

REPORT TO: East Lothian Licensing Board
MEETING DATE: 26 October 2023
BY: Clerk of the Licensing Board
SUBJECT: Statement of Licensing Policy

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1 PURPOSE

- 1.1 To determine the Statement of Policy for East Lothian Licensing Board from November 2023 to November 2028.

2 RECOMMENDATIONS

- 2.1 That the Board notes the outcome of the consultation and adopts the draft Statement of Licensing Policy for the period November 2023 to November 2028 annexed at Appendix 2 of this Report.

3 BACKGROUND

- 3.1 The Licensing (Scotland) Act 2005 as amended (“the Act”) requires the Board to publish a Statement of its Licensing Policy (“the Policy”) explaining how it will exercise its functions under the Act. The current Policy covered the period from November 2018 to November 2023. The period of the new Policy will be from November 2023 to November 2028.
- 3.2 In preparing its Policy the Board must promote the five licensing objectives. It must also consult with the Licensing Forum, various other groups if they are not represented on the Forum and any other persons that the Board thinks appropriate. The submission received from the Forum is contained in Appendix 1 of this Report and details of all those consulted and how the consultation was taken forward is more particularly detailed in Paragraph 6.0 (and sub clauses) of the Policy.
- 3.3 A stakeholder working group was formed to consider development of the new Policy and it has met several times and evidence has been gathered. MELDAP and NHS reviewed and pulled relevant data from the CRESSH Report and other relevant sources and provided detailed information about East Lothian and a mapping exercise has been carried out to demonstrate

the density of licensed premises within East Lothian correlated with licensing objectives such as crime and health. This information is detailed in Appendix 1 of the Licensing Forum Response.

- 3.4 The Board must include within its Policy its view based on the evidence available as to the extent to which the Board considers there to be overprovision of licensed premises or those of a particular description in any locality within the Board's area. The overprovision statement is contained in Paragraph 25 of the Policy. While recognising the harm that can be caused by alcohol and acknowledging the submission from the Forum, it concludes that there is no evidence from which it can conclude that East Lothian is overprovided with licenced premises at this time.

4 POLICY IMPLICATIONS

- 4.1 The Policy details the role of the Board and the obligations of licensees and gives recommendations as to how these can be adhered to. The multi-agency approach to licensing in East Lothian should ensure that the objectives of the Act are achieved. The Board will have regard to the terms of this policy when reaching its decisions.

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report has been through the Integrated Impact Assessment process and no negative impacts have been identified.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – none. The costs of developing and implementing the Policy can be met from within existing budgets.
- 6.2 Personnel – none.
- 6.3 Other – none.

7 BACKGROUND PAPERS

- 7.1 None.

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East Lothian Licensing Forum

New Statement of Licensing Policy – review and recommendations

This paper outlines the role of East Lothian Licensing Forum, comments on the existing East Lothian Licensing Policy and operation of the Alcohol Licensing (Scotland) Act 2005 and makes 21 recommendations to the East Lothian Licensing Policy Group and Licensing Board for the development of the new Statement of Licensing Policy 2023-2028.

Role of the Local Licensing Forum

Under the Alcohol Licensing (Scotland) Act 2005 the Local Licensing Forum has the following general functions,

- (a) keeping under review (i) the operation of this Act in the Forum's area, and,(ii) in particular, the exercise by the relevant Licensing Board or Boards of their functions, and
- (b) giving such advice and making such recommendations to that or any of those Boards in relation to those matters as the Forum considers appropriate.

Under the Act, A Licensing Board must— (a) in exercising any function, have regard to any advice given, or recommendation made, to them in relation to the function by a Local Licensing Forum, and

- (b) where the Board decides not to follow the advice or recommendation, give the Forum reasons for the decision.

In preparing a licensing policy statement or a supplementary licensing policy statement, a Licensing Board must (a) ensure that the policy stated in the statement seeks to promote the licensing objectives and consult the Local Licensing Forum for the Board's area.

Review of the Operation of the Act in the Forum's Area

The Forum's view is that the current Statement of Licensing Policy 2018-2023 has not been very influential in the actual decisions of the Board during the period of its application. There is a perception that the economy and jobs have been a prime concern of some Board members although they are not one of the five licensing objectives. Deviation on some matters in the policy have occurred without proper justification from applicants or questioning from the Board as to why the decision to go against policy has been made. The Forum feels this has set a precedent that all matters in policy can be challenged without refusal.

Overprovision

The Forum has considered the overprovision statement, in particular the whole area aspect of the statement. There has been a lack of clarity around whether the whole area overprovision statement was contrary to the law at the time. However, it is clear now under an amendment to the Act that this is lawful.

The pros and cons of an overprovision statement for the whole area have been debated. Evidence would suggest that in terms of alcohol retailer density both off sales and on sales East Lothian would not merit a whole area approach. However, there are specific areas of East Lothian where the evidence indicates high levels of alcohol retailer density and associated harms. The Forum is aware that adopting such an approach may be seen to stigmatise certain communities. However, the Forum is clear that the identification of such areas does not reflect on the people, values or lifestyles of the people who live there. Rather by identifying such areas the Forum is providing Board members with evidence of harm linked to the number of alcohol outlets.

Based on the evidence provided in appendix A the Forum recommends the Board review the following areas in terms of over provision for both on and off sales premises:

- Musselburgh North
- Haddington South
- North Berwick South

The forum suggests that tighter controls should be implemented on these areas and applications scrutinised highly in terms of any additional capacity or new premises.

- Display capacity.

Recommendation 1: In the exceptional circumstance of new build developments where off-sales licenses are granted, display capacity should not exceed 10% of the overall floor space.

Recommendation 2: The Forum recommends that the Statement of Licensing Policy restricts any more increases in capacity of existing off-sales premises in East Lothian.

The above components of an overprovision statement would support all the licensing objectives by reducing the ease by which alcohol can be accessed in East Lothian and therefore associated alcohol-related harms.

Issues to be Considered and Further Recommendations

Forum members have built up a degree of expertise in the licensing area and have noted a number of issues that they feel the new policy should consider. The Forum has discussed these issues thoroughly, drawing on a variety of sources of evidence – available data on alcohol e.g., health and police statistics and outlet density, local knowledge of alcohol-related issues e.g. availability, cultural factors, and the published evidence around causes of alcohol-related behaviour e.g. consumption and best practice in addressing alcohol-related harm.

The Forum respectfully reminds the Board that the promotion of the five licensing

objectives is intended to form the basis of the policy and licensing decisions in relation to the sale of alcohol. The main issues the Forum brings to the attention of the Policy Group and Licensing Board are outlined below.

1. Climate Change

The Forum supports the Board's inclusion of section 10.0 in relation to climate change and a positive commitment to a wider issue.

2. Protecting Children and Young People from Harm

Protecting Children and Young People from Harm (amended under the Air Weapons and Licensing Act to include young people) is a licensing objective the Forum takes particularly seriously. There are a number of elements to consider.

- Granting of occasional licenses.

The Forum does not consider it appropriate for occasional licenses to be granted for events that are primarily child or family- orientated, where the majority of attendees will be children, young people and families. The Forum has concerns over the exposure of children and young people to alcohol and the 'normalisation' of alcohol, its effects and behaviour associated with consumption and intoxication.

Recommendation 3: Occasional licenses are not granted for events that are primarily child or family-orientated, where the majority of attendees will be children, young people and families. The Forum would like to express support for the recent decisions made by the Board in 2023 to use to this part of the policy where previously this was not done. The forum endorses the Board's decisions to refuse occasional licenses for events primarily for children and families and encourages the Board to continue this approach.

Recommendation 4: Where licenses are granted, there is a requirement in the Statement of Licensing Policy that applications include a justification for why alcohol is required to be served and for a risk assessment to be conducted, including items on security. The Forum recommends the Board scrutinize applications and question applicants on this aspect in order to uphold the licensing objectives.

Recommendation 5: Where licenses are granted, there is a requirement for separate areas for the serving of alcoholic and soft drinks for occasional licensees where children and young people will be present.

Recommendation 6: Where an alcohol byelaw is in force, and there is an exemption of that byelaw in relation to a children's event such as a gala or fete, the Board does not grant an occasional licence for that event and the event organiser is guided to create a designated drinking area as an alternative. Provision of alcohol by means of an occasional licence would be in excess.

- On-sales premises

Recommendation 7: The Forum recommends that the Statement of Licensing Policy states that access for children and young people will only be granted for on-sales premises when a meal is to be consumed e.g., restaurants, pubs serving food, i.e. not vertical drinking establishments, or for organised events e.g. sports.

