



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

**THURSDAY 27 OCTOBER 2022  
ONLINE PLATFORM MEETING**

---

**Board Members Present:**

Councillor L Bruce (Convener)  
Councillor F Dugdale  
Councillor G McGuire

**Clerk of the Licensing Board:**

Mr C Grilli, Service Manager – Governance

**Attending:**

Ms G Herkes, Licensing Officer  
Ms S Fitzpatrick, Team Manager – Licensing and Landlord Registration  
Ms K Harling, Licensing Standards Officer  
Sgt R Stark, Police Scotland

**Committee Clerk:**

Ms B Crichton – Committees Officer

**Apologies:**

Councillor C Cassini  
Councillor G Gilbert  
Councillor J McMillan

**Declarations of Interest:**

None

**1. MINUTES FOR APPROVAL  
East Lothian Licensing Board, 22 September 2022**

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

**2. CHIEF CONSTABLE'S REPORT TO THE EAST LOTHIAN LICENSING BOARD, 1 APRIL 2021 - 31 MARCH 2022**

A report had been submitted to the East Lothian Licensing Board by the Chief Constable to inform the Board of Police Scotland's licensing activities in the area from 1 April 2021 to 31 March 2022.

Sergeant Rachel Stark explained that the report had been completed in May when she had recently come into post. The information was based on activities from the previous year, but she was able to take questions.

Councillor Bruce thanked Sergeant Stark for her work on the report. The Members had read it carefully and found it useful. The report would help to inform the work of the East Lothian Licensing Board going forward, and particularly the upcoming review of Licensing Board policy. Sergeant Stark responded that the report covered a period which had been greatly affected by the Covid-19 pandemic, and expected that the service would be able to be more productive and proactive in the following year.

**Decision**

The East Lothian Licensing Board agreed to note the Chief Constable's report.

**FESTIVE HOURS STATEMENT**

The Convener provided the festive hours statement on behalf of the East Lothian Licensing Board.

In terms of Section 67 of the Licensing (Scotland) Act 2005, the Board had determined that it was appropriate to grant a general extension of licensed hours for the festive period. This extension would apply as follows:

Christmas Eve - Saturday 24 December 2021,  
Christmas Day - Sunday 25 December 2021,  
Boxing Day - Monday 26 December 2021,  
Hogmanay - Saturday 31 December 2021, and  
New Year's Day - Sunday 1 January 2022, (inclusive) and would allow an extension of the terminal hour for the sale of alcohol during that period until 2am.

This extension would only apply to on-sales and not to off-sales of alcohol.

There would be no general extensions outwith these days although any applications for extended hours outwith the general extension would be considered on a case-by-case basis. It should be noted that such applications required to be submitted no later than 2 December 2021.

There would be no need for licensees to apply for the general extension to 2am. On sales premises could utilise these hours to the extent they considered appropriate.

**3. REVIEW OF OCCASIONAL LICENCE**  
**Buck & Birch Ltd., Unit 9, Merryfield Business Centre, Macmerry**

The applicant had been called to the Board hearing on 22 August due to a request from the LSO, which highlighted repeated occasional licence applications. Occasional licences could be granted under delegated powers only up to a maximum of three months. At the 22 August hearing, the Board had advised Rupert Waites, of Buck & Birch Ltd. to apply for a provisional premises licence, but granted further licences up to 27 October 2022 to allow the business to continue trading. The application sought seven occasional licence licences covering a period of 28 October 2022 to 5 January 2023.

Mr Waites was present and was represented by Alistair Macdonald, agent. Mr Macdonald advised of his involvement with Buck & Birch Ltd. since August 2022, after the Licensing Standards Officer had visited the premises and highlighted the need to submit a premises licence application. Since then, the layout plan had been produced by an architect and an application had been made for a Section 50 certificate. Depending on the timing of the certificates arriving, Mr Macdonald would submit a provisional or full premises licence on behalf of his clients, and would visit the premises to finalise the application in the following week.

Sergeant Stark had no comment to make, and Karen Harling, LSO, was happy that work was ongoing to lodge the application, as outlined by Mr Macdonald.

Responding to a question from Councillor Dugdale, Mr Macdonald said he hoped to lodge the application within the next week or two. Once the application was finalised, he would make contact with the planning authority to enquire whether the planning application could be expedited.

The Convener said the Board appreciated the work that had gone in thus far, and looked forward to the forthcoming application being made.

The Convener moved to a roll call vote and the occasional licence applications were unanimously approved.

**Decision**

The occasional licences were granted.

**4. GRANT OF PERSONAL LICENCE**  
**Gareth Fender**

The application for a personal licence had come before the Board on the basis of representation from Police Scotland, which requested that the application be refused for the purposes of preventing crime and disorder, securing public safety, and preventing public nuisance.

Gareth Fender, applicant, was present to speak to the application. He understood that Police Scotland had not wished for his licence to be granted on the basis of actions that were in his past. He said he was not the same person as he had been at the time of the incidents; at the time he had been suffering severe mental health issues and had been drinking heavily. He said he was now stable on medication and had been sober for four years. He said he appeared to plead his case that he was in a position to be granted a personal licence for the sale of alcohol.

Responding to a question from Councillor McGuire, Mr Fender said he managed the Student Union Bar at Queen Margaret University. He said that the grant of the personal licence would mean he could keep the bar open until 1am without the premises manager being on the premises. He had worked in the bar for 3 years and 10 months, and often closed the bar, but faced certain restrictions due to not holding a personal licence.

Sergeant Stark highlighted Mr Fender's previous offending history, which included violence towards uniformed officers. She acknowledged that Mr Fender had worked in his role for over three years without incident, and said that this was also for the consideration of the Board.

The Convener called a short recess to allow the Board to deliberate in private. Upon the Members' return, the Convener said that the Board had taken into account the report from Police Scotland, and were also pleased to hear that Mr Fender was looking after himself well. It was felt that almost four years of working in a licenced premises showed evidence of changes made. He was happy to approve the application offered his best wishes to Mr Fender.

Councillors McGuire and Dugdale echoed the Convener's comments, and Councillor Dugdale thanked Mr Fender for his account, which had helped the Board to understand the situation. They also agreed to grant the personal licence application.

### **Decision**

The application was granted unanimously.

The Convener announced that item 5 would be heard in private session.

### **SUMMARY OF PROCEEDINGS – EXEMPT INFORMATION**

The East Lothian Licensing Board agreed to exclude the public from item 5.

#### **5. REVIEW OF PERSONAL LICENCE Andrew Leggett**

The Board agreed that no action would be taken and the licence would remain in place.