



MINUTES OF THE MEETING OF EAST LoTHIAN LICENSING BOARD and EAST LoTHIAN LICENSING FORUM

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THURSDAY 26 JANUARY 2017
COUNCIL CHAMBERS, TOWN HOUSE, HADDINGTON

Board Members Present:

Councillor J Goodfellow (Convener)
Councillor D Grant
Councillor W Innes

Forum Members Present:

Mr G Hood (Convener)
Mr D Dickson
Mrs E Oldcorn, NHS Lothian
Mr R Ross
Mr J Thayers, MELDAP

Attending:

Ms K MacNeill, Clerk of the Licensing Board
Ms M Ferguson, Service Manager – Legal and Procurement
Mr R Fruzynski, Licensing Standards Officer
Ms G Herkes, Licensing Officer
Ms L Shearer, Solicitor
PC H Bowsher, Police Scotland
Insp A Harborow, Police Scotland
Mr J Sherval, NHS Lothian

Committee Clerk:

Ms J Totney, Team Manager – Democratic Services

Apologies:

Councillor S Akhtar
Councillor S Currie
Councillor F McAllister
Councillor T Trotter
Ms C O'Brien

Declarations of Interest:

None

Councillor Goodfellow (Convener) welcomed everyone to the meeting, apologised for the delay in arranging the meeting and commented that the meeting is well attended.

Everyone present introduced themselves.

1. MINUTE OF THE MEETING OF THE JOINT ELLB AND ELLF 24 SEPTEMBER 2015 FOR NOTING

Members noted the minute.

2. MATTERS ARISING

Gambling Act 2005 Statement of Principles – Councillor Goodfellow advised that a report had been submitted to today's meeting of the East Lothian Licensing Board which reported on the results of the consultation exercise for the review of the Board's Statement of Licensing Principles and sought the Board's approval of the attached Statement of Principles for 2016-2019. He commented that there are concerns that there may be an over-provision of gambling premises in East Lothian but acknowledged that there are no criteria for refusal of such premises on the basis of over-provision within the Act.

3. REVIEW OF THE LICENSING (SCOTLAND) ACT POLICY STATEMENT

The Clerk reported that it would be sensible to review the policy statement in light of the fact that the Scottish Government Air Weapons and Licensing (Scotland) Act 2015 had been passed. She advised that the Licensing Team were preparing a renewed draft policy statement for consideration by the new Licensing Board that would be appointed following the local government elections in May 2017. She encouraged Forum members to contribute to the consultation process. Mr Hood advised that the Forum would set up a working group at its next meeting. The Clerk advised that statistics would be sought from the NHS and Police Scotland regarding the impacts of alcohol, in order to inform the operating statement. She added that the Council's policy team had been gathering statistics on deprivation and that this information would also be taken into consideration. She encouraged Forum members to engage in discussions about repeated occasional licence applications and home deliveries of alcohol and that ideas would also be welcomed from existing Board members. The Clerk proposed that meetings would be arranged to which the Forum members would be invited.

Mr Hood advised that the next meeting of the Forum is the Annual General Meeting.

Insp Harborow welcomed the opportunity for an early meeting to agree the data sources that would be used. Board members asked that the health statistics be provided in a more readable format.

Mr Sherval undertook to look at the figures and suggested that front-line colleagues could provide some qualitative information in an attempt to make the figures more understandable.

Decision

Members agreed to note this item.

4. CLARIFICATION OF OVER-PROVISION WITHIN THE EAST Lothian LICENSING BOARD STATEMENT OF LICENSING POLICY, 2013-2016

The Clerk advised that this item is on the agenda at the request of Forum members. She added that the Board's current policy states that the whole of East Lothian is an overprovided area but explained that applicants can rebut the presumption against grant but that in those circumstances each case requires a written additional statement to be submitted in advance to the Board addressing the licensing principles. She added that each application is assessed on its own merits in conjunction with the knowledge of local members.

Mr Hood remarked that the over-provision statement doesn't work and that the Board often does not adhere to its own statement. Councillor Goodfellow accepted that this was a fair criticism. Mr Hood stressed that the next over-provision statement needs to change and asked if there would be targeted areas.

Councillor Grant commented that other Licensing Boards in Scotland are experiencing similar issues with their over-provision statement. He commented that when the current policy was decided in East Lothian, Prestonpans and Wallyford & Whitecraig should have been restricted areas, based on statistics. However, as the statistics had been years out of date the over-provision was applied to the whole of East Lothian with each application being decided on its own merits.

Councillor Innes talked about the difficulty in gathering meaningful statistics and determining a definition of over-provision. He also remarked on the fact that hospital statistics can often record alcohol related incidents in error.

