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**EAST LOTHIAN**

**Meeting 27 October 2016 at 10:00am in Council Chambers, Town House, Haddington**

**Licensing (Scotland) Act 2005**

<b>New Grant(s)</b>	<b>Premises</b>	<b>Applicant</b>	<b>Date Received</b>	<b>Comments</b>
5	MACMERRY BOWLING CLUB WESTBANK ROAD MACMERRY EAST LOTHIAN EH33 1PL	MACMERRY BOWLING CLUB	9 August 2016	
6	MACMERRY BOWLING CLUB (PAVILION) WESTBANK ROAD MACMERRY EAST LOTHIAN EH33 1PL	MACMERRY MINERS WELFARE SOCIETY & SOCIAL CLUB	5 August 2016	

Date 17<sup>th</sup> August 2016



**POLICE  
SCOTLAND**

Keeping people safe

Philip Gormley QPM  
Chief Constable

Your Ref:

Our Ref: J/LIC/3705/HB

The Clerk of the Licensing  
Board  
East Lothian Council  
John Muir House  
Haddington  
East Lothian  
EH41 3HA

Local Area Commander  
The Lothians and Scottish Borders Division  
Haddington Police Station  
39-41 Court Street  
Haddington  
EH41 3AE

Dear Sir/Madam,

**LICENSING (SCOTLAND) ACT 2005 - APPLICATION FOR THE GRANT OF A  
PREMISES LICENCE  
MACMERRY BOWLING CLUB (PAVILLION), WEST BANK ROAD,  
MACMERRY  
COMMITTEE MACMERRY MINERS WELFARE CLUB BOWLING SECTION**

I refer to the above application and in terms of Section 21(4)(a)(i) and (ii) of the Licensing (Scotland) Act 2005, I have to advise you that neither the applicant nor any connected person has been convicted of any relevant offence.

I am unable to confirm the existence of any foreign offence in respect of the applicant or any connected person.

In terms of Section 22 (1) (b) of the Licensing (Scotland) Act 2005, it is pertinent to point out that this application is out with Board, Policy with regards to the overprovision statement and as such the applicant will be expected to demonstrate that the grant of this licence would outweigh the presumption against grant in terms of the overprovision statement.

I note that the applicant is requesting that children (0-15 years) and young persons (16-17 years) are admitted to the premises for the duration of the licensed hours. I would request that children vacate the premises by 2200 hours at the latest unless they are attending a private function.

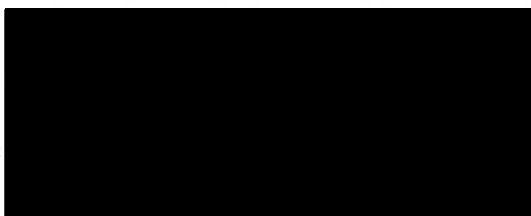
The layout plan provided by the applicant is not adequate with regards the delineation of licensed area, surrounding streets, details in relation to male/female

toilets and children and young persons access, as such, I would request that they provide a more detailed plan.

I would also request that a copy of the Club's Constitution be provided to East Lothian Licensing Board as well as proof of occupancy in the form of a licence/lease.

This representation is submitted for your consideration.

Yours faithfully

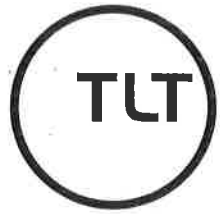


Philip Gormley QPM  
Chief Constable

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 Our ref SM30/JM33  
 Your ref



The Clerk  
 East Lothian Licensing Board  
 John Muir House  
 Brewery Park  
 HADDINGTON  
 East Lothian  
 EH41 3HA

**By post and email: mferguson@eastlothian.gov.uk & licensing@eastlothian.gov.uk**

Direct tel	+44(0)333 006 1203	Date	13 October 2016
Direct fax	+44(0)333 006 1451	Email	Stephen.mcgowan@tltsolicitors.com

Dear Madam

**Licensing (Scotland) Act 2005  
 Application for Premises Licence by Macmerry Miners Club**

I write in connection with the above application which has been lodged with the Board and for which I am informed that the Site Notice is being currently displayed. I am instructed to respond on behalf of the Macmerry Bowlers Club which is the lawful occupier of the premises which relates to the above application.