- Deliveries.

The Forum supports that the new policy incorporates steps to reduce the potential for children and young people to access alcohol via online sales and deliveries, e.g. Challenge 25, checks and records being in place, personal licenses and training requirements for all delivery drivers.

Recommendation 8: Applicants could be asked to make explicit what measures they are going to take to prevent children and young people getting access to alcohol, which would include details of how they are going to enforce Challenge 25, training and record-keeping. Records should be available for the Licensing Standards Officer and Police to view.

These measures would support all the licensing objectives but in particular those of protecting children and young people from harm and protecting and improving public health by reducing access by children and young people and levels of consumption, by and around children and young people.

3. Seasonal/festive extensions

The Forum supports the Board's policy that the seasonal extension each year, which premises can use providing they have stated this in their operating plan, be extended hours until to 2am for three days over Christmas (Christmas Eve, Christmas Day and Boxing Day), and two days over New Year (Hogmanay and New Year's Day) for on-sales only.

This would reduce the increases in volume of workload for both the licensing team and the police by reducing the need to apply for occasional licenses but without the Police having to plan for additional capacity, especially when it has been observed locally that the number of premises that took advantage of the extension beyond these proposed main holiday dates was considered to be quite small.

These measures would support all the licensing objectives but in particular those of protecting and improving public health, prevention of crime and disorder, securing public safety and preventing public nuisance by reducing the levels of consumption over the festive period.

Recommendation 9: Over the festive period no extended hours applications for extra drinking time are granted as this is not a genuine special event as per section 21.2 of the draft policy and Section 68 of the Act.

4. Licensed Hours

- Off-sales hours

Recommendation 10: The Forum recommends that licensed hours granted to off sales premises mirror the operating terminal hour of the premises. For example, a premises that trades routinely until 8pm should not be granted licensed hours for off sales until 10pm.

- On-sales hours

Recommendation 11: The Forum recommends keeping the existing on-sales hours of 11.00 am start to 11.00 pm Monday to Wednesday (inclusive), 11.00 am to 1.00 am Thursday to Saturday (inclusive) and 11.00 am to 12.00 midnight on Sunday.

Recommendation 12: The forum recommends that should the Board receive an application for on-sales hours out with policy the applicant is scrutinised to justify the reason for the additional hours. The consideration of additional on sales hours applications for premises and occasional licence applications must be considered in relation to the sale of alcohol and not granted based on economic gain or tourism in East Lothian. Commercial considerations are irrelevant to a policy which is designed to protect the wider public interest.

The Forum considers the only reasonable exception to these times would be if a nightclub were to apply for a license in East Lothian. The forum does not support the Board's decision to grant on-sales hours before 11.00am for premises or occasional licences.

5. Extended Hours applications

Recommendation 13: The Forum supports the addition of a limit on the number of extended hours applications that can be made in a 12 month period.

6. Layout of premises; height of shelves, security

The Forum considers it important that recognition is made in the new licensing policy of the influence the layout of shops (including fixtures and fittings) has in the ability of off-sales premises to monitor and regulate alcohol sales (e.g. segregated aisles, height of shelves around alcohol areas). The policy should clearly state that layout plans will be under scrutiny by the Board. The Forum notes that in many off-sales premises soft drinks and alcohol are often displayed side by side or in adjacent aisles.

Recommendation 14: The Forum recommends that alcohol aisles be segregated in supermarkets, with greater separation between commodities popular with children and young people (e.g., soft drinks) and alcohol aisles, and with no end of aisle displays.

Recommendation 15: Security requirements should be made explicit in the policy according to the nature and size of premises. For supermarkets and larger retail outlets, this includes adequate CCTV that is maintained and working, manned security and display arrangements that minimise the risk of theft. For small shops, the location of the alcohol should make supervision easy e.g., behind the till, and height of shelves be restricted, to minimise the risk of theft.

With alcohol being a frequently shop-lifted item from retail outlets, these measures would support the licensing objective of the Prevention of Crime and Disorder as well as Protecting Children and Young People from Harm and Protecting and Improving Public Health.

7. On-line sales and deliveries

The rise in sales of alcohol from on-line outlets is an area of concern nationally. Whilst the Forum recognises that the Board is not able to control the purchase of alcohol from large, national, on-line retailers, this should not deter the Board from making a statement in the East Lothian policy regarding restrictions to increases in on-line sales from within East Lothian. Recommendations have already been made regarding the inclusion of requirements for training, personal licenses for drivers and challenge 25 for deliveries (see 1c).

Recommendation 16: The forum supports the new Section 38.0 Deliveries, Online and Remote Sales section in the policy and encourages the Board to adhere to the policy in determination of applications relating to this activity.

These measures would support all the licensing objectives but in particular those of protecting children and young people from harm and protecting and improving public health.

8. The Five Licensing Objectives

Recommendation 17: The Forum recommends that the new policy includes guidance as to what the 'exceptional circumstances' are that would mean that a license application is granted which apparently contravenes some the conditions specified in the policy statement. These should be in relation to all five of the licensing objectives.

Recommendation 18: Overall the Forum would like to see the implementation of more detailed and competent application forms that adhere to the requirements of the Act including competent layout plans. It is the Licensing Board, Clerk and administrative staff's responsibility to ensure that only competent application that meet the requirements of the act are sent for consultation and heard by the Board. This will enable more rigorous scrutiny and consideration of applications in context by the Board and consultees.

Recommendation 19: In the interests of the Public Health objective, we recommend the Licensing Board refer to appendix A to get an understanding of the social and health harms

and increasing inequalities that increasing access to alcohol facilitates. All of which the objectives of the East Lothian Council Plan and the Local Outcome improvement plan are trying to address.

9. Minimum Unit Pricing

Recommendation 20: The Board keep section 16.5 under review in relation to any changes to MUP in Scotland.

10. Irresponsible Drinks Promotions

Recommendation 21: The Forum supports the addition of examples of irresponsible drinks promotions and encourages the Board take matters in relation to this very seriously including cases where the promotion may be an attempt to circumvent the law and not in the spirit of the licensing objectives.

11. Occasional Licences

Recommendation 21: The Forum supports the inclusion and adoption of a definition of a voluntary organisation into the policy. This gives clear criteria and will limit attempts to obtain occasional licences by commercial organisation or not formally constituted organisation where a personal or premises licence holder should apply.

Submitted by Graham Blaikie (Forum Chair), On behalf of and in collaboration with the following members East Lothian Alcohol Licensing Forum:

Graham Blaikie – Premises Manager
John Thayers – MELDAP
Claire Glen – NHS
Karen Harling – LSO
Stuart Baxter –
Arin Podder – Premises Manager

14th September 2023

APPENDIX A

Additional Information for East Lothian Licensing Board Consultation From NHS Lothian Public Health & Mid and East Lothian Alcohol and Drug Partnership

As referred to in our previous submissions, we have now received data from The Centre for Research on Environment Society and Health (CRESH) which allows us to provide recommendations to the License Board on areas of alcohol license overprovision within East Lothian, for both on and off sales.

The purpose of the licensing system in Scotland is to regulate the retail provision of alcohol in such a way as to mitigate the risks of harm to individuals and society from its use. The job of a licensing board is to decide whether any proposed further expansion in the supply of alcohol, through additional licensed premises, capacity or hours is compatible and consistent with the licensing objectives and the wider public interest.¹

The Centre for Research on Environment Society and Health (CRESH) is a virtual centre joining scientists from the Universities of Edinburgh and Glasgow. Their research is focused on exploring how physical and social environments can influence population health, for better and for worse. This newly available CRESH data (2020) provides further evidence of the links between alcohol availability and harm in Scotland. Information was gathered on alcohol outlets, health harms and crime rates within neighbourhoods across the whole of Scotland. This data will soon be available online in the Alcohol Outlet Availability and Harm Profiles, and the CRESH WebMap. In the interim, we have provided a summary of the data below, and a description of how we have used it to identify areas of overprovision in East Lothian. We are hopeful this data will support the license board to improve its understanding of alcohol and its impacts and inform your East Lothian strategy for the next three years.

