



**AGENDA FOR THE MEETING OF
EAST LOTHIAN LICENSING BOARD**

**THURSDAY 27 OCTOBER 2022 at 10.00am
VIA DIGITAL PLATFORM**

Agenda of Business

Apologies

Declarations of Interest

Members and officers should declare any financial and non-financial interests they have in the items of business for consideration, identifying the relevant agenda item and the nature of their interest.

- 1. Minutes for Approval**
East Lothian Licensing Board, 22 September 2022 (**pages 1-4**)
- 2. Chief Constable's Report to the East Lothian Licensing Board, 1 April 2021 to 31 March 2022 (pages 5-26)**
- 3. Review of Occasional Licences**
Buck & Birch Ltd., Unit 9, Merryfield Business Centre, Macmerry (**pages 27-38**)
- 4. Grant of Personal Licence**
Gareth Fender (**pages 39-48**)

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- 5. Review of Personal Licence**
Andrew Leggett (**pages 49-51**)

Carlo Grilli
Clerk of the Licensing Board
20 October 2022

Public papers for this meeting are available to view on the East Lothian Council website:
http://www.eastlothian.gov.uk/meetings/committee/53/east_lothian_licensing_board



**MINUTES OF THE MEETING OF
EAST LOTHIAN LICENSING BOARD**

**THURSDAY 22 SEPTEMBER 2022
ONLINE PLATFORM MEETING**

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Board Members Present:

Councillor L Bruce (Convener)
Councillor C Cassini
Councillor G Gilbert
Councillor G McGuire
Councillor J McMillan

Clerk of the Licensing Board:

Mr C Grilli, Service Manager – Governance

Attending:

Ms M Winter, Licensing Officer
Ms S Fitzpatrick, Team Manager – Licensing and Landlord Registration
Ms K Harling, Licensing Standards Officer
PC G Bairden, Police Scotland

Committee Clerk:

Ms J Totney, Team Manager – Democratic and Licensing
Ms M Scott, Committees Officer

Apologies:

Councillor F Dugdale

Declarations of Interest:

None

1. MINUTES FOR APPROVAL
East Lothian Licensing Board, 25 August 2022

The minutes were agreed as an accurate record of the meeting.

2. GRANT OF PROVISIONAL LICENCE

a. Winton Brewery Tap Room, Unit 10/11 Station Yard, Hospital Road, Haddington

The application sought a provisional premises licence to sell alcohol for consumption on premises between 4pm-11pm Monday-Thursday and 12pm-11pm Friday-Sunday. This would also include the sale of alcohol for consumption off premises between 10am-6pm Monday-Thursday and 10am-10pm Friday-Sunday.

David Mackinnon and Steven Holligan, applicants, were present to speak to the application. They reported that the Tap Room had been operating on occasional licences since June 2022 and they hoped to move to a provisional licence and later a full premises licence. Mr Mackinnon and Mr Holligan employed two locals as staff and had local musicians playing each month. The bar was an American concept of a brewery tap room, which was inviting to families and offered a relaxed atmosphere.

Karen Harling, Licensing Standards Officer (LSO), had worked extensively with Mr Mackinnon and Mr Holligan and found them to be both professional and competent. She added that the applicants had liaised with her in regards to the provisional premises licence, their occasional licence use, and also in relation to their premises in Dunbar. There had been no complaints or incidents regarding the premises since it began operating. Ms Harling explained she had spoken with Mr Mackinnon and Mr Holligan regarding deliveries of alcohol from their brewery, and they had confirmed they were aware of the policy and their responsibility to ensure challenge 25 checks are completed. Ms Harling made two recommendations in her report: that the outside drinking and seating area close by 22:00 each day; and that there be no amplified announcements, music, or entertainment in the outdoor area.

PC Graeme Bairden agreed with the LSO report and added that no issues had been raised regarding the premises. PC Bairden also supported the LSO's recommendations and had no objections to the application.

Councillor McMillian was pleased to see the application going ahead and that the premises were so well run. He knew from friends that the Tap Room had been accepted in the area and hoped it would become a permanent fixture. He advised the applicants to keep in touch with police and licensing staff. He was happy to grant the application.

Councillor McGuire echoed Councillor McMillian's comments. He had had a fabulous experience when visiting the Tap Room himself, and was happy to grant the application. Councillor Bruce also echoed Councillor McMillian's comments and was pleased to see something like the Tap Room being introduced in East Lothian.

The Clerk of the Board explained that members would vote to approve the application and if they were happy to accept the conditions of the LSO report.

The Convener moved to a roll call vote and the application was granted unanimously, including conditions highlighted in the LSO report.

Decision

The application was granted unanimously.

Signed

Councillor L Bruce
Convener of East Lothian Licensing Board

DRAFT

**EAST
LOTHIAN
Licensing Report
2021-2022**



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**POLICE
SCOTLAND**
Keeping people safe

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Foreword

It gives me great pleasure to provide the Annual Licensing Report for 2021/22, in accordance with Section 12(A) Licensing (Scotland) Act 2005. Throughout this year Local Authorities and Police Scotland worked hard to support licensed premises in their road to recovery as Covid-19 restrictions were being lifted.

Collaboration is vital to ensure these businesses can flourish, providing much needed employment for our communities as well as a safe environments for people to socialise. Police Scotland will continue to work closely with Local Authorities, as well as other stakeholders, to ensure there is a fair and consistent approach across all 32 Local Authorities throughout Scotland to aid this recovery. Preventing alcohol fuelled violence, disorder and antisocial behaviour remains a priority for Police Scotland and I believe that working together we can reduce this through early intervention and enforcement.

I would like to take this opportunity to thank our local partnerships and the good work they carry out. With their support Police Scotland and partners can continue to drive improvements in licensing. I will continue to ensure that all officers and staff recognise the importance of working together with key partners, including the Licensing Trade, in an effort to improve licensing standards nationally.

Mr Iain Livingstone QPM
Chief Constable
Police Service of Scotland

Police Scotland Licensing Overview –

The Violence Prevention and Licensing Co-ordination Unit (VPLCU) sits within Safer Communities based at Dalmarnock Police Station, Glasgow.

The VPLCU upholds the two tier structure for licensing which supports both national and local priorities through service delivery. They have overall responsibility for determining and delivering national licensing strategy and policy, by providing advice, guidance and support to divisional licensing teams as well as undertaking other specialist functions.

The Violence Prevention and Licensing Co-ordination Unit is a specialist department which consists of a small team of officers, based in Glasgow. The officers within the unit work with divisional licensing teams and partner agencies to help shape policy and strategy around the police licensing function. They provide practical and tactical advice to police licensing practitioners, operational officers, supervisors and policing commanders.