I am instructed to object to the application lodged by the Macmerry Miners Club on the following grounds:-

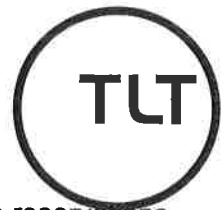
1. It is our understanding that the application may not be competent in terms of the legislation. It is our understanding that the application has been lodged in the name of the subset which relates to persons who bowl within the Miners Club. We request that the Board ascertains whether or not this complies with Section 125 of the above Act and the relevant Club Regulations thereto.
2. As the Board will be aware, the premises is subject to an application by my clients who are the lawful occupants. Noting that under the Licensing Act only one Licence may apply to a single set of premises. It is our submission that the application by the Miners Club is incompetent because they do not have a lawful right to occupy the Club. The Clubhouse is the Clubhouse of the Bowlers Club and the Bowlers have been granted a Licence to Occupy by the owners, East Lothian Council. The Miners have no lawful or legitimate link to the premises to which they seek to obtain a Licence and certainly have no right to occupy or use the premises other than at our discretion.

EAST LOTHIAN  
 LICENSING

14 OCT 2016

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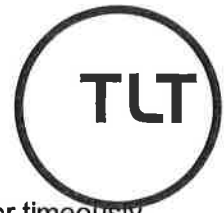


3. In light of the Miners lack of right or title to occupy, my clients have reservations about whether they have complied with display formalities for the site notice. We respectfully ask the Board to satisfy themselves that the Miners complied with regulation 7(2) of the Licensing (Procedure) (Scotland) Regulations 2007/453. In particular whether the Site Notice been displayed "at or near the premises to which the application relates and in a place and at a height where the notice can conveniently be read by the public". My client doubt that the period of 21 days started with the date the Board's notice went on the website or that the notice was properly displayed for the full period.
  
4. Under a previous agreement, which is no longer in force, the Bowlers allowed the Miners to seek Licences and Licensing permissions for the Bowlers Club premises. This was on the basis that as the parties agreed at that time, the Miners would seek a new Licence application. During the period of 2014 to 2016 my understanding is that the Miners did not apply for a new Premises Licence despite some significant reminders from my client and from the local Licensing Standards Officer. My clients were advised locally by the Miners that they had not applied for a full Licence because they couldn't afford the outlays in connection with the application. Subsequent to this, in the absence of a full Licence application, the Miners also fell short of their commitments in terms of the obligation to lodge occasional Licences for various Bowling events throughout this period and a number of events which should have had a bar went ahead unlicensed because of the failings of the Miners Club to apply for Occasional Licences in time. The lackadaisical approach to Licensing and the significant delays in lodging a new Premises Licence suggests that the Miners are in breach of the Licensing Board's policy at paragraph 18 with respect to repeated occasional licence applications. The Board Policy makes it clear that where activities have been occurring in identical or largely similar terms for a premises regularly over a period of three months it is expected that that premises operator should seek a new full Premises Licence rather than rely on occasionals. Despite repeated and ongoing requests from the Bowlers over many years and certainly since the agreement of 2014 this has not been done. It is the absence of that trust and the absence of that obligation being met which has ultimately resulted in the Bowlers seeking to operate the Licence themselves.

It is my clients' submission therefore that given that the Miners have been apparently in breach of paragraph 18 of your policy for a period of at least 24 months that this tends to suggest that they were either (a) unaware of your policy or (b) unwilling to meet its terms and therefore the Licensing objectives were being undermined.

As you will be aware, my clients have lodged a Premises Licence application and I understand that both applications are to be heard at the meeting of the Board on Thursday 27 October 2016. I would therefore be grateful if this objection could be tabled and in my submission much of these comments should be taken as preliminary matters as to the competency of the Miners application. In my respectful submission, if the Licensing Board concurs with the submissions I am making in this letter of objection and will speak to at the Hearing then the Licensing Board has no option other than to determine that the Miners application is not considered.

I would/



I would be grateful to receive confirmation that you have received the letter timeously.

Yours sincerely



PP

Stephen J McGowan  
**Partner - Head of Licensing (Scotland)**  
**TLT LLP**

ELO 339

**EAST LoTHIAN LICENSING BOARD**

**APPLICATION FOR PREMISES LICENCE/PROVISIONAL PREMISES  
LICENCE\***

\*Delete as appropriate

Licensing (Scotland) Act 2005, section 20

E.L.C.  
Customer Services

05 AUG 2016

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APPLICANT INFORMATION Licensing (Scotland) Act 2005, section 20(1)

**Question 1**

*Name, address and postcode of premises to be licensed.*

**Macmerry Bowling Club (Pavillion)  
Westbank Road  
Macmerry  
East Lothian  
EH33 1PL**

**Question 2**

*Particulars of applicant*

2(a) *Where applicant is an individual, provide full name, date and place of birth, and home address including postcode and telephone number.*