We analysed the following data provided by CRESH:

- Data zones² and intermediate zones³ in the East Lothian Council area
- Standardized ratio⁴ for hospital stays related to alcohol⁵
- Crime rate (recorded crimes of violence, sexual offences, domestic housebreaking, vandalism, drugs offences, and common assault per 10,000 people)⁶
- Number of total alcohol outlets (both on- and off-premise 2020)
- Number of on-premise alcohol outlets (buy and consumption on-premise 2020)
- Number of off-premise alcohol outlets (buy and consumption off-premise 2020)

Overprovision is where there are problems linked to the number and type of premises in an area. Boards have the flexibility to decide the approach they take to addressing overprovision in their area and can focus on only those factors that cause them concern in the light of the evidence. A licensing board must refuse applications for new premises licences or extensions in capacity in areas where it

¹ <https://www.alcohol-focus-scotland.org.uk/media/263089/AFS-Resource-Section-4.pdf>

² Data zones are designed to have roughly standard populations of 500 to 1,000 household residents, nest within council areas, have compact shapes that respect physical boundaries where possible, and to contain households with similar social characteristics.

³ Intermediate Zones were designed to meet constraints on population thresholds (2,500 - 6,000 household residents), to nest within local authorities, and to be built up from aggregates of data zones.

⁴ Standardised ratios (e.g. alcohol-related hospital admissions) are adjustment for age and sex so that comparisons can be made between areas that may have populations with different age or gender structures. A value of 100 is the Scotland average for a population with the same age and sex profile.

⁵ Data from Scottish Index of Multiple Deprivation 2020

⁶ Data from Scottish Index of Multiple Deprivation 2020

judges that the granting of an additional licence or extended capacity could result in overprovision of licensed premises.

There has been good evidence for over a decade that increased alcohol outlet density is associated with harms to health.⁷ Overprovision of alcohol creates harm by directly increasing opportunities for purchases, and influences the perceived normality of alcohol consumption, including the exposure to children and young people. Overprovision also makes it more difficult for people to recover from alcohol dependence.⁸ Specifically within Scotland, researchers at the University of Edinburgh have found that alcohol related mortality and morbidity are significantly higher in neighbourhoods with a greater density of alcohol outlets.⁹ This relationship was particularly striking for off sales outlet density.

The restrictions linked to Covid led for obvious reasons to an increase in home drinking, for example, alcohol sold in off sales had risen from 73% in 2019 to 90% in 2020 and now at 85% in 2021. This sales data (analysed by Public Health Scotland) includes supermarket deliveries but does not take account of sales from specialist online retailers (e.g. Amazon, Majestic.com) or on-trade takeaway sales. Omitting data from online alcohol specialist retailers was estimated to result in a 1% underestimation of sales in 2013,^[i] and it is likely that the market share of online specialists will now be greater with online the fastest growing method of sale during the pandemic.^[ii] New online customers were responsible for half of the online sales growth in 2020.^[iii] Home drinking coupled with the cost of living crisis may increase as people choose the cheaper option than a night out. This brings challenges in a home environment which is unregulated and has the potential for increased harm for the individual and anyone living with them, particularly children and young people who may be more exposed to alcohol use.

With changes in drinking patterns it is important to ensure that the policy statement is written to demonstrate new approaches to the promotion of the objectives, relevant to current and local context.

Alcohol specific deaths in Scotland increased by 17% in 2020 and a further 5% in 2021. In 2022 there were 19 Alcohol Specific Deaths in East Lothian an increase of 7 from the previous year. The actual figure of deaths is much higher as cancers and other alcohol related health conditions are not included. By comparison there were 17 Drug Misuse Deaths. Nationally deaths in deprived areas were 4.3 as high as in least deprived areas.

It will take longer, possibly up to 20 years to see the full effects of changes in alcohol consumption such as cancers but like the pandemic and economic crisis will widen existing and create new inequalities in East Lothian.

There is no formal definition of 'overprovision' in terms of a simple numerical formula for pinpointing the threshold between provision and overprovision. Determining overprovision involves the application of reason and judgement in the interest of the community.¹⁰

⁷ Campbell C, Hahn R, Elder R et al. The effectiveness of limiting alcohol outlet density as a means of reducing excessive alcohol consumption and alcohol-related harms. *American Journal of Preventive Medicine* 2009; 37(6):556–569.

⁸ <https://pubmed.ncbi.nlm.nih.gov/28886441/>

⁹ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4415114/#:~:text=An%20IQR%20increase%20in%20off,%2C%2015%25%20higher%20mortality>).

¹⁰ <https://www.alcohol-focus-scotland.org.uk/media/263089/AFS-Resource-Section-4.pdf>

As of 31 March 2022, East Lothian has 307 alcohol outlets¹¹ (on and off trade), which means there is approximately one outlet for every 285 residents aged 18 and over (and one outlet for every 71 'harmful' drinkers in the county (consuming over 14 units a week)).¹²

These averages are better than comparable national averages. However, these council wide averages do not fully reflect the impact that alcohol has within certain communities (intermediate data zones) in East Lothian and as such it may be more meaningful to look at areas within East Lothian which are overprovided, compared to East Lothian as a whole.

We have based our current analysis and recommendations on intermediate zones which:

- contains at least one data zone experiencing a very high aggregate alcohol related harm (i.e. those with rates of both alcohol related health harm and criminal justice harm in the top 20% of East Lothian data zones); and
- contains at least one data zone with a high rate of provision of off sales or on sales premises (i.e. with rates of these respective premise type in the top 20% of East Lothian data zones)

We recommend that the following 3 intermediate zones are assigned as overprovision areas for **all sales**.

This is because they are in the top 20% of intermediate zones for **all** alcohol outlets, on-premise outlets (on sales), and off-premise outlets (off sales) and are above the Scottish average for alcohol related hospital admissions **or** crime rate.

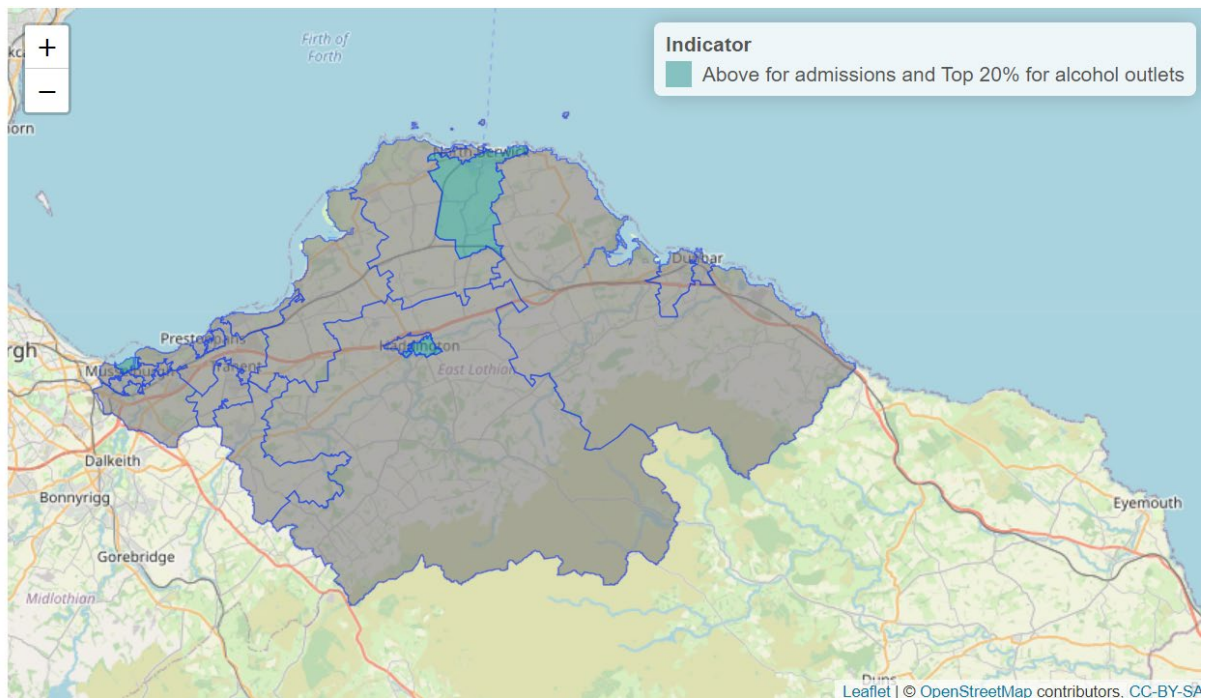
- **Musselburgh North**
 - Top 5% for all outlets
 - Top 5% for on sales
 - Above for alcohol-related admissions
- **Haddington South**
 - Top 10% for all outlets
 - Top 10% for off sales
 - Top 15% for on sales
 - Above for alcohol-related admissions
- **North Berwick South**
 - Top 20% for off sales
 - Above for alcohol-related admissions

Please note that interactive versions of these maps can be accessed using the following link [East Lothian Alcohol Overprovision](#) together with the data that is referred to in this paper.