Mr Sherval provided some background information on the way that hospital statistics are collected. He stressed that there is a clear desire to provide Licensing Boards with information that is helpful to them when making decisions.

Ms Oldcorn urged members to look beyond the statistics and not build the whole policy purely on statistics.

Mr Ross commented on the increase in alcohol off-sales and the ease with which alcohol could be obtained. He added that public houses are struggling as a result of this.

Mr Sherval stated that it would be useful to have statistics on the amount of alcohol that is sold by the licensed trade for consumption in East Lothian.

Councillor Goodfellow stated that the biggest problem is off sales and that there is a need to tackle the off sales industry and supermarkets and get data from these sources.

Mr Ross challenged as to why it was not a condition when licenses are granted to supermarkets that they have to provide information on alcohol off sales.

Mr Thayers commented that the alcohol related health and community costs need to be considered.

Councillor Innes remarked that the culture of drinking has changed with more people drinking at home, adding that it can be difficult to get people to drink responsibly and lead a healthy life.

Mr Hood commented that the on sale of alcohol is very well regulated but there is no control over supermarkets sales and the home consumption of alcohol.

Mr Thayers suggested that the Forum could do more to engage the community and obtain their views on the matter of over-provision. The Clerk advised that Community Councils are consulted with regard to all new applications.

Mr Ross remarked that a minimum pricing policy could be helpful.

Decision

Members agreed to note this item.

5. HOME DELIVERIES OF ALCOHOL/INTERNET PURCHASES

The Clerk advised that this item is on the agenda at the request of Forum members.

Mr Hood referred to concerns about home deliveries in Gullane, the result of which was that the deliveries had to be made by the personal licence holder. He remarked that this could be unfair to small retailers and asked if supermarket home deliveries of alcohol were done by personal licence holders. Councillor Goodfellow advised that the Board has no control over large supermarkets who deliver alcohol.

Board members discussed home deliveries of alcohol from Amazon and concluded that supermarkets had better training and regulated processes in place than Amazon.

In response to questions from members, the Clerk advised that the Board could set a fixed and consistent policy with regard to home deliveries of alcohol.

Insp Harborow asked about the potential for East Lothian Council to be consulted and advised when the licence for Amazon goes before the Licensing Board in West Lothian and wondered what negotiations were taking place with Scottish Government to control this expanding business. Councillor Goodfellow indicated that clarification could be obtained in writing from Peter Reid at the Scottish Government.

Board Members discussed whether Amazon could operate outwith the area where their licence had been granted and commented that some supermarkets are using agency drivers for home deliveries. Ms Oldcorn advised that Alcohol Focus Scotland and the Director of Public Health Scotland have raised their concerns regarding internet sales of alcohol in general. Ms Oldcorn agreed to forward a copy of their letter to the Licensing Board who will consider their position regarding representations in relation to home deliveries of alcohol by internet providers. Board members suggested that this could be a topic for including on the agenda at the Alcohol Focus Scotland annual conference.

Decision

Members agreed to note this item.

6. MEMBERSHIP OF EAST LoTHIAN LICENSING FORUM – APPOINTMENT/TERMINATION PROCESS AND TERMS & CONDITIONS

The Clerk advised that she had requested this agenda item. She informed members that there is a legislative requirement for the Council to appoint Forum member on the basis of terms and conditions, as designated by the Council. She explained that this would not alter the current nomination process for new members and that new members would continue to be approved by Councillors. However, there was now a requirement to formalise a more professional approach to Forum membership. She asked Forum members to consider what should be included in the terms and conditions and advised everyone about the Council's duty and responsibilities with regard to the mix of appointments within the membership of the Licensing Forum.

Mr Hood advised that he would look at the criteria for the mix of appointments, which are currently orientated towards public houses.

Decision

Members agreed to note this item.

7. MEET THE NEW LICENSING BOARD, JUNE 2017

The Convener advised that some of the current Licensing Board members would not be standing for re-election in May 2017 and that there would be new Board members. He outlined the training for new Board members and advised that there would be an early opportunity for Forum members to meet the new Board, following their training on 4 June 2017.

Decision

Members agreed to note this item.

8. ANY OTHER BUSINESS

Mr Hood asked if there is any training available for Forum members to understand the role of the Licensing Forum given that members are technically overseeing the implementation of licenses. The Clerk indicated that this was a potential role for the Licensing Standards Officer and acknowledged the need to invest in the Forum for it to be proactive and effective.

Ms Oldcorn advised that Alcohol Focus Scotland is looking at this and she would be happy to link in with them in this regard.

Mr Hood remarked that there are proposals for a National Licensing Forum. He added that a questionnaire has been issued which shows that the role of Forums is being taken more seriously.

