



**POLICE
SCOTLAND**

Keeping people safe

CHIEF CONSTABLE'S REPORT TO THE
EAST LOTHIAN LICENSING BOARD
FOR THE PERIOD
1ST APRIL 2017 to 31ST MARCH 2018

Foreword

It gives me great pleasure to provide the Annual Licensing Report for 2017/18, in accordance with Section 12(A) Licensing (Scotland) Act 2005.

I would like to acknowledge the contributions made to effective licensing regulation in the past year. Working in partnership is vital to ensure a fair and consistent approach to licensing whilst maintaining a focus on preventing alcohol fuelled violence, disorder and antisocial behaviour. Police Scotland is committed to continuing to work with partners in the 32 Local Authorities across Scotland to achieve positive outcomes.

Over the past year, Police Scotland has continued to achieve success with a focus on prevention, underpinned by early intervention and enforcement. This has only been possible with the support of the many active partnerships that exist in local areas. I will ensure that all officers and staff continue to work with the licensed trade and other key partners, utilising the range of options available to them to achieve improved licensing standards, reducing violence, disorder and antisocial behaviour across Scotland.

On 1st May 2018, Minimum Unit Pricing of Alcohol was introduced in Scotland. We will work through the Evaluation Advisory Group to assess the impact of this legislation. The coming year will present many challenges but I am confident that through collaborative working, we will meet these challenges and continue to improve licensing standards and deliver a service to the communities of Scotland.

Mr Iain Livingstone QPM
Deputy Chief Constable Designate
Police Service of Scotland

Police Scotland Licensing Overview

The National Licensing Policy Unit (NLPU) sits within the Specialist Crime Division – Safer Communities based at Dalmarnock Police Office, Glasgow.

The NLPU is responsible for the two tier structure for licensing which supports both national and local priorities. They have overall responsibility for determining and delivering national licensing strategy and policy, by providing advice, guidance and support to divisional licensing teams.

Each of the 13 Local Policing divisions have locally based officers dedicated to the day to day management of licensing administration, complying with statutory requirements as well as addressing any issues that may arise within licensed premises in their local area.

Police Scotland Licensing is supported and governed by a National IT solution known as 'Innkeeper'.

The NLPU and Licensing practitioners within Police Scotland develop partnerships and identify best practice which assist in a better understanding of the challenges faced by the Licensed Trade. This approach enables us to continue to work with local communities and key partners to prevent alcohol related crime and offences.

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

National Perspective

Our Priorities and Policing Plans continue to be shaped by the objectives contained within Scottish Government's Strategic Objectives and National Outcomes and the Strategic Policing Plans that are delivered locally through single outcome agreements.

Consultation and engagement is combined with our own analysis of the issues that impact on the safety of the public to provide a firm evidence base for local policing teams to prevent crime and disorder and Keep People Safe.

Our National Priorities are

- Violence, disorder and antisocial behaviour
- Serious organised crime
- Counter terrorism and domestic extremism
- Protecting people at risk of harm
- Road safety and road crime
- Acquisitive crime

Licensing Board Area

The East Lothian local authority area is policed by J Division. Chief Superintendent Lesley Clark is the Local Police Commander who has the responsibility for all day-to-day policing functions. The Local Area Commander Chief Inspector Steven Duncan is based at Haddington. He is responsible for performance management, community engagement, partnership working and the daily management of local personnel.

Chief Inspector Duncan is supported by Inspector Andrew Harborow who is based at Tranent. The East Lothian Licensing Boards are attended by Inspector Harborow.

The Licensing Department is part of the Divisional Co-ordination Unit based at Dalkeith Police Station. The senior officers who have responsibility for Licensing are Inspector Andrew Toombs and Sergeant John Fleming.

The local Licensing Department is based at Haddington Police Station, one police officer supplemented by administration staff based at Dalkeith Police Station controls the day-to-day function.

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;

- Protect children, young people and the most vulnerable within our communities.
- Support the victims of sexual crime.
- Investigate child protection concerns.
- Work in partnership to prevent drug and alcohol misuse.
- Encourage the responsible management of licensed premises.
- Investigate adult protection enquiries.
- Prevent and reduce antisocial behaviour and crimes of violence.
- Identify those perpetrators who present the greatest risk of harm.
- Influence road user behaviour and improve road safety awareness.

Description of Board Area

The Command area of East Lothian serves approx. 103,000 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 193 'on sales' and 88 'off sales' premises in 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 9 Provisional Premises Licences granted and 1 Premises Licence granted by the Board. One of the Provisional Premises

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Licences was refused by the Board but was overturned on appeal by the High Court in Edinburgh.