The VPLCU 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

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illegal or irresponsible sale, supply or consumption of alcohol with the intention of preventing and reducing crime and disorder.

During 2021/2022, from a licensing perspective, our particular focus was on the following;

- Scrutiny of the serious incidents of violence, disorder and antisocial behaviour linked to licensed premises.
- Working closely with Licenced Premises and Scottish Government to navigate the challenges of the COVID-19 pandemic through the 4Es approach by engaging, explaining, educating and enforcing.
- Governance and ongoing development of the National ICT Licensing System, known as “Inn Keeper”, to increase the efficiency and effectiveness of liquor and civic licensing administration and management. Police Scotland are currently working on upgrade to the National ICT system to ensure compliance with GDPR legislation.

Each of the 13 Local Policing Divisions have a licensing team responsible for the day to day management of licensing administration, complying with statutory requirements as well as addressing any issues that may arise within licensed premises in their local area.

LICENSING BOARD AREA

The Licensing Board area is policed by Lothians & Scottish Borders (J) Division. Chief Superintendent Catriona Paton is the Local Police Commander who has the responsibility for all day-to-day policing functions. The Local Area Commander Chief Inspector Jocelyn O’Connor is based at Haddington. She is responsible for performance management, community engagement, partnership working and the daily management of local personnel.

Chief Inspector O’Connor is supported by Inspector Stuart Fletcher who is also based at Haddington. The East Lothian Licensing Boards are predominantly attended by Inspector Stuart Fletcher and PC Graeme Bairden.

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 John McEwan and Sergeant Rachel Stark.

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The local liquor Licensing Department is based at Dunbar Police Station. This consists of one police officer, PC Graeme Bairden, supported by administration staff based at Dalkeith Police Station and West Lothian Civic Centre.

Local Policing Priorities

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

- Protecting the most Vulnerable People
- Reducing Violence & Antisocial Behavior
- Reducing Acquisitive Crime
- Improving Road Safety
- Tackling Serious and Organised Crime

In response to the local policing priorities, J divisions will continue to work in partnership with partner agencies to reduce alcohol related criminality and continue to develop night time economy plans with licensed premises. It is recognised that education, prevention, partnership working and robust policing are all key factors in reducing crime and disorder in this area.

Description of Board Area

The command area of East Lothian serves, as of 30th June 2020, a population of 107,900 people covering an area of 262 square miles from Musselburgh to the Dunbar area on the east coast and south into the Lammermuir Hills. The age group

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25-44 saw a 4.2% decline in numbers from 1998 to 2020 while the 45 - 64 age group saw a 46.4% increase in volume of population over the same period (National records of Scotland). Approximately 31,523 persons residing in East Lothian are in the 45-64 age group which represents 29.2% of the population. Between 2018 and 2028, the population of East Lothian is projected to increase from 105,790 to 113,403. This is an increase of 7.2%, which compares to a projected increase of 1.8% for Scotland as a whole.

There are currently:

- 74 'on sales' only premises,
- 87 'off sales' only premises, and
- 126 combined on/off sales premises

Giving a total of 287 premises in East Lothian licensed to sell alcohol. This is only a reduction of 0.34% since the last reporting year.

Covid-19 PANDEMIC

Between March 2020 and May 2022 the licensed trade were met with unprecedented times, due to lock downs and restrictions on their businesses, as a direct result of Covid-19. It is only now over two years later that we find ourselves preparing to return to normality.

Police Scotland set up 'Operation Talla' in response to the pandemic, ensuring a consistent and measured approach was taken to implementing restrictions throughout the country. Lothian & Scottish Borders Licensing Department worked closely with Operation Talla, as well as Liquor & Civic Licensing Policy Unit to provide clear and consistent advice to operational officers, to enable them to support premises as they introduced special measures in response to restrictions.

Police Licensing, in partnership with Licensing Standard Officers (LSO's) and Environmental Health Officers worked closely with the licensed trade, including legal representatives, throughout this difficult time, providing guidance, advice and support to them and their staff to assist in the safe operation of licensed premises through the constantly changing challenges that faced them during this time.

Many premises adapted their business to make best use of their facilities, identifying areas that could become beer gardens, such as carparks or applying to local

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councils to access pavement space, to allow them to continue to trade within the parameters of the rules.

As we return to normality it is anticipated that the number of occasional licences will increase hugely due to the number of re-scheduled weddings and events. This will have an impact on the pressures placed upon licensing staff, to ensure all these applications are processed and approved where possible.

OPERATION OF THE LICENSING (SCOTLAND) ACT 2005

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 243 recorded incidents in licensed premises between 1st April 2021 and 31st March 2022, this figure shows a slight increase from the previous year but a major decrease from 355 recorded incident in the year 2019/2020. This is likely due to the continued restrictions applied to licenced premises during the Covid-19 pandemic. Police Scotland carried out 248 recorded inspections of licensed premises in East Lothian during the reporting year.

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

The proactive use of exclusion orders and antisocial behaviour legislation continues to contribute hugely to reducing repeat offending in licensed premises.

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The misuse of alcohol is regularly cited as a contributory factor in relation to crimes of violence, domestic abuse, disorder and antisocial behaviour occurring on our street and within our homes. In addition, alcohol is also known to lower inhibitions which can have an impact on people's lives, both resulting in them becoming victims of crime, as well as the perpetrator, which can have serious consequences for individuals and their families.

We continue to ensure there is a concerted focus on the issues surrounding the sale and supply of alcohol within our communities and work together in partnership with Licensed Premises and other agencies to promote responsible trading practices, ultimately keeping people safe.

The intervention Process

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

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.

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.

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

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Police Intervention 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.	1
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.	1
NO ACTION	Action – An incident review has highlighted no issues regarding the management of the premises or licensing legislation. No further police action.	0

Over the last calendar year there has been one premises in East Lothian which has been classed as ‘Monitored’. This premises closed and is now trading with a different licensee.

During the reporting year there was one problematic premises in East Lothian, however they accepted advice and guidance from police and there are no longer is concerns regards this premises.

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. During the reporting year no premises or events were found to be operating unlicensed.

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Section 22 - Applications

Over the reporting year, there were 11 Provisional Premises Licences, a decrease of 3 from last year. All 11 received confirmation of a Provisional Premises Licence. Some of these applications were for home delivery of alcohol gift packages.

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 no review applications of this type submitted by Police Scotland in East Lothian.

