 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 during the reporting year.

<b>Number of offences reported to COPFS</b>	<b>Total</b>
Section 1 (unlicensed sale of alcohol)	<b>1</b>
Section 63 (allowing consumption out with permitted hours)	<b>1</b>
Section 102 (sale of alcohol to a child)	<b>5</b>
Section 103 (allowing the sale of alcohol to a child)	<b>0</b>
Section 105 (purchase of alcohol by or for a child)	<b>2</b>
Section 111 (drunk persons within licensed premises)	<b>0</b>
Section 112 (obtaining alcohol by or for a drunk person)	<b>0</b>
Section 113 (sale of alcohol to a drunk person)	<b>0</b>
Section 114 (DPM not to be drunk)	<b>0</b>
Section 115 (disorderly conduct within licensed premises)	<b>1</b>
Section 116 (refusal to leave licensed premises)	<b>7</b>

### **PART 3: 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**

In terms of Section 105 of the Licensing (Scotland) Act 2005, the Chief Constable may authorise a young person to buy or attempt to buy alcohol to determine whether an offence is being committed.

The use of young persons to conduct test purchase operations provides police with an effective tool in the fight against underage sales and represents an important safeguard against underage drinking and the resultant antisocial behaviour that adversely affect many communities.

A standard operating procedure, which ensures operations are carried out safely, fairly and effectively, was prepared only after consultation with various stakeholders, including:

- Scotland's Commissioners for Children & Young People;
- Society of Chief Officers for Trading Standards in Scotland;
- Association of Chief Police Officers in Scotland;
- Convention of Scottish Local Authorities;
- Scottish Executive Enforcement Advisory Group on Age Restricted Sales; and
- Crown Office.

The operating procedure provides that a test purchase operation may be carried out on premises for any of the following reasons:

- Where there is intelligence to suggest that alcohol is being sold illegally to persons under 18 years of age from specific licensed premises;
- Where there is intelligence indicating that persons under 18 years of age are consuming alcohol in the locality where the licensed premises are situated; and/or
- Where the premises are in a locality in which all premises are being subjected to test purchase operations in a non-discriminatory manner, to raise awareness in relation to the illegal sale or purchase of alcohol in licensed premises.

There were 3 Test Purchase Operations carried out in East Lothian during the reporting year with a total of 53 'off sale' premises tested resulting in 5 failures.

There were no 'on sale' premises tested in this reporting year.

Date of Operation	Number of 'off sale' Premises Tested	Number of Premises Failed	Location of Failures
13/03/2015	9	2	Musselburgh & Wallyford
14/03/2015	28	2	Prestonpans & Tranent
27/03/2015	16	1	Ormiston

Following these failures the Police Licensing Officer visited each premises to offer advice and assistance in relation to their processes and procedures. Prior notification letters have also been sent out to all 'off sales' in the East Lothian area, informing them that Test Purchasing will continue.

It is fully expected and hoped that following these initial failures there will be a huge reduction next time around.

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 by Police Scotland and the East Lothian Command Area, will continue to use this tactic as and when required.

#### **PART 4: TACKLING SERIOUS AND ORGANISE CRIME**

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.