¹¹ <https://www.gov.scot/publications/scottish-liquor-licensing-statistics/>

¹² <https://www.nrscotland.gov.uk/statistics-and-data/statistics/statistics-by-theme/population/population-estimates/mid-year-population-estimates/mid-2021>

Figure 1. The map below highlights the intermediate zones listed above:



The following areas should be monitored going forward as they are in the top 20% for alcohol outlets, but are not above the Scottish average for alcohol related admissions or crime rate.

- **Musselburgh West** (top 5% for off sales),
- **Prestonpans West** (top 1% for off sales),
- **Gullane and Drem** (top 20% for all outlets and for on sales),
- **North Berwick North** (top 1% for all outlets and for on sales and top 15% for off sales)
- **Dunbar East** (top 10% for on sales and top 15% for all outlets)

The following intermediate zones have the highest levels of alcohol related harm (health and criminal), alongside the highest alcohol outlet rates (per 1000 persons) for off sales. We therefore recommend that these intermediate zones are assigned as over provision areas for **off sales**.

- **Haddington South** (top 10% for off sales)
- **Prestonpans West** (top 1% for off sales)
- **North Berwick** (top 20% for off sales)

The following intermediate zones have the highest levels of alcohol related harm (health and criminal), alongside the highest alcohol outlet rates (per 1000 persons) for on sales. We therefore recommend that these intermediate zones are assigned as over provision areas for **on sales**.

- **Haddington South** (top 15% for on sales)
- **Musselburgh North** (top 5% for on sales)

Figure 2. The map below highlights **Intermediate zones and data zones with high density and high alcohol-related harms**

- The alcohol admissions ratio and/or the crime rate are higher than the Scottish average and the intermediate zone is in the top 20% for alcohol outlets (all outlets, on sales or off sales)

- The intermediate zone contained at least one data zone that was in the top 20% of data zones for alcohol outlets and had higher than the Scottish average for alcohol-related harms (crime rate/alcohol-related admissions)

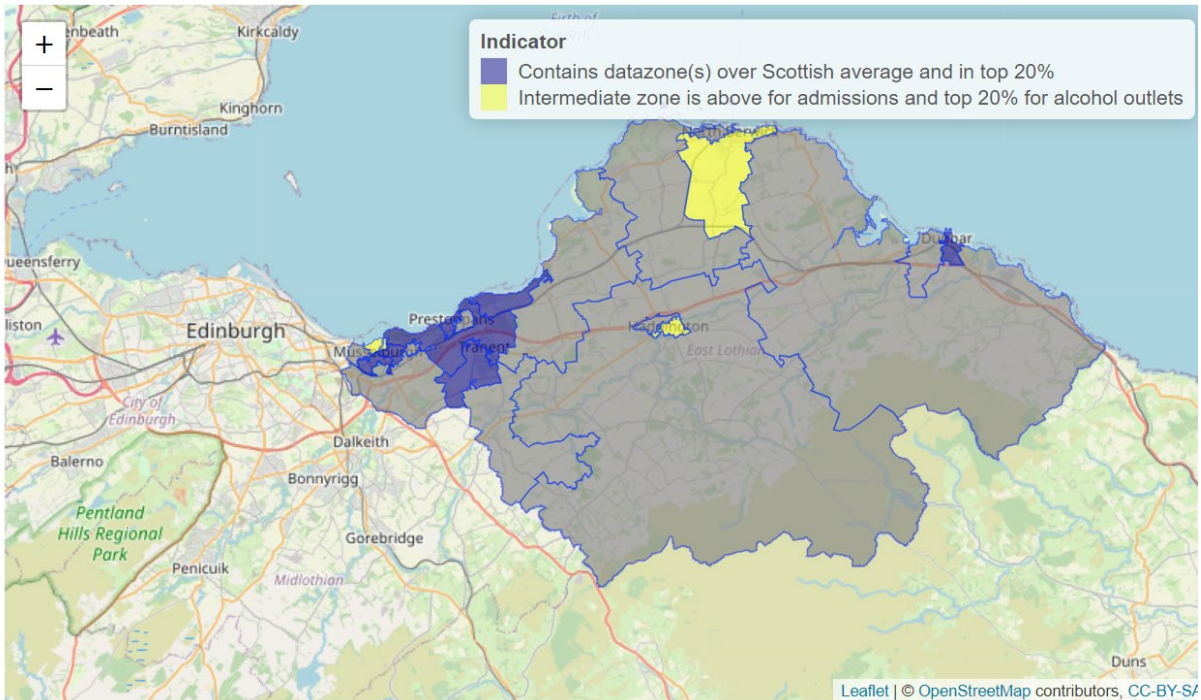
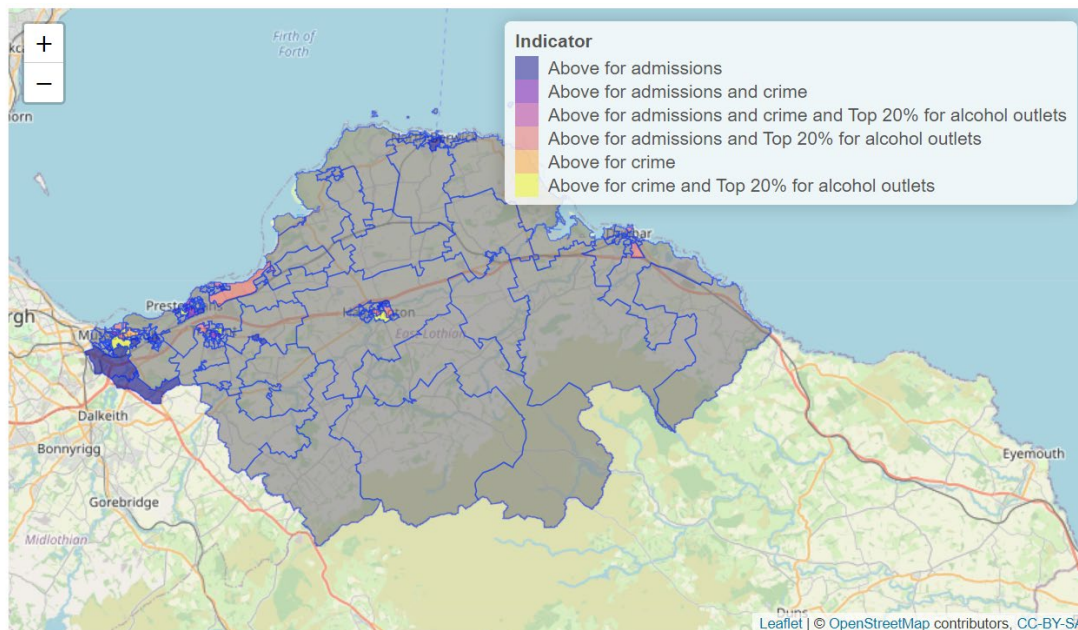


Figure 3.

The map below highlights data zones where:

- The alcohol admissions ratio is higher than the Scottish average
- The crime rate is higher than the Scottish average
- The data zone is in the top 20% for alcohol outlets (all outlets, on sales or off sales) and alcohol-related harms higher than the Scottish average were recorded



The Licensing Forum understands that the License Board has discretion on the size of areas to declare as overprovision zones. We recommend that the board consider overprovision by intermediate zone, rather than data zones. Data zones are small (500-1000 household residents and in some cases taking minutes to cross) and therefore it is difficult to be confident that the impact of very dense areas of outlets will be effectively described by the boundaries of the data zone itself. If we examine only data zones with the greatest harm and outlet density and declare only those small areas overprovided, the existing nearby provision will be ignored and new outlets will simply be displaced to the periphery of data zone boundaries, spreading the overprovision rather than addressing it.

Overprovision is only one ground for refusal. As well as having a statement on overprovision which becomes meaningless if all applications continue to be granted the Board could clearly set out its concern regarding the granting of an off-sales licence under a section specifically relating to off sales and the licensing objective of **protecting and improving public health**. This has been done in other boards where there were concerns over health harms but it was evident that in some areas there were very few licensed premises and therefore identifying them as an overprovision locality, in terms of the number and capacity of licensed premises would not be appropriate. Even where there is little or no existing alcohol provision within the area, it may be inconsistent with the Licensing Objective of Protecting and Improving Public Health to grant a licence which would facilitate and allow easier access to alcohol, thereby having the potential to exacerbate existing alcohol related health problems in the area

Inequalities is a particularly important consideration in relation to overprovision. There is a stark inequalities gradient to alcohol harm, and a growing awareness that the impact of harmful drinking and alcohol dependence is much greater for those experiencing the highest levels of deprivation.