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. The police Innkeeper IT solution can be accessed by police control staff and officers alike, twenty four seven, providing any information on licensed hours etc. that are required, out with normal office hours of the Licensing Department. Close monitoring of premises through the use of Innkeeper, tasking's, and night time economy dispersal details continue to assist in reducing offending of this nature. In this reporting year, there has been no licence holders reported for this type of offence.

Section 72 – Personal Licence Applications

There were 130 applications made for the grant or renewal of personal licences during this reporting year in East Lothian. This is a significant increase on the previous year from 75 applications, yet a decrease from the year before, where 237 applications were received in 2019-2020 reporting period. Covid-19 is likely to be a

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contributing factor and therefore it is anticipated an increase in applications will be reported in the coming year.

The amendment to legislation in terms of the Criminal Justice and Licensing (Scotland) Act 2010 and the Police and Fire Reform (Scotland) Act 2012 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. During this reporting year there has been no representation of this type made to the Licensing Board.

Section 84 (84A) – Personal Licence Reviews

Police Licensing Officers are responsible for monitoring the conduct of personal licence holders. Again, the amendment to legislation has widened the ability for the Chief Constable to report conduct inconsistent with the Licensing Objectives.

There was no Personal Licence Review requested by Police Scotland in this reporting year.

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 three months and up to two years. The Police Licensing Officer proactively drives the request for exclusion orders whenever there is an incident in or in the immediate vicinity of licensed premises. Persistent offenders can also be dealt with under the Anti-Social Behaviour legislation. The use of Exclusion Orders are fully supported by the licensed operators in East Lothian. There were no exclusion orders during the dates reported.

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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 – East Lothian	2019-20	2020-21	2021-22
Section 111 (drunk persons within licensed premises)	0	0	2
Section 112 (obtaining alcohol by or for a drunk person)	0	0	0
Section 113 (sale of alcohol to a drunk person)	0	0	0
Section 114 (DPM drunk whilst on duty)	0	0	0
Section 115 (disorderly conduct within licensed premises)	1	1	1
Section 116 (refusal to leave licensed premises)	5	3	5
Section 102 (sale of alcohol to a child or young person)	0	1	0
Section 103 (allowing the sale of alcohol to a child or young person)	0	0	0
Section 104A (supply of alcohol to a child)	0	3	0
Section 104B (supply of alcohol to a young person)	2	2	3
Section 105 (purchase of alcohol by or for a child or young person)	1	0	0

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

Violence and ASB Data

A total of 907 acts of violence were recorded within East Lothian for the period from 1 st April 2021 to 31st March 2022. This equated to two murders, one attempted murder, 31 serious assaults, 21 robberies and 852 common assaults which includes 59 assaults on Police Officers and eight assaults on Retail Workers. This represents an increase of 141 crimes (18.4%) from the 2020/21 levels of violence. The volume of residential locations amounts to 420 crimes (46.3%) leaving 487 crimes in the public domain. A total of 21 crimes of violence were recorded for licensed premises within East Lothian during 2021-22 compared to three reports in 2020-22. It was also

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noted that 26 crimes were committed within supermarkets licensed to sell alcohol with one such crime being “alcohol” related. The table below depicts the overall crimes of violence by section for the past three years for comparison.

Section	2019-20	2020-21	2021-22	Change to Previous year
Dunbar	80	80	88	+10.0%
Haddington	97	84	129	+53.6%
Musselburgh	286	223	308	+38.1%
North Berwick	33	51	36	-29.4%
Prestonpans	155	153	149	- 2.6%
Tranent	187	175	197	+12.6%

Violence Data Where Alcohol Is A Factor

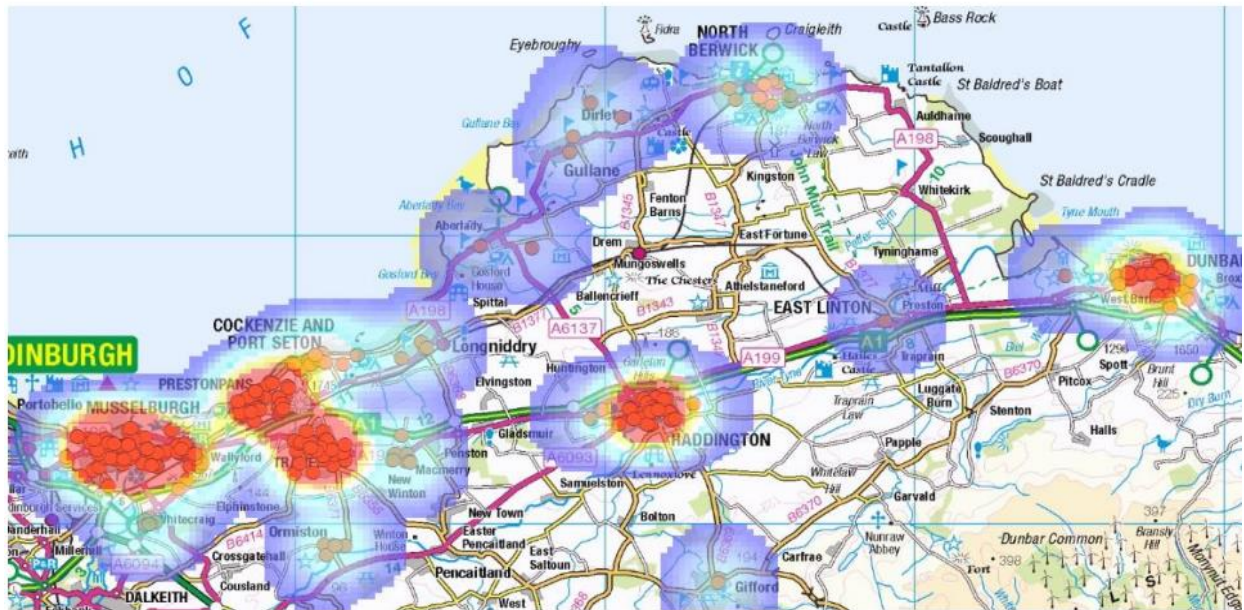
Violence recording indicates an “Alcohol” marker as a clearly defined aggravator to indicate where the presence of alcohol is deemed a factor in the act of violence. Of the 907 recorded crimes of violence for the 2021-22 period, a total of 206 had the alcohol marker attached to the crime report. Of that total 117 were in residential locations leaving 89 acts of violence in a public space where alcohol featured. The following map has been produced indicating the locations of public space violence where alcohol is a factor. The black dots indicate alcohol while the red dots are the other crimes where no such aggravator has been added.