**N/A**

2(b) *Where applicant is a partnership, please provide full name, and postal address of partnership.*

N/A

- 2(c) *Where applicant is a company, please provide name, registered office and company registration number.*

N/A

- 2(d) *Where the applicant is a club or other body, please provide full name, and postal address of club or other body.*

**Macmerry Miners Welfare Club Bowling Section**

**Macmerry Miners Welfare & Social Club**

**Main Road**

**Macmerry**

**EH33 1PB**

- 2(e) *Where applicant is a partnership, company, club or other body, please provide the names, dates and places of birth, and home addresses of connected persons.\**



James Fortune

James Fortune

Date of Birth:

Address:

Ian Redpath

Iain Redpath

Date of Birth :

Jessie Young

Jessie Young

Date of Birth :

Address:

Robert Waugh

Robert WAUGH

Date of Birth:

\* Connected person is defined in section 147(3) of the Licensing (Scotland) Act 2005.

**Question 3**

*Previous applications*

- 3 *Has the applicant been refused a premises licence under section 23 of the Licensing (Scotland) Act 2005 in respect of the same premises?* **NO\***

*If YES – provide full details*

N/A

**Question 4**

*Previous convictions*

4 Has the applicant or any connected person ever been convicted of a relevant or foreign offence ()	<b>NO</b>
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*\*If YES – provide full details*

*For the purpose of this Act, a conviction for a relevant offence or foreign offence is to be disregarded if it is spent for the purpose of the Rehabilitation of Offenders Act 1974*

<i>Name &amp; position (if applicable)</i>	<i>Date of conviction or sentence</i>	<i>Court</i>	<i>Offence</i>	<i>Penalty</i>

**DESCRIPTION OF PREMISES** *Licensing (Scotland) Act 2005, section 20(2)(a)*

**Question 5**

5 *Description of premises (where application is submitted by a members' club, please also complete question 6)*

The Bowling Club pavilion building stands on its own and is set in a rural location within the village of Macmerry.

Macmerry Bowling Club is open to all members of the local and surrounding community and is host to recreational, league and competition games.

The Clubhouse itself is available for use by the club along with the local community for various events such as social gatherings, birthday parties, charity events etc.

**Question 6**

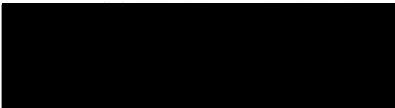
6 To be completed by members' clubs only

Do the club's constitution and rules conform to the requirements of regulation 2 of the Licensing (Clubs) (Scotland) Regulations 2007?	YES
* Delete as appropriate	

**DECLARATION BY APPLICANT OR AGENT ON BEHALF OF APPLICANT**

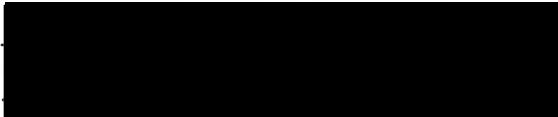
If signing on behalf of the applicant please state in what capacity.

The contents of this Application are true to the best of my knowledge and belief.

✍ Signature  \* (see note below)

Date ..... 22-5-2016 .....

Capacity ..... PRESIDENT ..... APPLICANT/AGENT (delete as appropriate)

Telephone number and email address of signatory ...  .....

*I have enclosed the relevant documents with this application – please tick the relevant boxes*

<i>Operating plan</i>	✓
<i>Layout plan</i>	✓
<i>Planning certificate</i>	✓
<i>Building standards certificate</i>	✓
<i>Food hygiene certificate</i>	✓

**\* Data Protection Act 1998**

The information on this form may be held on an electronic public register which may be available to members of the public on request.