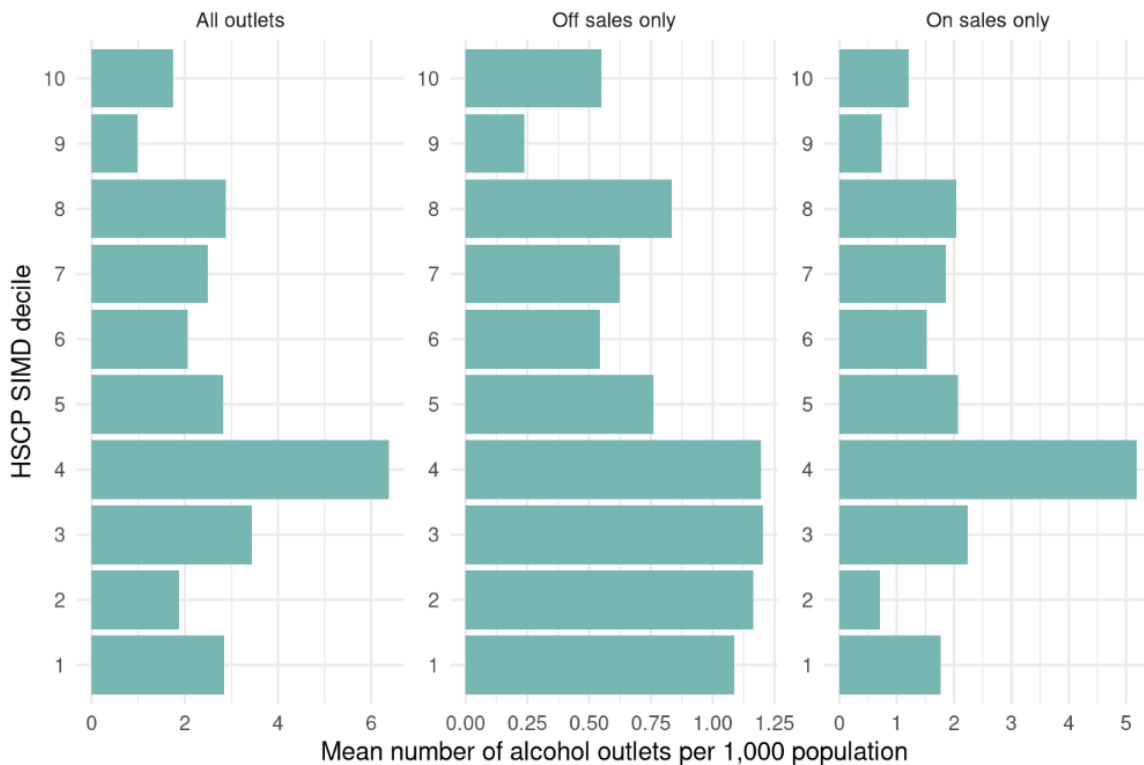
From the data presented we can see that off sales outlet density is higher in more deprived areas. A recent study¹³ found that children in the second most deprived quintile (SIMD decile 3 & 4) had the highest probability of exposure to **on-sales** outlets. They explained that this was likely because on sales outlets tend to proliferate in areas of medium deprivation while **off sales** outlets proliferate in areas of high deprivation. This exposure to off sales should be noted when the Licensing Board considers the 5 licensing objectives, in particular objective 5; 'Protecting children and young people from harm'.

¹³ Caryl et al., 2022, Inequalities in children's exposure to alcohol outlets in Scotland: a GPS study: <https://bmcpublichealth.biomedcentral.com/articles/10.1186/s12889-022-14151-3#Sec20>

Figure 4. shows the relationship between income deprivation and alcohol outlet density across East Lothian

Figure 4.

Average alcohol outlet density by HSCP SIMD decile



Further to this we can see that the relationship between income deprivation and alcohol density across East Lothian also demonstrates that alcohol availability was related to income deprivation¹⁴ and Caryl et al. (2022) also focused on this domain in their analysis of children’s exposure to alcohol outlets.

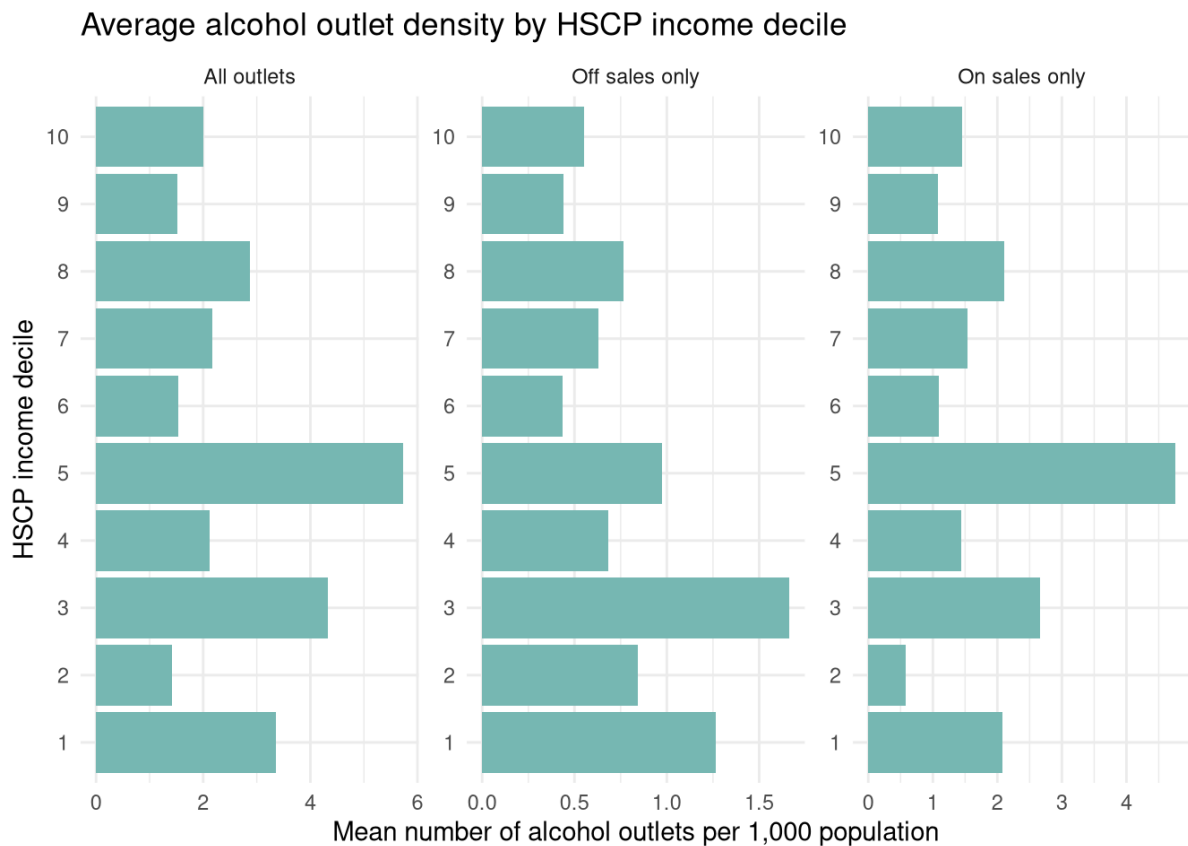
The graph below shows the mean alcohol outlet density across East Lothian by income decile.

We can see that off sales outlets seem to be highest in SIMD 1 and 3 areas, echoing Caryl et al’s (2022) findings that children in the most income deprived areas are the most likely to be exposed to off sales. In their study, children in the three most deprived quintiles (1-2, 3-4, 5-6) received more exposure to off sales outlets when they were at school. This is important because off-sales availability is more strongly associated with underage children’s alcohol use, likely because children are more able to enter off-sales outlets on their own, while they are usually required to be accompanied by an adult to access on sales outlets (Caryl et al., 2022).

¹⁴ Alcohol Focus Scotland, Alcohol Outlet Availability and Harm in Scotland: <https://www.alcohol-focus-scotland.org.uk/media/310762/alcohol-outlet-availability-and-harm-in-scotland.pdf>

Figure 5. shows the relationship between income deprivation and alcohol outlet density across East Lothian.

Figure 5.



Similar to the previous graph, we can see that on sales outlets seem to be most concentrated in middle deprivation areas, namely in income decile 5, which also has the overall highest average number of outlets per 1,000 people.

Alcohol presents a number of wider health and social harms and has a cumulative impact on communities over a number of years. We are keen to discuss this information further with the license board in future joint meetings.