The areas of Musselburgh, Prestonpans, Tranent, Haddington and Dunbar are evident above. The volume of alcohol related incident in public space has increased since the easing of enforced lockdown situations due to the Coronavirus Pandemic.

Public Space Violence

The following maps indicate the main locations for crimes of public space violence within East Lothian in relation to the “Scene MO” specified on each crime report for an act of violence recorded during 2021-22. The total number of public space crimes of violence totalled 487 from the 907 crimes recorded during 2021-22 (53.7%). This represents an increase from the 351 crimes recorded in 2020/21 and is likely to be a direct result of the easing of lockdown restrictions from the Covid pandemic.



Antisocial Behaviour

A total of 4951 calls relating to ASB have been recorded during 2021-22 within the East Lothian area. This represents a decrease of 2184 calls (30.6%) from the 7135 recorded in 2020-21. The Operation Talla related calls linked to the Coronavirus Covid regulation's accounted for 169 calls (3.4%) in 2021-22 compared to a total of 1479 in 2020/21. Removing Operation Talla calls from the totals give a decrease in the volume of calls in 2021/22 by 15.5% on the 2020/21 total also minus Operation Talla calls. The following maps indicate the main locations for acts of ASB

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Partnership Working

The Licensing Officer supported by local policing officers, have promoted the Police Service of Scotland's Force Priorities in conjunction with the four licensing objectives and the overarching principles and aims of the Licensing (Scotland) Act 2005.

Police management East Lothian continue to enjoy a positive working relationship with partner agencies, in particular with East Lothian Council and the Licensing Board. The local licensing officer works regularly with a number of partner agencies and organisations to improve local licensing issues including Trading Standards, Environmental Health, HM Revenue & Customs, Immigration, East Lothian Licensing Forum, Security Industry Authority, NHS Borders, Scottish Ambulance Service and Scottish Fire and Rescue.

Licensing Standards Officer (LSO)

The local Police Licensing Officer works regularly with a number of partner agencies including the Local Authority. He continues to work alongside the LSO within East Lothian to maintain effective information sharing procedures and establish good partnership working. This unified approach has resulted in a number of successful resolutions.

East Lothian Licensing Forum

The police licensing officer is an active member of East Lothian Licensing Forum and continues to provide them with relevant information relating to licensed premises as well as consultation and feedback on other licensing policy and guidance.

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.

Officers 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 and during school holidays or local events.

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.

There is two school link officer and eight Community Beat Officers based in East Lothian and they are seen as one of the main links between Police and children and young persons in the area. The local licensing officer continues to work alongside these officers to provide education and support to students around the dangers of alcohol not only to their own health but also the impact on the community.

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TACKLING SERIOUS AND ORGANISED CRIME

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.

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.

Examples of Serious and Organised Crime (SAOC) Activity in the Board area -

Over the past year, the police Licensing Officer has scrutinised and interrogated licence applications to identify where Serious and Organised Crime Groups (SOCGs) 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 Designated Premises Manager position and therefore are not 'relevant' persons.

The police Licensing Officer continues to monitor the persons connected to licensed premises in East Lothian, who are known to have links to SOCGs. All opportunity is taken to disrupt the running of these licensed premises whenever an opportunity

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arises. Proactive visits to these premises keeps the pressure on these operators and ultimately they tend to leave an area as quickly as they arrived.

The use of intelligence is now an option when objecting to a licence, however the process is strictly managed.

Campaigns and Events

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.

The 'Best Bar None' scheme has been suspended for two years due to the majority of the premises being closed or following restrictions due to Covid-19. The BBN scheme may be resurrected during 2022 now that restrictions have lifted and there is a shift back to 'normality'.

THAT GUY was a campaign launched by Police Scotland in October 2021 that aimed to reduce rape, serious sexual assault and harassment by having frank conversations with men about male sexual entitlement with the intention of making

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woman feel safer. This campaign was advertised on many different social media platforms but pub, clubs and nighttime entertainment venues were also approached to support getting the message out there, with fliers and other advertisement, including their own social media.

With over 2.8 million views of the campaign video on twitter alone, it's fair to say THAT GUY went viral, with a huge response on social media and in the press.

Proxy Campaign

A 'National Proxy Purchase Campaign' was scheduled to take place in 2020, where Police and partners would engage with premises to raise awareness of the issue of adults buying alcohol for children and young people. This was aimed at providing education, support and advice to premises, as well as using local and social media to highlight the impacts of it to communities, in an effort to reduce proxy purchases in the division as a whole. Unfortunately, this campaign was postponed as a result of the Covid-19 pandemic but has since been resurrected and has been up and running since May 2022.

Local Licensing Officers have been visiting on and off sale premises, to hand out campaign materials, to raise the public's knowledge and awareness, as well as taking the opportunity to speak with staff providing guidance and advice, in an effort to reduce the number of proxy sales in East Lothian.

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PROPOSED ACTIVITY FOR THE YEAR AHEAD

The division has an operation which focuses on violence in all forms and recognises that alcohol has a significant part to play in a large amount of the recorded crimes and incidents.

We will continue to work towards both divisional and national priorities in particular in connection to the consumption of alcohol by carrying out and supporting the following proposed activity over the coming year.

- The licensing officer will continue to work alongside partner agencies and LSO's to provide quality and pertinent advice and support to licence holders and their staff in order to ensure they keep both their staff and customers safe and are aware of the legislation and licensing objectives.
- Local Community Police Officers' will undertake a dedicated night time economy policing plan which focusses on alcohol related incidents, antisocial behaviour, violence, disorder and drugs misuse. They provide a targeted and coordinated approach in conjunction with the local licensing officer to deter, disrupt and detect antisocial behaviour. This activity will include licence premise visits to ensure compliance and good practice. Any incidents occurring at or near any licensed premise are further followed up by the local licensing officer.
- Local Licensing Officers will continue to analyse intelligence and disseminate to colleagues allowing for a measured and focussed tasking approach.
- All reports of proxy purchase will continue to be prioritised and interventions with premises to educate and provide advice and support. Further use of social media platforms to provide awareness.
- To engage with licensees, to deliver any national campaigns including providing 'Bystander' training to licence premise staff, with a view to education, to protect

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vulnerable persons within licensed premises and help tackle sexual violence connected to alcohol consumption.

- Engage with any major event organisers to agree alcohol management plans for the events, work alongside partner agencies and events planning to provide advice from a licensing perspective at any safety and advisory group meeting in relation to any such event.
- Continue to raise objections, representations and other appropriate concerns in relation to applications for all types of alcohol licences. Furthermore continue to review incidents and submit licensing reviews to the local authority to be reviewed by the Licensing Board.