Councillor Goodfellow closed the meeting, commenting that it had been useful to swap ideas and concerns. He welcomed the fact that Health colleagues were involved with both the Licensing Board and the Licensing Forum.

Signed

Councillor Jim Goodfellow
Convener of East Lothian Licensing Board/Convener of the joint
meeting with East Lothian Licensing Forum

**Report to East Lothian Licensing Board and East Lothian Licensing Forum
28 September 2017**

2016/17 Scottish Liquor Licensing Statistics

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Liquor licensing statistics (Scotland): 2016-17

	SCOTLAND	Aberdeen City	Aberdeenshire	Angus	Argyll & Bute	Clackmannanshire	Dumfries & Galloway	Dundee City	East Ayrshire	Dunbartonshire	East Lothian	East Renfrewshire	City of Edinburgh	Falkirk	Fife	Glasgow City	Highland	Inverclyde	
Premises licences																			
Licences in force on 31 March 2017	16,678	658	634	338	586	138	618	432	327	183	278	171	1,979	353	1,023	1,900	1,203	207	
(a) on sale licence ⁽¹⁾	11,587	458	425	253	433	89	463	311	201	113	189	113	1,435	214	678	1,353	887	131	
(b) off sale licence only	5,091	200	209	85	153	49	155	121	126	70	89	58	544	139	345	547	316	76	
Applications received during 2016-17																			
(a) on sale ⁽²⁾	257	14	11	4	9	1	5	14	2	2	6	2	33	5	8	45	30	1	
(b) off sale only	180	9	9	3	4	1	3	13	3	-	1	8	21	5	17	18	10	2	
<i>Applications refused under section 23 during 2016-17</i>																			
	14	1	1	-	-	-	-	-	-	-	-	-	-	1	-	3	-	-	
<i>Applications granted under section 23 during 2016-17</i>																			
	396	21	21	7	13	2	9	22	6	4	6	9	54	7	26	39	39	3	
<i>Applications for review of premises licence under sections 36 and 37 resulting in :</i>																			
(a) written warning	20	1	-	-	1	1	1	-	1	-	1	-	1	1	5	1	-	2	
(b) variation	19	9	-	-	-	-	1	-	1	-	1	-	2	1	-	1	-	-	
(c) suspension	38	-	-	-	-	-	-	-	-	1	-	-	23	-	2	2	-	-	
(d) revocation	85	2	-	-	-	-	-	-	2	1	-	-	40	-	10	1	2	2	
(e) no action	81	22	-	-	1	-	1	-	6	-	1	-	4	-	7	14	-	2	
Number of occasional licences granted during 2016-17	23,619	295	1,295	596	865	276	876	803	807	165	484	179	2,568	333	929	3,021	1,472	255	
Personal licences																			
Licences in force on 31 March 2017	56,236	2,651	2,300	885	1,557	465	1,501	1,405	1,212	669	930	654	7,566	1,331	3,161	7,166	3,459	556	
<i>Applications under section 72 during 2016-17</i>																			
(a) refused	21	1	1	-	1	-	-	1	-	-	1	-	11	-	-	-	1	-	
(b) granted	6,268	375	295	86	190	43	158	176	152	64	111	77	1,003	141	322	792	391	65	
<i>Proceedings taken under section 83 (notice of conviction) resulting in :</i>																			
(a) endorsement	9	-	-	-	-	-	1	1	1	-	1	-	1	-	-	-	-	-	
(b) suspension	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
(c) revocation	4	1	-	-	1	-	-	-	-	-	-	-	-	-	-	-	1	-	
(d) no action	7	-	-	-	-	-	-	-	-	-	-	-	7	-	-	-	-	-	
<i>Proceedings taken under section 84 (conduct inconsistent with licensing objectives) resulting in :</i>																			
(a) endorsement	10	-	-	-	-	1	2	-	2	2	1	-	-	-	-	-	-	-	
(b) suspension	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
(c) revocation	6	-	-	-	-	-	1	-	-	-	-	-	3	-	-	1	-	-	
(d) no action	4	-	-	-	-	-	-	-	-	-	-	-	-	-	2	-	-	-	
<i>Proceedings under section 86 (multiple endorsements) resulting in :</i>																			
(a) endorsement	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
(b) suspension	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
(c) revocation	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
(d) no action	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
<i>Revocations during 2016-17 of personal licences under section 87(3) (failure to provide evidence of having undertaken refresher training)</i>																			
	4,280	239	161	51	98	32	73	101	78	22	67	-	567	89	188	1,231	223	27	
Staff employed at 31 March 2017																			
Number (full-time equivalent) of licensing standards officers employed	57.0	2.0	4.0	1.0	2.0	1.0	2.9	2.0	2.0	2.0	1.0	1.0	7.0	1.0	4.0	4.0	2.0	1.0	

Source: Annual returns submitted by local authority licensing boards to Scottish Government, Justice Analytical Services

Notes: This information is derived from live management information systems. While the figures are subject to quality assurance processes as far as possible, they will be subject to the types of errors inherent in any such system and may be subject to on-going revision.