^[i] NHS Health Scotland (2015). *MESAS: An update of the validity and reliability of alcohol retail sales data for the purpose of Monitoring and Evaluating Scotland’s Alcohol Strategy*. Edinburgh: NHS Health Scotland. www.healthscotland.com/documents/25959.aspx

^[ii] Kantar, FMCG Panel, September 2020. Taken from seminar run by Kantar on 20 October 2020, available [here](#)

^[iii] Catchpole, A. (8 June 2020). "Impressive" online drinks uplift here to stay. *Harpers.co.uk*. Accessed 8/10/21 from https://harpers.co.uk/news/fullstory.php/aid/27231/ Impressive_online_drinks_uplift_here_to_stay.html



EAST LOTHIAN LICENSING BOARD STATEMENT OF LICENSING POLICY

IN ACCORDANCE WITH THE LICENSING (SCOTLAND) ACT 2005
1ST NOVEMBER 2023 – 31ST OCTOBER 2028

Index

FOREWORD

PART 1 – INTRODUCTION

- 1.0 [The Licensing \(Scotland\) Act 2005](#)
- 2.0 [The Licensing Objectives](#)
- 3.0 [East Lothian Licensing Board](#)
- 4.0 [Local Licensing Forum](#)
- 5.0 [Statement of Licensing Policy](#)
- 6.0 [Consultation on Statement of Policy](#)
- 7.0 [Links to Other Policies and Strategies](#)
- 8.0 [Tourism, Planning and Building Standards](#)
- 9.0 [Planning Public Events](#)
- 10.0 [Climate Change Strategy](#)

PART 2 - PROMOTION OF THE LICENSING OBJECTIVES

- 11.0 [Overview](#)
- 12.0 [Bring your own bottle on Licensed Premises](#)
- 13.0 [Preventing Crime and Disorder](#)
- 14.0 [Securing Public Safety](#)
- 15.0 [Preventing Public Nuisance](#)
- 16.0 [Protecting and Improving Public Health](#)
- 17.0 [Protecting Children and Young Persons from Harm](#)
- 18.0 [Local Conditions](#)

PART 3 - LICENSED HOURS

- 19.0 [Off Sales](#)
- 20.0 [On Sales](#)
- 21.0 [Extended Hours Applications](#)

PART 4 – OCCASIONAL LICENCES

- 22.0 [Occasional Licences](#)
- 23.0 [Repeated Occasional Licence Applications](#)
- 24.0 [Occasional Licences and Provisional Premises Licences](#)

PART 5 – OVERPROVISION

25.0 [Overprovision](#)

26.0 [Summary](#)

PART 6 - MISCELLANEOUS ISSUES

27.0 [Board Business](#)

28.0 [Annual Fees](#)

29.0 [Licensing Standards Officers](#)

30.0 [Members Clubs](#)

31.0 [Excluded Premises](#)

32.0 [Outdoor Areas](#)

33.0 [Smoking](#)

34.0 [Management of Premises](#)

35.0 [Duty to Trade](#)

36.0 [Premises that have ceased to be used for the sale of alcohol](#)

37.0 [Deliveries](#)

38.0 [Layout Plans](#)

39.0 [Activities](#)

40.0 [Social Media](#)

41.0 [Climate Change Strategy](#)

APPENDICES

[Appendix 1 –Approved Local Conditions](#)

FOREWORD BY THE CONVENOR

It is a distinct pleasure to be serving as Convenor of the East Lothian Licensing Board and I am proud to be able to lay out the Statement of Licensing Policy for the Board for the coming 5 years.

The licensed trade plays a vital part of life in East Lothian providing jobs, support for our communities, recreation facilities and much beside. We hope that our Statement of Licensing Policy recognises those benefits whilst at the same time appropriately balancing the need to ensure that alcohol is always sold from premises that are well run by individuals who are fit and proper.

To ensure that our policy does meet the needs of the people of East Lothian we will continuously be monitoring the effectiveness of our Statement of Licensing Policy and implement any supplementary statements as required.

Our aim will be to promote the Licensing Objectives as set out in the legislation and ensure that all the decisions we make are firmly based upon reliable evidence and on individual merit. We look forward to working collaboratively with the East Lothian Licensing Forum to ensure that objectives are met right across East Lothian.

I want to take the opportunity on behalf of the whole Board to thank all those who played a part in the putting together of this licensing policy. Firstly, those who have contributed to during the consultation process including our colleagues from statutory services, the licensed trade in particularly the East Lothian Licensing Forum, our community councils, and the young people of our county.

Of course, none of this could have happened without the support and dedication of our wonderful licensing team. I want to thank them not just for the support they have given to the Board in putting together this policy but for everything they do all year to support us, the licensed trade and the whole of our county.

Councillor Lachlan Bruce

Convener, East Lothian Licensing Board

PART 1

INTRODUCTION

1.0 The Licensing (Scotland) Act 2005

1.1 The Licensing (Scotland) Act 2005 as amended (“the Act”) makes provision for regulating the sale of alcohol, and for regulating licensed premises and other premises on which alcohol is sold.

1.2 Under the Act, Licensing Boards are responsible for considering applications for:-

- premises licences
- occasional licences
- provisional licences
- temporary licences
- personal licences
- transfer of premises licences
- variation of premises licences
- extensions of licensing hours

in respect of:

- the sale of alcohol by retail; and
- the supply of alcohol in member’s clubs

2.0 The Licensing Objectives

2.1 The Act sets out the following five licensing objectives (“the licensing objectives”):-

- ❖ Preventing crime and disorder
- ❖ Securing public safety
- ❖ Preventing public nuisance
- ❖ Protecting and improving public health
- ❖ Protecting children and young persons from harm

2.2 The licensing objectives provide a basis for the administration of the licensing regime. They also provide potential reasons for refusing an application for the grant or variation of a premises licence or an occasional licence. Breach of the objectives may provide grounds for reviewing a premises licence. Conditions attached to a premises licence or an occasional licence may be based on one or more of the licensing objectives.

2.3 In exercising its functions under the Act, the Board must have regard to the licensing objectives. Details of how the Board will seek to promote the licensing objectives are set out in **Part 2**.

2.4 When considering the licensing objectives the Board will take a population health approach which considers the implication for each licence application across the spectrum of the

population, with a focus on children and young people. Each life stage of the population will be considered in terms of risk and exposure.

3.0 East Lothian Licensing Board

- 3.1 East Lothian Licensing Board (“the Board”) is the licensing authority for the local government area of East Lothian for the purposes of the Act. The Board currently comprises six members, all of whom are elected members of East Lothian Council. The number of Board members may change following local council elections. The Board is responsible for the functions set out in paragraph 1.2 above within East Lothian.
- 3.2 East Lothian shares borders with the City of Edinburgh, Midlothian and Scottish Borders Councils and covers around 680 square kilometres with 82km of coastline. Around 110,000 people live within the area, which stretches from the former mining parishes of Tranent and Prestonpans, and Musselburgh in the west to the fishing community of Dunbar in the east and from the tourist resorts, such as North Berwick on the Firth of Forth to the farming lands of Garvald and Whittinghame on the border with Berwickshire. The main administrative centre for East Lothian is based in Haddington.

4.0 Local Licensing Forum

- 4.1 The East Lothian Licensing Forum’s role is to keep under review the operation of the Licensing Act in the East Lothian area and to give advice and make recommendations to the Board in relation to those matters the Forum considers appropriate. The Forum is the community's voice on alcohol licensing issues. This will be mainly at a policy level as the Forum cannot comment on individual cases. The Forum meets at least four times a year, at quarterly intervals, and will have at least one joint meeting with the Board each year. Forum meetings are open to the press and public. Further details of the Forum’s activities can be found on its website at [East Lothian Forum](#).

5.0 Statement of Licensing Policy

- 5.1 Every five years each Licensing Board is required to publish a statement, of its policy on the exercise of its functions. Each licensing policy statement must include a statement as to the extent to which the Board considers there is overprovision of:

- licensed premises, or
- licensed premises of a particular description,

in any locality within the Board’s area.

- 5.2 The Board has published this policy statement in fulfilment of the requirements of sections 6 and 7 of the Act. Section 6(3)(a) of the Act also requires a Licensing Board, in preparing a

licensing policy statement, to ensure that the policy set out in the statement seeks to promote the licensing objectives.