To conclude we would like to thank you for your continued support during what has been a challenging year for all. We have all had to adapt to a new way of working and ever changing circumstances which has been embraced by all.

We look forward to a safe and healthy 2022/2023.

Our Ref: CG/mjw/EN/L/1/OCC
Your Ref

Date: 6th October 2022



3

Mr Rupert A. Waites



Carlo Grilli
CLERK OF THE LICENSING BOARD

John Muir House
Haddington
East Lothian
EH41 3HA
licensing@eastlothian.gov.uk

Dear Sir

LICENSING (SCOTLAND) ACT 2005
REPEATED OCCASIONAL LICENCE APPLICATIONS – 28th October 2022 TO 5TH JANUARY 2023
PREMISES: BUCK & BIRCH LTD., UNIT 9, MERRYFIELD BUSINESS CENTRE, MACMERRY

Further to your attendance at East Lothian Licensing Board on Thursday 25th August 2022 regarding the repeat continuation of applying for Occasional Licences for the above premises. I now write to advise you as you have not made an application for a provisional/full licence the Licensing Standard Officer has submitted a representation requesting that you attend the next meeting of the Licensing Board.

Please find enclosed a copy of representation received from the Licensing Standard Officer.

In the circumstances, I hereby formally cite you to attend the remote connect meeting in order to address the Licensing Board on terms of the applications. If you are unable to attend the meeting you may appoint another person to speak on your behalf, you must however provide the Licensing Office a mandate which sanctions them to do so. This can be emailed to licensing@eastlothian.gov.uk

An agenda and details of the remote connect Link will follow in due course.

Yours faithfully

Carlo Grilli
Clerk to the Licensing Board

Enc.

Direct Line: 01620 827664
Email: licensing@eastlothian.gov.uk

EAST LOTHIAN COUNCIL

Licensing Standards

From: K. Harling
Licensing Standards Officer

To: C. Grilli
Clerk to the Licensing Board

Date: 29th Sep 2022

Subject: LICENSING (SCOTLAND) ACT 2005
REPRESENTATION OCCASIONAL LICENCE APPLICATIONS –
BUCK & BIRCH LTD, UNIT 9, MERRYFIELD BUSINESS CENTRE,
MACMERRY

At the East Lothian Licensing Board hearing on 22nd August the below representation for the grant of occasional licence applications for the premises Buck and Birch was heard and considered. The result being that the occasional licences were granted until 27th October 2022 and the applicant Mr Rupert Waites was asked to apply for a provisional licence application. To date no provisional application for the premises has been received.

As such the below occasional licence applications are outstanding. It is requested that the board consider the application for grant as per the representation below where grant on delegated powers is against board policy.

Applications for consideration:

7 Occasional Licence Applications from 28th Oct – 5th Jan 2023

I submit this report for the information of the board members.

K. Harling
Licensing Standards Officer

EAST LoTHIAN COUNCIL

Licensing Standards

From: K. Harling
Licensing Standards Officer

To: C. Grilli
Clerk to the Licensing Board

Date: 27th July 2022

Subject: LICENSING (SCOTLAND) ACT 2005
REPRESENTATION OCCASIONAL LICENCE APPLICATIONS –
BUCK & BIRCH LTD, UNIT 9, MERRYFIELD BUSINESS CENTRE,
MACMERRY

The Licensing Standards Officer would like to make a representation under Section 21(1) of the Licensing (Scotland) Act 2005 that the Licensing Board review the applications made for occasional license made by the personal licence holder Rupert Waites for the premises Buck & Birch Ltd. I have no objection to the grant of these licenses and on visiting the premises and speaking with Mr Waites he has informed me that he will be submitting an application for a provisional premises licence once he secures an agent to act on his behalf. However, it is only right that the applications submitted and further applications be determined by the board as per the East Lothian Licensing Board Statement of Policy 2018 – 2023.

The premises has been selling alcohol under occasional licences granted since 2020 as follows:

23/11/2020 – 03/01/2021 (just over 1 month, 3 licences)

29/03/2021 – 23/05/2021 (approx. 2 months, 4 licences)

08/10/2021 – 13/01/2022 (approx. 3 months, 7 licences)

01/05/2022 - 29/07/2022 (approx. 3 months, 9 licences)

Further applications were received from 30/07/2022 – 05/01/2023. In order to allow the premises to continue to trade the Clerk authorised the grant of 3 of the occasional licences until 28th August 2022.

Extract from East Lothian Licensing Board Statement of Policy 2018 – 2023

20.1 Repeated applications for Occasional Licences for the same premises and which are:

- not for specific events; and/or
- for activities that have been occurring (either in identical or largely similar terms) on the premises regularly over a period of at least 3 months will not generally be considered suitable for the grant of an Occasional Licence and will not be granted by the Board under delegated authority but will require a hearing before the Board. It is largely expected, that the premises in question should consider an application for a Premises Licence.

20.2 Section 59(6) of the Act specifies the grounds for refusal of an application for an Occasional Licence. These grounds include “that the Licensing Board considers the granting of the application would be inconsistent with one or more of the licensing objectives”. These licensing objectives include: -

- Securing public safety.
- Protecting and improving public health
- Protecting Children and Young Persons from harm

The scrutiny given to an application for a Premises Licence is not available where premises operate under a series of consecutive Occasional Licences. In the interests of securing public safety, and/or, for protecting and improving public health, the Board, considers that it is not appropriate for a premises to operate on a series of consecutive Occasional Licences, rather than apply for a Premises Licence. The Board will require an applicant to explain at a Hearing why an application for a Premises Licence is not being made unless the Clerk of the Board is satisfied that there are good reasons that prevent such an application that are not within the control of the applicant.

It is therefore requested that the board considers the 13 applications covering the period 29th August 2022 – 5th January 2023 for determination as per board policy above and not granted on delegated powers on consultation with Police and the Licensing Standards Officer alone. An example application has been provided for the board from 29th July – 7th August 2022, all subsequent applications are the same with the exception of the dates.

I submit this report for the information of the board members.

K. Harling
Licensing Standards Officer

Occasional Licence and Supplementary Information Form

EAST LoTHIAN LICENSING BOARD

APPLICATION FOR OCCASIONAL LICENCE

Before completing this form please read the guidance notes at the end of the form.

If you are completing this form by hand, please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written or typed in black ink. Use additional sheets, if necessary.

You may wish to keep a copy of the completed form for your records.