Symbols used in this table: - nil

1. The on sale licence category includes licences which allowed for both on sale transactions and off sale transactions.
2. The on sale category includes applications received which covered both on sale and off sale.

Liquor licensing statistics (Scotland): 2016-17

	Midlothian	Moray	Na h - Eilanan Siar	North Ayrshire	North Lanarkshire	Orkney Islands	Perth & Kinross	Renfrewshire	Scottish Borders	Shetland Islands	South Ayrshire	South Lanarkshire	Stirling	Dunbartonshire	West Lothian	
Premises licences																
Licences in force on 31 March 2017	212	321	104	399	717	109	593	434	456	151	415	705	404	237	393	
(a) on sale licence ⁽¹⁾	143	228	64	275	414	71	447	298	359	105	293	471	290	148	235	
(b) off sale licence only	69	93	40	124	303	38	146	136	97	46	122	234	114	89	158	
Applications received during 2016-17																
(a) on sale ⁽²⁾	1	2	7	13	5	-	6	3	5	2	4	3	5	4	5	
(b) off sale only	2	2	-	3	12	2	3	4	4	-	1	2	7	3	8	
<i>Applications refused under section 23 during 2016-17</i>																
	-	-	-	3	3	-	-	-	-	-	-	-	-	2	-	
<i>Applications granted under section 23 during 2016-17</i>																
	3	3	5	13	14	2	8	6	9	4	6	5	12	5	13	
<i>Applications for review of premises licence under sections 36 and 37 resulting in :</i>																
(a) written warning	-	-	-	-	1	-	1	2	-	-	-	-	-	-	-	
(b) variation	-	-	-	1	1	-	1	-	-	-	-	-	-	-	-	
(c) suspension	-	-	-	-	-	-	2	-	6	-	2	-	-	-	-	
(d) revocation	-	-	-	1	6	-	4	1	7	-	-	6	-	-	-	
(e) no action	-	-	-	5	1	-	3	12	2	-	-	-	-	-	-	
Number of occasional licences granted during 2016-17	206	395	193	956	827	204	998	487	1,311	119	732	789	635	210	338	
Personal licences																
Licences in force on 31 March 2017	1,124	1,133	288	1,606	2,217	347	1,673	1,302	1,106	386	1,922	2,492	1,102	784	1,286	
<i>Applications under section 72 during 2016-17</i>																
(a) refused	-	-	-	-	1	-	2	-	-	-	-	1	-	-	-	
(b) granted	63	124	27	175	198	31	162	138	127	25	214	229	115	62	137	
<i>Proceedings taken under section 83 (notice of conviction) resulting in :</i>																
(a) endorsement	-	-	-	2	-	1	-	-	-	1	-	-	-	-	-	
(b) suspension	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	
(c) revocation	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	
(d) no action	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
<i>Proceedings taken under section 84 (conduct inconsistent with licensing objectives) resulting in :</i>																
(a) endorsement	-	-	-	-	1	-	-	-	-	-	-	-	-	1	-	
(b) suspension	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	
(c) revocation	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	
(d) no action	-	-	-	-	2	-	-	-	-	-	-	-	-	-	-	
<i>Proceedings under section 86 (multiple endorsements) resulting in :</i>																
(a) endorsement	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
(b) suspension	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	
(c) revocation	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
(d) no action	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
<i>Revocations during 2016-17 of personal licences under section 87(3) (failure to provide evidence of having undertaken refresher training)</i>																
	-	1	8	91	113	14	105	88	79	22	161	183	61	46	61	
Staff employed at 31 March 2017																
Number (full-time equivalent) of licensing standards officers employed	1.0	0.4	1.0	1.0	2.0	1.0	1.0	1.0	1.0	0.2	1.5	2.0	1.0	2.0	1.0	

Source: Annual returns submitted by local authority licensing boards to Scottish Government, Justice Analytical Services

Notes: This information is derived from live management information systems. While the figures are subject to quality assurance processes as far as is possible, they will be subject to the types of errors inherent in any such system and may be subject to on-going revision.

Symbols used in this table: - nil

1. The on sale licence category includes licences which allowed for both on sale transactions and off sale transactions.
2. The on sale category includes applications received which covered both on sale and off sale.