- 5.3 This policy statement shall be effective until 2028. It will be kept under review during that period and the Board has the power under section 6(2) of the Act to publish a supplementary policy statement.
- 5.4 In preparing this policy statement, the Board has had due regard to the guidance issued by the Scottish Government – [Licensing \(Scotland\) Act 2005 section 142: guidance for Licensing Boards](#).
- 5.5 Whilst reviewing the previous policy and developing the current the Board have considered the known and projected impact of COVID-19 on the licensing objectives and licensed trade. There have been documented changes in drinking patterns with an increase in alcohol-specific deaths in Scotland.
- 5.6 The board also recognises there has been a shift in alcohol sales and drinking from the on-trade to the off-trade. Prior to the pandemic 73% of alcohol in Scotland was sold in off sales. This proportion increased in 2020 to 90% before decreasing slightly to 85% in 2021¹. As such the Board's policy for off sale, deliveries, remote and online sales has been considered and revised.
- 5.7 This policy statement covers a wide variety of issues. However, it cannot cover every eventuality and it seeks to detail those factors that will influence the achievement of the licensing objectives. If matters arise that are not covered by this policy statement, the Board may publish a supplementary policy statement to cover such matters.
- 5.8 Section 6(4) of the Act requires the Board, in exercising its functions under the Act, to have regard to this policy statement. However, the Board will consider all applications on their own individual merits and it is open to an applicant to seek a decision from the Board, which is inconsistent with the terms of this policy statement. Further, this policy statement will not override the right of any person to make representations on any application or seek a review of a premises licence where permitted to do so under the Act. Where persons seek a decision from the Board which is inconsistent with the terms of this policy statement, the Board expects them to fully address the issue of why the policy statement should not be followed. The applicant will therefore be required to demonstrate, by means of evidence, good reason for doing so, and in particular, evidence how a departure will comply with, and promote, any or all of the five licensing objectives.
- 5.9 This policy statement should be read in conjunction with the Act and all regulations made thereunder. It is designed to be a strategic policy statement, not an operational guide to the legislation.

¹ [Chapter 8 Alcohol and Drugs - The Scottish Health Survey 2021 - volume 1: main report - gov.scot \(www.gov.scot\)](#)

6.0 Consultation on Statement of Policy

6.1 Section 6(3)(b) of the Act states that in preparing this statement of policy the Board must consult the following: -

- East Lothian Local Licensing Forum;
- if the membership of the Forum is not representative of all of the various membership categories, such persons as appear to the Board to be representative of the underrepresented categories;
- such other persons as the Board thinks appropriate.

6.2 The Board has consulted widely on this statement of policy in fulfilment of the requirements of section 6(3)(b). An initial consultation on the existing policy took place from November 2022 – January 2023. The Board wrote to all secondary Schools in East Lothian asking for views of young persons. A consultation was then conducted on the draft policy from June – August 2023 using an online platform. During this period relevant parties were contacted to submit views and comments such as Police, Fire Service, Health Board, the Licensing Forum, Community Councils, Councillors, Council Departments, licence holders, parties involved in the licensed trade and members of the public. The consultation was advertised on social media and the council’s website. Paper copies were available should the consultee wish. In finalising this policy statement, appropriate weight has been given to the views of those who responded to the consultation.

7.0 Links to Other Policies and Strategies

7.1 The Board values and celebrates the diversity that exists within East Lothian, and would like to ensure that everyone can fully participate in the social, cultural, political and economic life of the County.

7.2 The Board opposes all forms of unlawful discrimination including discrimination on the grounds of race, ethnicity, gender, sexual orientation, age, religion and disability and recognises that discrimination creates barriers to achieving equality for all people.

7.3 The Board will, at all times, have due regard to the Equality Act 2010 and any subsequent and similar legislation and to the need to: -

- eliminate unlawful discrimination, and
- promote equality of opportunity.

East Lothian Licensing Board has an Equalities Policy which promotes access, for disabled people, to services and facilities that can be viewed at [East Lothian Council website](#).

- 7.4 Applicants for premises licences will be expected to demonstrate in their operating plans how they intend to support this policy.
- 7.5 The Board acknowledges the work undertaken by the voluntary sector in addressing the impact of alcohol misuse. It considers the work undertaken by the Midlothian and East Lothian Drugs and Alcohol Partnership (MELDAP) to be of particular significance in this area and consulted with [MELDAP](#) in relation to the policy.
- 7.6 The Board acknowledges that the new policy references relevant locality plans and the [strategic plan of the Health and Social Care Partnership \(HSCP\)](#). As alcohol licensing is the responsibility of the Board, it is essential that the Board identifies where it shares similar objectives to Community Planning Partners, and how best they support each other. It is therefore important to the Board that this policy aligns with the [Community Planning Local Outcome Improvement Plans \(LOIPs\)](#).
- 7.7 The Board acknowledges national strategy and best practice and wishes to highlight this area to applicants to consider in their applications. This allows for comprehensive discussion about preventing alcohol harm when considering applications. The Board will consider resources available to it including:-
- [The Scottish Government’s Alcohol Framework](#)
 - [The Scottish Government’s Public Health Priorities – \(PHP4 – A Scotland where we can reduce the use and harm from alcohol, tobacco, and other drugs\)](#)
 - [The World Health Organisation’s best buys to reducing harmful use of alcohol](#)

8.0 Tourism, Planning and Building Standards

- 8.1 The Board will arrange to receive, when appropriate, reports on the needs of the local tourist economy for the area to ensure that these are reflected in its considerations. New or extended license applications relating to a recognised tourist attraction must show that the granting of the licence will have no serious impact on the Licensing Objectives.
- 8.2 Planning, building standards and licensing regimes will be properly managed to avoid duplication and inefficiency. An application for a premises licence must be from a business that holds planning consent for the property concerned.

9.0 Planning Public Events

- 9.1 The Board will consider applications for the licensing of the sale and supply of alcohol at public events. However, it must be made clear that organisers have a responsibility to ensure that they check and apply for other types of licence or permit that may be required under other legislation in relation to the activity they intend to hold. This includes public entertainment licences, market operator licences and or appropriate street trader licences.

- 9.2 Organisers of a public event need to be aware that a great deal of planning and organisation is required to run an event successfully. The safety of all involved and the compliance with a wide range of legislation must be considered. As an organiser, it must be remembered that, at all times, you are responsible for all aspects of the event under your control. Useful information on planning an event can be found at [Your event Journey | East Lothian Council](#)
- 9.3 East Lothian Council chairs the Safety Advisory Group (SAG) for events planned within its area. Organisers of public events should contact the SAG without delay by emailing events@eastlothian.gov.uk and completing the [event notification form](#).

10.0 East Lothian Council Climate Change Strategy 2025

- 10.1 In August 2019, East Lothian Council's Elected Members unanimously agreed to declare a Climate Emergency. The Council resolved to take action to make all our Council Services net Zero Carbon as soon as reasonably practicable or in any case by 2045 and to work with our communities and partners towards making East Lothian a carbon neutral county. The Climate Change Strategy sets out how East Lothian Council will work in partnership with our local communities, businesses, organisations and individuals to tackle climate change. The Council will also work with its partners in the East Lothian Partnership to help achieve a reduction in carbon emissions, and improve sustainability and equality across East Lothian.
- 10.2 The board acknowledges this strategy and that mitigations and adaptations are required in response to the climate emergency in the Boards area and will take on board measures detailed in the strategies below.
- 10.3 East Lothian Council's Climate Change Strategy (2020-2025) sets out an action to 'Progress revision of licencing / permits to lease-holders / activities are required to cut single-use plastic and strongly encouraged to attempt a zero waste activity and demonstrate carbon reduction strategies' by 2025 - [Climate Change Strategy 2020-25 | East Lothian Council](#)
- 10.4 The Scottish Government announced a Single-use Plastic Ban on Wednesday 1st of June 2022 - [Single use plastics ban - gov.scot \(www.gov.scot\)](#). This includes plastic cutlery (forks, knives, spoons, chopsticks), plates, straws, beverage stirrers and balloon sticks; food containers made of expanded polystyrene; and cups and other beverage containers made of expanded polystyrene, including their covers and lids. Whilst the Board cannot act outwith its powers in relation to matters covered by legislation, it strongly urges premises to comply.
- 10.5 The Scottish Government's updated Climate Change Plan (2018-2032): Securing a Green Recovery on a Path to Net Zero mentions the potential implementation of a Deposit Return Scheme for single use drink containers as well as restricted supply of single use plastic items as key for Scotland's roadmap to net zero. The Board will assess any changes as they are implemented.