1. LICENCE DETAILS (see note 1)	
Premises licence number (if applicable)	
Personal licence number (if applicable)	EL1244
Name of voluntary organisation (if applicable)	

2. PERSONAL DETAILS			
TITLE (delete as appropriate): Mr			
Surname	WAITES		
Forenames	Rupert Alan		
DATE OF BIRTH	Day	Month	Year
	[REDACTED]		
ADDRESS WHERE ORDINARILY RESIDENT TO BE USED FOR CORRESPONDENCE PURPOSES			
[REDACTED]			
Post town	[REDACTED]	Post code	[REDACTED]
TELEPHONE NUMBERS [REDACTED]			

Daytime	
Evening	
Mobile	██████████
FAX NUMBER	
E-MAIL ADDRESS (if you would prefer us to correspond with you by e-mail)	
██████████	
3. THE PREMISES	
Description of premises	
A single storey unit in Merryfield Business Centre, consisting of bonded production facility and warehouse with separate office space and reception room	
Description of activities to be carried on in the premises – (including number of persons expected to attend)	
A retail shop in our bonded production facility selling our alcoholic liqueurs, spirits and cocktails.	
Complimentary samples may be offered to visitors but no drinks will be sold to consumed on the premises.	
All alcoholic sales would be off sales only and not consumed on the premises.	
A license has previously been granted for similar activity at the premises mentioned	
Full postal address of premises which this application refers to	
Buck & Birch Ltd Unit 9 Merryfield Business Centre Macmerry Industrial Estate Tranent EH33 1ET	

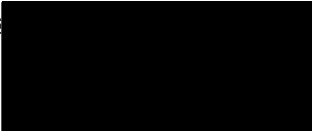
4. DURATION OF LICENCE
From: 28/10/2022
To: 06/11/2022

5. Is alcohol to be sold on & off the premises YES/NO* - Provide relevant details as to hours requested when alcohol will be sold on/off the premises-* delete as appropriate	
Times for sale of alcohol for consumption on premises	Times for sale of alcohol for consumption off premises

NA	Mon to Sat 10am - 6pm
Statement of the times at which any activities other than the sale of alcohol will be carried on in the premises Mon to Sat 10am - 6pm	

6. CHILDREN (see note 2)	
This section must be completed where alcohol is for sale for consumption on the premises	
Are children or young persons permitted entry? YES (if answered yes the remainder of this section must be completed)	
Ages of children or young persons permitted entry NA	Times at which children or young persons permitted entry Mon - Fri 10am - 6pm (ONLY UNDER SUPERVISION OF PARENT/ GUARDIAN)
Parts of premises to which children or young persons permitted entry RETAIL SPACE	

7. CHECKLIST	
I have - Please tick for yes	
<ul style="list-style-type: none"> Made or enclosed payment of the fee for the application 	

8. Signature and declaration by applicant (see note 3)	
DECLARATION	
The contents of this Application are true to the best of my knowledge and belief.	
S 	DATE 12/07/2022

NOTES

1. Section 56 of the Licensing (Scotland) Act provides that only: –

- The holder of a premises licence;**
- The holder of a personal licence; or**
- A representative of any voluntary organisation**

is eligible to apply for an occasional licence

PLEASE SUBMIT THIS SHEET WITH YOUR OCCASIONAL LICENCE APPLICATION FORM

SUPPLEMENTARY INFORMATION

<p>1. Event</p> <p>(a) Please detail the type of event (e.g. birthday party, anniversary celebration, ceilidh, etc.)</p> <p>(b) What entertainment, if any, will be provided? (e.g. live music, recorded music etc.)</p>	<p>(a) Retail shop selling our range of cocktails and liqueurs for off sales consumption only</p> <p>(b) NONE</p>
<p>2. Attendance</p> <p>(a) Approximately how many people are expected to attend?</p> <p>(b) How is this figure obtained? (e.g. previous events, ticket sales, capacity of venue)</p> <p>(c) In the main, what age group will form the majority of those attending? Tick one box.</p> <p>(d) How is access gained to the event? (e.g. ticket purchased in advance, ticket purchased at the door, private invitation)</p>	<p>20 people per day</p> <p>Having asked potential customers if/ when they would visit</p> <p><input type="checkbox"/> Under 18</p> <p><input type="checkbox"/> 18 - 30</p> <p><input checked="" type="checkbox"/> 30 – 50</p> <p><input type="checkbox"/> over 50</p>

<p>3. <u>Stewarding</u></p> <p>Please note it is an offence under the Private Security Industry Act 2001 to <u>employ</u> unlicensed door stewards.</p>	
<p>Unpaid volunteers performing this function are not covered by the Act, however. More information can be found at <u>Security Industry Authority</u>.</p> <p>(a) Please state the number, if any, of stewards to be employed at the event.</p> <p>(b) Of that number, please state how many will be SIA registered stewards and how many will be volunteers.</p>	<p>(a) NA</p> <p>(b) NA</p>
<p>4. <u>Layout Plans</u></p> <p>Please indicate if -</p> <p>(a) there is a plan attached to a Public Entertainment Licence issued for the premises; or</p> <p>(b) the premises relate to a members club which has been issued with a premises licence; or</p> <p>(c) if neither of the above, please attach a detailed layout plan of the venue with the application</p>	<p>(a) NA</p> <p>(b) NA</p> <p>(c) Attached</p>
<p>5. <u>Applications Lodged by Voluntary Organisations or Members Clubs Only</u></p> <p>Please list the dates of previous occasional Licences granted by the Board between 1 January and 31 December</p>	

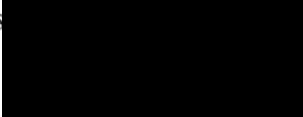
6. Will alternatives to glass receptacles be provided?	NA
7. To what standard those serving alcohol be trained? Please provide details of any training certificate held	All staff have are qualified to serve and sell alcohol

LICENSING OBJECTIVES **

All holders of occasional licences must demonstrate how they will promote the 5 Licensing Objectives. Please provide practical examples of what you plan to do to comply with each objective.