**EAST LOTHIAN LICENSING BOARD**

E.L.C.  
Customer Services

05 AUG 2016

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**OPERATING PLAN**

Licensing (Scotland) Act 2005, section 20(2)(b)(i)

*Name, address and postcode of premises to be licensed.*

**Macmerry Bowling Club (Pavilion)**

**Westbank Road**

**Macmerry**

**EH33 1PL**

**Question 1**

*STATEMENT REGARDING ALCOHOL BEING SOLD ON PREMISES/OFF PREMISES OR BOTH*

<i>1(a) Will alcohol be sold for consumption solely ON the premises?</i>	<i>NO</i>
<i>1(b) Will alcohol be sold for consumption solely OFF the premises?</i>	<i>NO</i>
<i>1(c) Will alcohol be sold for consumption both ON and OFF the premises?</i>	<i>YES</i>
<i>*Delete as appropriate</i>	

**Question 2**

*STATEMENT OF CORE TIMES WHEN ALCOHOL WILL BE SOLD FOR CONSUMPTION ON PREMISES*

<i>Day</i>	<i>ON Consumption</i>	
	<i>Opening time</i>	<i>Terminal hour</i>
<i>Monday</i>	11.00 am	11.00 pm

<i>Tuesday</i>	11.00 am	11.00 pm
<i>Wednesday</i>	11.00 am	11.00 pm
<i>Thursday</i>	11.00 am	11.00 pm
<i>Friday</i>	11.00 am	1.00 am
<i>Saturday</i>	11.00 am	1.00 am
<i>Sunday</i>	11.00 am	12 midnight

**Question 3**

*STATEMENT OF CORE TIMES WHEN ALCOHOL WILL BE SOLD FOR CONSUMPTION OFF PREMISES*

<i>Day</i>	<i>OFF Consumption</i>	
	<i>Opening time</i>	<i>Terminal hour</i>
<i>Monday</i>	11.00 am	10.00 pm
<i>Tuesday</i>	11.00 am	10.00 pm
<i>Wednesday</i>	11.00 am	10.00 pm
<i>Thursday</i>	11.00 am	10.00 pm
<i>Friday</i>	11.00 am	10.00 pm
<i>Saturday</i>	11.00 am	10.00 pm
<i>Sunday</i>	11.00 am	10.00 pm

**Question 4**

*SEASONAL VARIATIONS*

<i>Does the applicant intend to operate according to seasonal demand</i>	<i>NO</i>
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*\*If YES – provide details*

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**Question 5**

*PLEASE INDICATE THE OTHER ACTIVITIES OR SERVICES THAT WILL BE PROVIDED ON THE PREMISES IN ADDITION TO SUPPLY OF ALCOHOL*

<b>COL. 1</b> <i>5(a)</i> <i>Activity</i>	<b>COL. 2</b> <i>Please confirm</i> <i>YES/NO</i>	<b>COL. 3</b> <i>To be provided</i> <i>during core licensed</i> <i>hours – please</i> <i>confirm</i> <i>YES/NO</i>	<b>COL. 4</b> <i>Where activities are</i> <i>also to be provided</i> <i>outwith core licensed</i> <i>hours please confirm</i> <i>YES/NO</i>
<i>Accommodation</i>	NO	N/A	N/A
<i>Conference facilities</i>	NO	NO	NO
<i>Restaurant facilities</i>	NO	NO	NO
<i>Bar meals</i>	NO	NO	NO
<i>5(b) Activity</i> <i>Social functions</i> <i>including:</i>	<i>Please confirm</i> <i>YES/NO</i>	<i>To be provided</i> <i>during core licensed</i> <i>hours – please</i> <i>confirm</i> <i>YES/NO</i>	<i>Where activities are</i> <i>also to be provided</i> <i>outwith core licensed</i> <i>hours please confirm</i> <i>YES/NO</i>

<i>Receptions including Weddings, funerals, birthdays, retirements etc.</i>	YES	YES	YES
<i>Club or other group meetings etc.</i>	YES	YES	YES
<b>5(c) Activity Entertainment including:</b>	<b>Please confirm YES/NO</b>	<b>To be provided during core licensed hours – please confirm YES/NO</b>	<b>Where activities are also to be provided outwith core licensed hours please confirm YES/NO</b>
<i>Recorded music – see 5(g)</i>	YES	YES	YES
<i>Live performances – see 5(g)</i>	YES	YES	YES
<i>Dance facilities</i>	YES	YES	YES
<i>Theatre</i>	NO	NO	NO
<i>Films</i>	NO	NO	NO
<i>Gaming</i>	NO	NO	NO
<i>Indoor/outdoor sports</i>	YES	YES	YES
<i>Televised sport</i>	YES	YES	YES
<b>5(d) Activity</b>	<b>Please confirm YES/NO</b>	<b>To be provided during core licensed hours – please confirm YES/NO</b>	<b>Where activities are also to be provided outwith core licensed hours please confirm YES/NO</b>
<i>Outdoor drinking facilities</i>	NO	NO	NO
<b>5(e) Activity</b>	<b>Please confirm YES/NO</b>	<b>To be provided during core licensed hours – please confirm YES/NO</b>	<b>Where activities are also to be provided outwith core licensed hours please confirm YES/NO</b>