The Statement of Licensing Policy is due for renewal this year (2018) and overprovision will be looked at again. There are currently no particular areas of East Lothian that place any significant demands on police resources due to night time economy, with no premises trading beyond 1am.

Operation of the Licensing (Scotland) Act 2005

Introduction

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 by the licensing team and other local policing officers to support the Licensing Objectives in tandem with the local/national policing priorities.

In East Lothian there were 384 recorded incidents in licensed premises between 1st April 2017 and 31st March 2018, this is an increase on the previous year. There has been a notable increase in thefts of alcohol from 'off sales' premises over the reporting year. The proactive use of exclusion orders and antisocial behaviour legislation continues to contribute hugely to reducing repeat offending in licensed premises.

Police Scotland carried out 608 recorded inspections of licensed premises during the reporting year, a large percentage of these were carried out by the licensing officer and local officers on the run up to major football and sporting events.

On Friday and Saturday evenings police officers are deployed on foot, to aid with dispersal of licensed premises and reduce antisocial behaviour and violence related incidents between the hours of 2200-0200.

Partnerships

Licensing Standards Officer (LSO)

The local police licensing officer works regularly with a number of partner agencies including 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.

In this reporting year the LSO teamed up with the licensing officer to investigate a report of a premises in the Prestonpans area selling 'slush puppies' with vodka shots in them. The licence holder was spoken to and the activity stopped.

There was also an increase in anti social behaviour recorded in the Haddington area. The LSO and the licensing officer followed up an allegation made by a member of the public that the youths were being sold alcohol from local 'off sales' in Haddington. This was found not to be the case.

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There were several joint visits made to a premises in the Musselburgh area, following information that the licence holder was selling alcohol to school children. A thorough check of the premises and their processes were discussed with the licence holder as well as 'challenge 25'. There has been no further information received suggesting that this is still the case.

Best Bar None (BBN)

Best Bar none is a unique National Award Scheme aimed at raising standards and rewarding licensed premises who undertake positive management practices in support of a safe night out.

The purpose of the Best Bar None Scheme is to

- Reduce alcohol related crime
- Promote social responsibility and duty of care.
- Improves knowledge and skills to assist in responsible management.
- Promotes partnership working to identify good practices and areas for improvement.
- Supports due diligence
- Awards both locally and nationally to reward success.
- Operating more responsibly can improve the commercial viability and attractiveness of a venue and locality.

During this reporting year there were 19 premises that took part in the BBN scheme. 3 premises in Port Seton, Dunbar and North Berwick attained a Bronze Award. 4 premises in Musselburgh, Port Seton and Tranent attained a Silver Award. 12 premises in Dunbar, Gifford, Musselburgh, Haddington, Ormiston, Prestonpans, Port Seton and North Berwick attained a Gold Award with one premises in Ormiston going through as a finalist to the National Awards.

The BBN Scheme is increasing in participants year on year and is something that Police Scotland will continue to drive forward, promoting and encouraging responsible management of licensed premises.

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. Police Scotland fully support these schemes and would encourage all licensees to become members of a scheme operating in their area.

Campaigns

During this reporting year there were a number of campaigns including the 'One Punch Two Lives' campaign to raise awareness of the consequences that one punch can

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have on two lives – the victim and the attacker. The hope was to encourage people to think about the consequences of their actions and the effect alcohol can have on their behaviour. Posters were handed into the majority of licensed premises within East Lothian and were very well received.

Another campaign was a National Drink Drive initiative involving beer mats being handed into our licensed premises comprising of three scots words (Choob, Numpty and Eejit) together with definitions on the reverse relating to drink driving. A humorous take on a serious message. Again, they were very well received.

Problem solving

The Intervention Process

As detailed in previous reports to the Licensing Board, issues in licensed premises are assessed using a well-established interventions process. Incidents connected to premises are identified by licensing officers who evaluate the licensing objectives to determine if any have been compromised.

Depending on the severity of the incident and history of the premises, licensing officers will categorise the premises/incident as follows:

Police Interventions Categories		Number this reporting year
Red	Problematic Premises – those operating in a manner inconsistent with the Licensing Objectives or out with the conditions of a premises licence and where local police intervention and support has failed or is unlikely to succeed in resolving the issues. A premises review request to the local Licensing Board is considered the most appropriate way to address the issue.	3
Amber	Premises that require Formal Intervention. Issues have arisen and a formal intervention agreement is entered into between premises licence holders and Divisional Licensing teams to resolve them. This action may be taken with more serious or repeat issues.	0
Green	Monitored – the premises have come to note for a minor adverse issue and are being monitored. This may result in an informal intervention in terms of advice/support to the premises along with police visits.	0
No Action	Action – An incident review has highlighted no issues regarding the management of the premises or licensing legislation. No further police action.	