8. How will you prevent Crime and Disorder at the event?	As no alcohol will be served or consumed at the premises there should be minimal risk of and crime or disorder taking place.
9. How will you secure Public Safety at the event?	With numbers restricted in line with current COVID regulations risk to visitors will be minimal.
10. How will you prevent Public Nuisance at the event?	There will be no music or entertainment to cause any noise pollution and being on an industrial estate away negates any risk of upsetting residents

<p>11. How will you promote and protect Public Health at the Event?</p>	<p>All guidelines and regulations relating to COVID and other health issues will be upheld.</p> <p>There will be hand washing facilities in place and staff will wear appropriate PPE.</p> <p>Numbers will be limited to ensure social distancing rules will be adhered to.</p>
<p>12. How will you protect Children from Harm at the Event?</p>	<p>Any children present will be accompanied by a parent/ guardian at all times.</p>

<p>SIGNATURE AND DECLARATION BY APPLICANT DECLARATION</p>		
<p>IT IS AN OFFENCE TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION</p>		
<p>(Criminal Law (Consolidation)(Scotland) Act 1995 Section 44(2)(b))</p>		
<p>The contents of this Application are true to the best of my knowledge and belief.</p>		
<p>S </p>	<p>Date 12/07/2022</p>	

SCHEDULE 2

APPLICATION FOR A PERSONAL LICENCE

FIRST APPLICATION / RENEWAL APPLICATION (delete as appropriate)

Before completing this form please read the guidance notes.

If you are completing this form by hand, please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written or typed in black ink. Use additional sheets, if necessary.

You may wish to keep a copy of the completed form for your records.

4

1. YOUR PERSONAL DETAILS

If relevant please enter details of any previous names or maiden names. Please continue on a separate sheet if necessary. Read note 1

Title (delete as appropriate):

Mr / Mrs / Miss / Ms / Other (please state) MR

Surname Fender

Forenames Gareth, Henry

Date and place of birth [REDACTED]

National Insurance No. [REDACTED]

Address where ordinarily resident to be used for correspondence purposes

[REDACTED]

Post town [REDACTED] Post code [REDACTED]

1. PERSONAL DETAILS (cont)

Telephone Numbers

Daytime Tel. [redacted] Evening Tel. [redacted]

Mobile No. [redacted]

Fax No. _____ Email [redacted]

Address for correspondence associated with this application
(if different to the address above)

[redacted]

Post town [redacted] Post code [redacted]

2. YOUR LICENSING QUALIFICATION (Read note 2)

I hold an accredited qualification (please tick) YES NO

If you have ticked yes please provide a copy of your qualification with your application.

3. FIRST APPLICATIONS ONLY

This section should only be completed if you are submitting your first application to this Licensing Board. If answering Yes to any question please provide details below. **Note: You may only hold one personal licence at a time.**

Do you currently hold a personal licence? YES NO

Do you currently have any outstanding applications for a personal licence, with this or any other Licensing Board? YES NO

Has any personal licence held by you been forfeited in the last 5 years? YES NO

Licensing Board _____ Licence number _____

Date of issue _____ Date of expiry _____

Any further details _____

4. RENEWAL ONLY

This section should be completed only if you are applying for a renewal of your existing licence. Your personal licence must accompany your application for a renewal. If you are unable to send your personal licence, you must explain why you cannot do so in the box provided below.

Details of current personal licence

Licensing Board _____ Licence number _____

Date of issue _____ Date of expiry _____

Any further details _____

If you cannot provide your personal licence, provide a statement explaining why

Other personal licence Note: You may only hold one personal licence at a time

I confirm that I do not hold any other personal licences other than the one submitted for renewal

YES NO

5. CHECKLIST

I have (please tick if yes)

- Enclosed two photographs of myself, one of which is endorsed as a true likeness of me by a person of standing in the community. Read note 3. YES
- Enclosed a copy of any licensing qualification I hold YES
- Enclosed my current personal licence (renewal only) YES
- Made or enclosed payment of the fee for the application YES

6. Previous Convictions

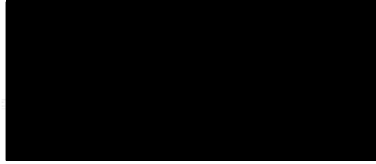
You must provide details below of any conviction for a relevant or foreign offence that is not considered spent under the Rehabilitation of Offenders Act 1974. Please continue on a separate sheet if necessary. If you are declaring that you have no such convictions please write "none". Read note 4

NAME	DATE	COURT	OFFENCE	SENTENCE

7. Declaration

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

Signature (read Note 5)



Applicant / ~~Agent~~ (Delete as appropriate)

Date 14/09/22

I understand that East Lothian Council is under a duty to protect the public funds it administers, and to this end may use the information I have provided on this form for the prevention and detection of fraud. East Lothian Council may also share this information with other bodies responsible for auditing or administering public funds for these purposes.



The Royal Environmental
Health Institute
of Scotland

Scottish Certificate for Personal Licence Holders (SCPLH)

Gareth Henry Fender

*has completed the Scottish Certificate for Personal Licence
Holders (SCPLH) qualification at SCQF Level 6*



President of the Institute



Certificate No.

12 April 2021

Date



Accreditation

Qualification Accreditation Code R656 04



scottish credit and
qualifications framework

This qualification is levelled on the Scottish Credit Qualifications Framework (SCQF)
at level 6 and awarded 1 credit. The credit rating body is SQA Accreditation.

27/09/2022

Your Ref: EL1900

Our Ref: 666448/GB

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



**POLICE
SCOTLAND**

Keeping people safe

Chief Superintendent
Catriona Paton
Divisional Commander
The Lothians and Scottish Borders Division
Dalkeith Police Station
Newbattle Road
Dalkeith
EH22 3AX

FOR THE ATTENTION OF EAST LOTHIAN LICENSING BOARD

Dear Sir/Madam,

**LICENSING (SCOTLAND) ACT 2005 - APPLICATION FOR THE GRANT OF A
PERSONAL LICENCE
GARETH HENRY FENDER.**

I refer to the above application.