<i>Adult entertainment</i>	<i>NO</i>	<i>NO</i>	<i>NO</i>
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*Where you have answered YES in respect of any entry in column 4 above, please provide further details below.*

*Club or other group meeting -*

*Where access is required out with normal core hours for the purpose of hosting bowling games and other local events including funerals, birthdays, celebrations, fitness/dance groups and televised sport.*

*Alcoholic beverages will not be provided out with normal core hours.*

*5(f) any other activities*

*If you propose to provide any activities other than those listed in 5(a) – (e) please provide details or further information in the box below.*

*The Club would be available to the Community for any event that fits into the ethos of the Club objectives and to the enhancement of the community of Macmerry*

*5(g) Late night premises opening after 1.00am*

<i>Where you have confirmed that you are providing live or recorded music, will the decibel level exceed 85dB?</i>	<i>NO</i>
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<i>When fully occupied, are there likely to be more customers standing than seated?</i>	<i>NO</i>
<i>*Delete as appropriate</i>	

**Question 6 (On-sales only)**

*CHILDREN AND YOUNG PERSONS*

6(a)	<i>When alcohol is being sold for consumption on the premises will children or young persons be allowed entry</i>	<i>YES</i>
	<i>*Delete as appropriate</i>	

6(b) *Where the answer to 6(a) is YES provide statement of the **TERMS** under which they will be allowed entry*

For the comfort of all members, children and young persons (under the age of 18) of members/guests shall be permitted to the Club premises provided that they remain at all times under the care of their parent or guardian.

Children will not however be granted access to dart boards or other methods of gaming.

For young persons over the age of 18 the Challenge 25 policy will be applicable where alcohol may only be purchased on the production of ID.

Prams, pushchairs or any other mode of transport for children must not block the fire exit.

6(c) *Provide statement regarding the **AGES** of children or young persons to be allowed entry*

Children of all ages

6(d) *Provide statement regarding the **TIMES** during which children and young persons will be allowed entry*

Children of all ages shall be allowed entry to the club at all times but must adhere to the criteria of the Club Constitution.

6(e) Provide statement regarding the **PARTS** of the premises to which children and young persons will be allowed entry

All public areas.

**Question 7**

**CAPACITY OF PREMISES**

What is the proposed capacity of the premises to which this application relates?

120 (60 persons inside / 60 persons outside)

**Question 8**

**PREMISES MANAGER (NOTE: not required where application is for grant of provisional premises licence)**

Personal details

8(a) Name

N/A

8(b) Date of birth

8(c) Contact address

8(d) Email address and telephone number

8(e) Personal licence

<i>Date of issue</i>	<i>Name of Licensing Board issuing</i>	<i>Reference no. of personal licence</i>

**DECLARATION BY APPLICANT OR AGENT ON BEHALF OF APPLICANT**

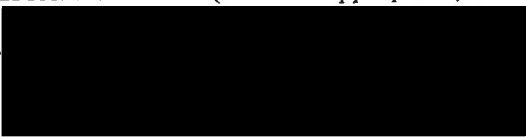
**If signing on behalf of the applicant please state in what capacity.**

The contents of this operating plan are true to the best of my knowledge and belief.

\* Signatory  \* (see note below)

Date ..... 14-5-2016 .....

Capacity ..... President ..... APPLICANT/AGENT (delete as appropriate).

Telephone number and email address of signatory 

**\* Data Protection Act 1998**

The information on this form may be held on an electronic public register which may be available to members of the public on request.

Macmerry Miners Welfare Bowling Club Section

Dear Mrs Winter

In reply to your letter dated 08<sup>th</sup> August 2016 , may I respond and hope to answer your question on Overprovision Statement. In our club we have in excess of 200 members and as a community based club we strive to provide the best we can for the old and the young alike, we are not a profit making club we are a Charitable Society and have been so for years, we take a small Annual sum for Membership which goes back into the Pensioners and young kids parties, we are applying for the Bowling club Licence as we have had it for years and would like to uphold this to allow us to offer our Members and Visitors a smaller and adaptable premises which the club had not so long ago with the help of a small minority members and local builders installed a new kitchen and adapted kitchen at our expence to upgrade a tired old kitchen with no input or help from Bowlers, the facility would be of benefit to the villege and hopefully bring back local members to how it used to be and improve on depleting members, now limited and not using the Council owned green as it should be , to encourage new Members and young alike. I hope this helps towards our definition on this matter, with regards to other points raised enclosed are the details on location plan attached and the no 60 outside is a misprint and should read Bowlers outside not drinkers.