Police intervention usually results in a meeting with the appropriate representatives of the premises concerned e.g. premises licence holder, designated premises manager and if appropriate, any stewarding company to discuss concerns and agree a way forward to resolve these.

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Premises being monitored by way of the above system are subject to weekly visits by either local officer's or licensing officers to monitor progress, measure improvement and ensure that agreed remedial measures are implemented.

The intervention system is ultimately designed to support the licence holder before any premises review is sought, although a serious or significant incident may obviously merit an immediate review application.

During the reporting year there were 3 Problematic premises in East Lothian which resulted in a request for a review of their premises licences. Two were as a result of failed test purchases and the third due to a breach in the conditions of their premises licence.

Summary

Section 1 – Unlicensed Sale of Alcohol

Alcohol is not to be sold on any licensed premises except and in accordance with a Premises Licence or Occasional Licence. As the Licensing (Scotland) Act 2005 is well bedded into everyday working practices.

Earlier this year it was highlighted to the Licensing Officer that an unlicensed premises in Levenhall was advertising alcohol sales and deliveries via a facebook account. Contact was made with the operator of the shop and the facebook page removed. The page had been misleading, in that the alcohol was actually being supplied from another of his shops in Prestonpans.

Section 22 - Applications

Over the course of the reporting year there has been 1 New Premises Licences granted and 2 Premises Licences confirmed, one of which was refused at the Board. This related to an 'Excluded' premises in North Berwick. Following an appeal at the High Court in Edinburgh, by the applicants agent, the Board's decision to refuse was overturned and the licence was granted.

There have also been 10 applications received by the Board for Provisional Premises Licences. One of which was withdrawn by the applicant. The remaining 9 were granted and in some cases the Board took steps to refuse 'off sales' and 'deliveries' in the operating plans. This is a step in the right direction to prevent antisocial behaviour and reduce the number of outlets for persons to access alcohol as well as reduce the risk of children accessing alcohol.

Section 36 – Application for Review of Licence

Police Scotland only seek review of a Premises Licence when an intervention has failed, is likely to fail or there is a serious risk to public safety if the premises continues to operate in the same manner e.g. the resulting problems as well as community impact must be considered.

In this reporting year there were 3 Review Applications submitted by Police Scotland. Two of which were as a result of failed test purchase operations and another due to a breach in the conditions of their licence. In all three cases the Board supported the

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Police applications for review and various conditions were attached to the licences as well as written warnings given.

Section 63 – Sale or Supply out with licensed hours

Officers in East Lothian monitor the sale or supply of alcohol out-with licensed hours closely. Local Officers continue to make pro-active visits to licensed premises particularly at weekends, to ensure premises are being managed appropriately.

Earlier this year the Licensing Officer received information that a premises in Levenhall were having regular 'lock ins'. The DPM was spoken to and advised of his responsibilities in relation to the consumption of alcohol after hours. The premises has since been placed on the Monitored list for this coming year.

Section 72 – Personal Licence Applications

There were 94 applications made for personal licences during this reporting year in East Lothian.

The amendment to legislation permitting the Chief Constable to request refusal for the purposes of 'any' Licensing Objective has widened the scope for making appropriate representations to the Board.

This legislation was used by the Police Licensing Officer on one such occasion when an applicant, a female operating a restaurant in the Haddington area applied to East Lothian Licensing Board for her personal licence. A request for refusal was submitted by Police Scotland under the 'preventing crime and disorder' Licensing Objective, due to her having a 'pending case'. The Board continued the application for 6 months.

Section 84 (84A) – Personal Licence Reviews

Police Licensing Officers are responsible for monitoring the conduct of Personal Licence Holders. In particular, there have been occasions when the holders of a personal licence have failed to report conviction(s) for relevant offence(s) to the Court and/or the Licensing Board. Again, the amendment to legislation in terms of the Criminal Justice and Licensing (Scotland) Act 2010 and the Police and Fire Reform (Scotland) Act 2012 has widened the ability for the Chief Constable to report conduct inconsistent with the Licensing Objectives.

There were 2 Personal Licence Reviews requested by Police Scotland in this reporting year, one in relation to a male from the North Berwick area who had been convicted of a drink driving offence but had failed to notify the Board of this within the month. A review request was submitted and prior to the hearing date the personal licence holder surrendered his licence to the Board.

Another occasion was a DPM from a Tranent premises, again convicted of a drink driving offence, on this occasion she had notified the Board. She was called to a hearing and her personal licence was endorsed for 5 years, a decision that was fully supported by Police Scotland.