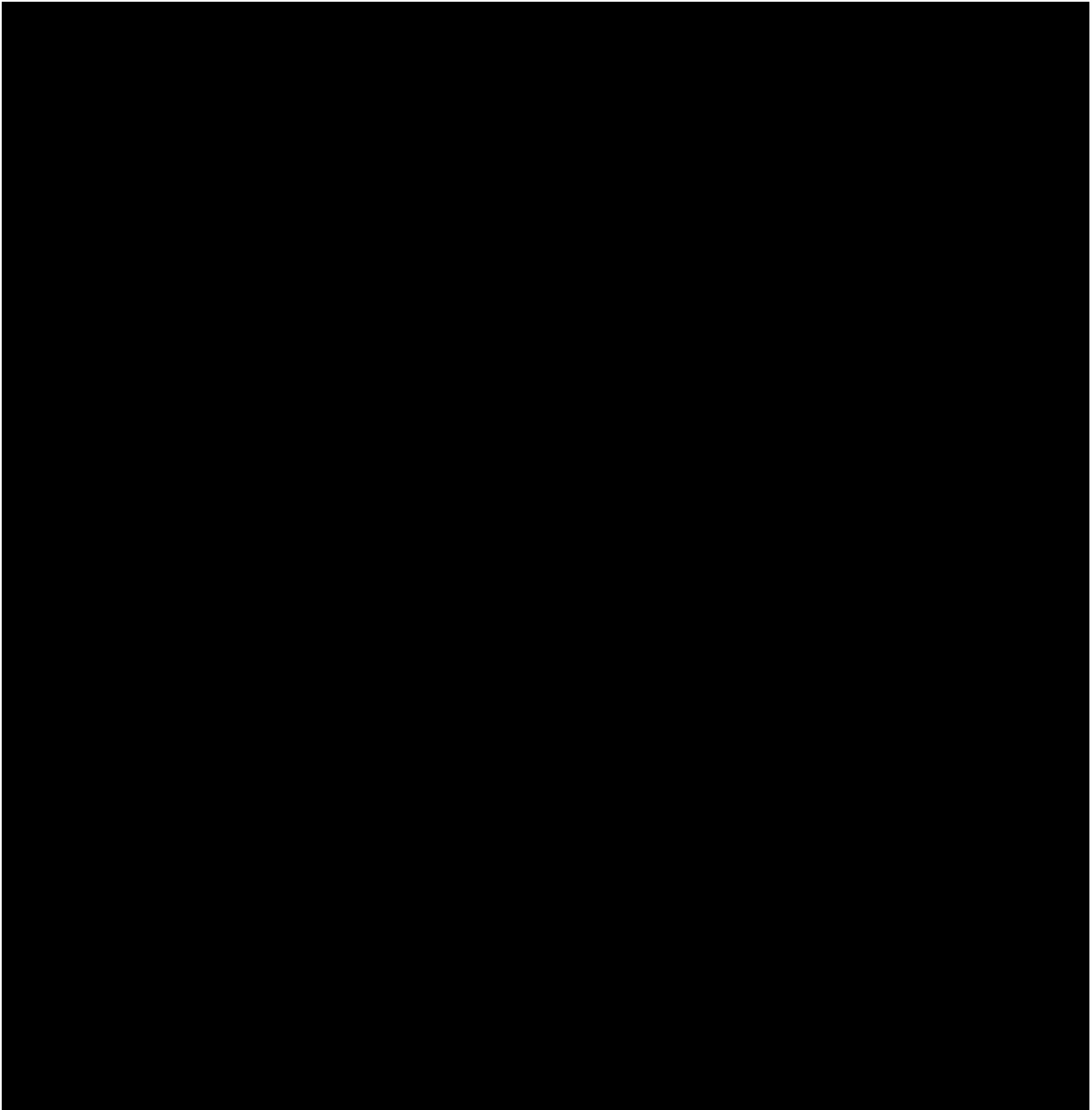
In terms of Section 73(3)(b) of the Licensing (Scotland) Act 2005 (the 2005 Act) I give notice that, based upon the information provided and as far as the Chief Constable is aware, the applicant has been convicted of the following relevant offence(s).

Date	Court	Crime/Offence	Disposal
[REDACTED]			



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

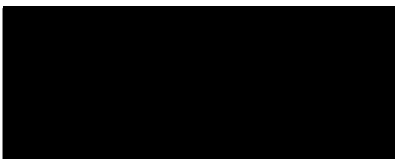
In terms of Section 73(5) of the 2005 Act the Chief Constable provides the following information in relation to the applicant which is relevant to the Board's consideration of the application:-



In light of the above, the Chief Constable considers that it is necessary for the purposes of preventing crime and disorder, securing public safety, and preventing public nuisance licensing objectives that the application for a personal licence be

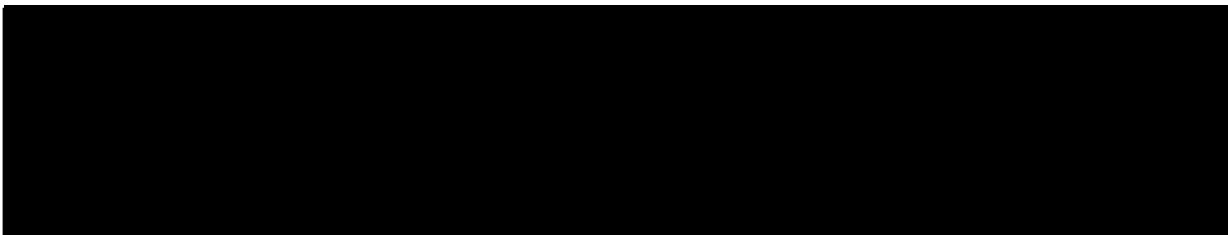
refused. The Chief Constable accordingly makes a recommendation to that effect in terms of section 73(4) of the 2005 Act.

Yours faithfully



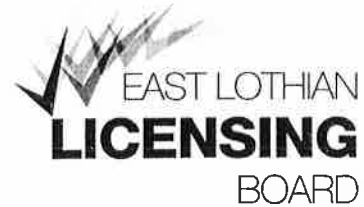
Catriona Paton
Chief Superintendent

For enquiries please contact the Licensing Department on 0131 561 6119.



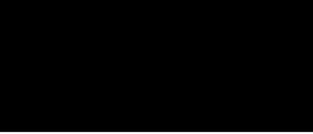
Our Reference: CG/mjw/EN/L/PL
Your Reference:

Date: 29th September, 2022



Private & Confidential

Mr Gareth Fender



Carlo Grilli
CLERK OF THE LICENSING BOARD

John Muir House
Haddington
East Lothian
EH41 3HA
licensing@eastlothian.gov.uk

Dear Sir

**Licensing (Scotland) Act 2005
Grant of Personal Licence**

I enclose a copy of a letter of 27th September 2022, received from Police Scotland asking East Lothian Licensing Board to consider whether there are grounds for finding that you were convicted of relevant offence(s).

The decision is delegated to the Clerk of the Licensing Board, due to the time constraints stated in the legislation. You will be required to attend the Licensing Board Hearing which will take place by remote connect at 10am on Thursday 27th October 2022.

You are advised to attend the remote hearing where you will be given an opportunity to be heard regarding the matters raised in the letter from Police Scotland.

An agenda and details of the link for the Board Meeting will follow in due course.

Yours faithfully

Carlo Grilli
Clerk to the Licensing Board

Direct Dial: 01620 827664
Email: licensing@eastlothian.gov.uk