Regards The Committee Macmerry Miners Bowling Section

EAST LoTHIAN COUNCIL  
LICENSING

20 SEP 2016

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# Macmerry Miners Welfare Bowling Club Section

1 The object of the "club" shall be to foster a spirit of friendly rivalry between members and visitors in order to further and promote the game of bowls. (a) membership of the "club" this will be open to members of the public on completion and acceptance of a membership application form obtainable from the "club" secretary (b) Persons who are members of other bowling clubs will only be permitted to participate in competitions in accordance with S.B.A. & EL.B.A. rules specifically covering joint membership. Such persons aforementioned shall not be permitted to take part in the management of the "club" (C) Honorary membership shall be awarded to persons who, in recognition of services rendered to the "club" these persons can only be nominated at an A.G.M. such members so elected will have full voting rights and will not be required to pay any annual fees.

2 The Office Bearers shall consist of President Vice President Secretary and Treasurer the management committee shall consist of the aforementioned office bearers and 6 members inclusive of match secretary, who will have responsibility of arranging and overseeing both internal and external competitions and league games. Of the committee the President will have a deliberative and casting vote. The committee will be required to meet regularly during the bowling season and close season to discuss and conduct the business of the "club" The committee shall have overall responsibility for management of the "club"

3 All office bearers and committee members will retire annually at the A.G.M. but shall be eligible for re-election

4 No member shall be eligible for election as an office bearer or committee member in his/her absence unless the secretary has received a letter from the person/s indicating their reason for non attending the A.G.M. but wish to be nominated for office

5 The Annual General Meeting shall be held in the last week in February. At this meeting the "Office Bearers" will present their annual reports to the meeting Recommendations made by the committee will be presented to the meeting for consideration, the members will have the opportunity to either accept or decline by means of concensus or vote. Honorarium will be decided by the members of an amount to be paid to the Secretary and Treasurer .

6 The "clubs" books shall be audited each year by an approved auditor

7 Non-members shall not be allowed to enter club competitions unless such are deemed Open Competitions

EAST LoTHIAN COUNCIL  
EAST LoTHIAN LICENSING  
LICENSING

20 SEP 2016  
20 AUG 2016

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8 Club Memberships and or any competition fees must be paid by last day of April. Members who fail to pay such fees will be ineligible to play in the said competitions this rule will be strictly adhered to

9 Team Selection shall be by a method adopted by members at A.G.M. Draws for internal competitions shall made by the committee and the match secretary will indicate on the draw sheets the dates by which each of the rounds must be completed by. All members will be expected to abide by the date unless due to legitimate circumstances they are unable to do so. In these circumstances a letter must be given to the match or "club" secretary stating reasons for being unable to play. The opponent of such games must be made aware of the letter.

10 Members may introduce and sign in 6 guests to the "club" and must remain with his party for the duration of their visit.

11 The "club" may be booked for private functions this must be done so by a member who must be at the function for the duration.

12 Children aged 0/15 must be accompanied by an adult who will be responsible for them during their visit to the club. The children must also vacate the premises by 10.00pm unless attending a private function. The "club" can provide nappy changing facilities in the disabled assisted toilets. Youths 16/17 are also welcome and may stay at the "club" for the duration of their visit All 0/17 must not enter the bar area except to access toilets.

13 All youth members aged 10/15 will be required to have Parental Consent forms signed before being allowed to represent the "club" at matches or competitions. Youth members will only be allowed use of the green when accompanied by an adult. Youth internal competitions must be marked by an adult there is no exception to this rule.

14 The committee from time to time will make Bye-Laws for the benefit of the "club" and its members. These will posted on the club notice board having been signed and dated by the President and Secretary.

15 Members reported for inappropriate behaviour or in such as deemed to be offensive to guests or fellow members will have such complaints investigated by the committee and if necessary the offending member requested to appear before a disciplinary hearing to answer the complaint made.

16 Grievances which a member may have must be submitted to the committee in writing clearly stating the basis of the grievance. A committee meeting will be convened to discuss the letter and what action to take if any. The complainer will be entitled to a written reply within 7 days of the hearing.

17 The laws of the game of bowls shall be those adopted by the World Bowls Scotland and rule changes notified to member clubs. The "club" shall also be subject to local rules or Bye-Laws of East Lothian Bowling Association.