Section 94 – Exclusion Orders

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 appropriate. The use of Exclusion Orders are fully supported by the licensed operators in East Lothian.

Section 97 – Closure Orders

There were no closure orders used within East Lothian during the reporting year. It is fully expected that should a premises require to cease trading, due to a serious risk to public safety, that we would receive full cooperation from the licence holder or person in charge.

Sections 111-116 – Drunkenness / Disorder Offences

The following licensing offences have been reported to the COPFS during the reporting year.

Number of offences reported to COPFS	
Section 111 (drunk persons within licensed premises)	0
Section 112 (obtaining alcohol by or for a drunk person)	0
Section 113 (sale of alcohol to a drunk person)	0
Section 114 (DPM drunk whilst on duty)	0
Section 115 (disorderly conduct within licensed premises)	0
Section 116 (refusal to leave licensed premises)	4

The numbers reported to COPFS above remains relatively low as a result of officers using their discretion in many cases. We are committed to keeping people safe and improving the quality of life for residents in East Lothian.

Preventing the Sale or Supply of Alcohol to Children or Young People

Introduction

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.

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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 affects many communities.

There were 6 Test Purchase Operations carried out in East Lothian during the reporting year with a total of 67 'off sales' premises tested, this resulted in 4 failures in the Dunbar, Musselburgh, North Berwick and Prestonpans area.

All 4 premises passed a re-test, which was carried out within 14 days of the original fail date. Two of the premises were taken to Review due to other issues within the store in relation to signage and training records etc.

The following licensing offences have been reported to the COPFS during the reporting year.

Number of offences reported to COPFS	
Section 102 (sale of alcohol to a child or young person)	5
Section 103 (allowing the sale of alcohol to a child or young person)	3
Section 104A (supply of alcohol to a child)	0
Section 104B (supply of alcohol to a young person)	3
Section 105 (purchase of alcohol by or for a child or young person)	0

Section 104A and 104B you will note is a new addition from last years report following the amendment made to the Act by the Air Weapons and Licensing (Scotland) Act 2015. This has proved to be a very useful weapon in the fight against 'agent purchase' or 'proxy purchasing' and will continue to be used by local officers whilst out on patrol.

Proposed Activity

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.

Tackling Serious and Organised Crime

Introduction

The Serious Organised Crime Task Force was set up by the Scottish Government to provide direction and co-ordination for all organisations involved in tackling Serious Organised Crime in Scotland.

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The task force has a remit to disrupt, dismantle and pursue Serious Organised Crime Groups (SOCGs). Key partners include Police Scotland, NCA, HMRC, COPFS, SOLACE and the Scottish business Resilience Centre, amongst others.

If SOCGs gain a foothold in licensed premises then this would afford the criminal group a seemingly legitimate income stream, which could be no more than a veneer for other criminal activities such as money laundering, tax evasion, drug and people trafficking and other dishonest activities.

SOCG's pose a serious threat to communities, individuals and businesses. We use intelligence and enforcement to break the cycle of crime and reduce opportunities for criminals to profit from illegal activity.

Activity

Over the past year, the Police Licensing Officer has scrutinised and interrogated licence applications to identify where OCG's may be trying to enter legitimate businesses. This is particularly detailed when processing New Premises and Transfer applications, where the applicant may be asked to evidence the source of any financing. Unfortunately a lot of SOCGs already have a foothold in licensed premises which makes it very difficult to object to these applications because more often than not they have no relevant convictions to comment on. In some cases they do not actually transfer the licence, they are 'tenants', who neither hold the premises licence or the managers position and therefore are not 'relevant' persons.

The Licensing Officer continues to monitor the persons connected to licensed premises in East Lothian who are known to have links to SOCG's.

Proposed Activity for the Year Ahead

Since Christmas 2017 there have been two dedicated police officers dealing with theft shoplifting in the East Lothian area and it is anticipated that this will continue. I mentioned earlier in the report that there has been a considerable increase in the number of incidents on licensed premises, a lot of which are the theft of alcohol from off sales. We are now, through the Board Policy Statement, looking at the crime prevention side of things and what operators can do to reduce this figure and support the 'preventing crime and disorder' Licensing Objective.

The Board will be aware that minimum pricing will come into effect this coming year (1st May) and it is anticipated that this will bring other challenges as well as potentially, an increase in the theft of alcohol.

Police Scotland and the Fire Service continue to work closely with the Scottish Business Resilience Centre to evolve the Best Bar None scheme. Organisers recognise that standards are improving on a year by year basis and hope to continue in the coming year, increasing the number of premises taking part.

Test Purchasing will also continue to be used as a tactic to increase awareness of underage drinking and the associated antisocial behaviour that can result.