- 10.6 Guidance Zero Waste Scotland recommends a leasing scheme for customers to borrow e.g. a reusable cup for a deposit. Contact with local sustainability groups may assist licence holders.
- 10.7 Guidance on moving away from single use plastic can be found here:
- a. [Supporting documents - Securing a green recovery on a path to net zero: climate change plan 2018–2032 - update - gov.scot \(www.gov.scot\)](#)
 - b. [Supporting documents - Securing a green recovery on a path to net zero: climate change plan 2018–2032 - update - gov.scot \(www.gov.scot\)](#)
 - c. [Making more sustainable choices: moving away from single-use | Zero Waste Scotland](#)
 - d. [Public event food and drink | Planning a public event | East Lothian Council](#)

PART 2

PROMOTION OF THE LICENSING OBJECTIVES

11.0 Overview

- 11.1 Part 2 sets out the Board’s general approach to the promotion of the licensing objectives. In relation to each licensing objective, the Board has set out the general policy it will pursue in seeking to promote that objective.

In respect of each licensing objective, the Board has: -

- defined its intended outcome; and
- listed factors that, in its view, have an impact on the achievement of that objective.

- 11.2 Because of the wide variety of premises and activities to which this policy statement applies these lists are not exhaustive. Applicants and licence holders will know their own premises best and will be expected to address all aspects relevant to the individual style and characteristics of their premises and the licensable activities for which they are seeking, or have obtained, authorisation.

- 11.3 The Board emphasises that effective and responsible management of licensed premises is key to securing consistency with the licensing objectives. In respect of each licensing objective, the Board has specified a list of measures (“control measures”) which it recommends to applicants and licence holders as worthy of consideration in seeking to secure consistency with that objective. These lists are intended to assist applicants and licence holders but, again, are not exhaustive. Some control measures apply to more than one licensing objective. Failure to implement these measures may put licensees at risk of review on the basis that they are not fit and proper persons to operate licensed premises and hold a premises licence.

- 11.4 The Board, in assessing applications for licensed premises may attach conditions as considered necessary, in order to promote any of the licensing objectives.

- 11.5 Additional measures may be necessary on an occasional or specific basis such as when a special event is planned which is intended to, or likely to, attract larger audiences or audiences of a different nature.

12.0 Bring Your Own Bottle on Licensed Premises

- 12.1 It is the Licensing Board’s preference that any unlicensed Restaurant/Café/Commercial premises should in fact apply for a premises licence rather than allow customers to Bring Your Own Bottle (BYOB).

- 12.2 Should a licence holder allow a BYOB event to take place on their licensed premises, they must state this in the ‘activities’ part of their ‘operating plan’.

- 12.3 Licensees should also understand that by permitting BYOB they will still be responsible for the conduct of persons within their premises and have a duty to control what and how much alcohol persons are consuming. They are also responsible for the disposal of bottles and litter on, and surrounding the premises.
- 12.4 It should be clear that the use of BYOB facilities cannot be used to extend drinking time before or after core hours, as consumption of alcohol out with the licensed hours granted by the Licensing Board is illegal without the grant of an extended hours licence.

13.0 Preventing Crime and Disorder

- 13.1 In carrying out its functions under the Act, the Board will have regard to the likely impact licensed premises may have on crime and disorder.
- 13.2 The Board supports a strategy aimed at making East Lothian a safe place to live in and visit. The Board is committed to further improving the quality of life of people in East Lothian by playing its part in ensuring that licensed premises are run in such a way as not to contribute to crime and disorder.
- 13.3 Byelaws – In East Lothian there are Byelaws prohibiting the consumption of alcohol in designated public places. These restrictions were introduced to prevent crime and disorder and anti-social behaviour. At present, not all areas are covered by Byelaws. Please check to see if there are any [byelaws](#) in your area which may impact on the planning of an event. If it is proposed to hold an event at which alcohol is to be sold or consumed, in an area that is subject to one of these Byelaws, then an occasional licence will be required.
- 13.4 Applicants and licence holders should be able to demonstrate that all factors, which impact on crime and disorder, have been considered. These include but are not restricted to: -
- underage drinking, including agent purchases
 - drunkenness on or around the premises
 - illegal possession and/or use of drugs
 - violent behaviour/public disorder
 - sexual exploitation of children and young persons
 - antisocial behaviour
 - drink driving
 - litter

13.5 In order to meet this licensing objective the Board has set out the following suggested control measures and advises the licence holder to consider and implement these. Suggested control measures include:-

- implementation of a crime prevention policy, which would need to be developed with Police Scotland.
- appropriate instruction, training and supervision of staff to include conflict management; protection of the vulnerable; raising awareness of what child sexual exploitation is, who is involved and actions to be taken; and general procedures to prevent crime and disorder. Guidance on how to recognise and deal with sexual exploitation of children and young persons can be found at [EMPPC website](#).
- acceptance of [The Proof of Age Standards Scheme](#) (PASS) and [Challenge 25](#).
- provision of effective and well maintained CCTV in and around the premises. All Designated Premises Managers and the majority of staff must be able to operate the system. Images should be kept for at least one month. For operational purposes in the investigation of crime and disorder, police officers should be shown footage of any images held in respect of incidents on or about licensed premises. Viewing of images must also be made available to the Licensing Standards Officer. If copies of images are required for evidence purposes by Police Scotland, this should be accommodated.
- display of prominent notices which set out the management's policy on illegal substances
- security policies and regular toilet checks
- employment, when necessary, of Security Industry Authority (SIA) licensed door staff
- proper management of people entering and leaving the premises
- active membership of Pub Watch or a similar scheme
- provision of litter bins and lighting outside the premises
- prominent display of material discouraging drink driving
- promoting awareness of schemes in relation to safety and responsible drinking
- choice of size of measures, particularly for wine
- introduction of a sales refusals book

- calling last orders earlier than the daily terminal hour
- keeping an incident book and daily register which lists complaints, incidents and actions taken by staff and management, including type of entertainment provided and approximate number of patrons in attendance. Other items of interest are details of official visitors to the premises i.e. LSO, Police and other officials, the time premises are cleared of patrons and street cleared at closing time.

13.6 Notification of Incidents – Licence Holders and their staff are expected to contact and co-operate with the Police when incidents of a violent, anti-social or otherwise criminal nature occur. This type of communication will be seen as a positive sign of good management. This also allows for the effective use of Exclusion Orders.

14.0 Securing Public Safety

14.1 The Board is committed to ensuring that the safety of any person visiting or working in, or in the vicinity of, licensed premises is not compromised.

14.2 Applicants and licence holders should be able to demonstrate that all factors which impact on public safety have been considered. These may include: -

- the occupancy capacity of the premises
- mandatory fire risk assessment of the premises
- the age, design and layout of the premises, including means of escape
- the nature of the activities on the premises
- the hours of operation
- customer profile (e.g. age, disability)
- having a glass policy in place covering the collection and use of glass and the risk to patrons and employees from glass
- having a risk policy concerning the use of special effects such as lasers, pyrotechnics, foam and smoke machines
- having a risk policy concerning cleaning and housekeeping processes, deliveries and property maintenance
- first aid facilities

14.3 In order to meet this licensing objective the Board has set out the following suggested control measures and advises the licence holder to consider and implement these. Suggested control measures include:-

- Licence holders and premises managers carrying out and documenting written risk assessments and records
- effective and responsible management of the premises
- provision of effective and properly maintained CCTV in and around the premises. The Board supports the use of such systems and particularly encourage licensees to use them
- active membership of Pub Watch or a similar scheme
- employment of adequate numbers of suitably trained staff
- discourage 'vertical' drinking and encourage patrons to be seated
- having a written policy on how to deal with customers and any other person on the premises who may have become incapacitated or vulnerable through drink or drugs
- empty bottles and glasses are regularly cleared from tables and public areas without undue delay
- all furniture and barriers included in an approved outdoor area that forms part of a public footpath or roadway, must be taken out of use at the designated closing time.
- outdoor areas located on a public footway should only be used for the consumption of alcohol by those seated in the area. No vertical drinking should be permitted on a footway. This practice would not apply to a beer garden in the enclosed area of private grounds unless otherwise directed in a condition imposed by the Board to control nuisance
- First aid facilities and trained staff. Consideration may also be given to having defibrillation equipment at hand and available to staff to deal with medical emergencies. If installation of defibrillation equipment is not practical (some premises work together to obtain these facilities for the community) then finding out and briefing staff as to where any local facilities are and how they can be accessed
- informing the police and LSO of any special event that is to take place on the premises or of any incident or issues that relate to public safety
- employment, when necessary, of Security Industry Authority licensed door staff and implementation of a crowd management policy

- ensuring that premises, both internally and externally, are maintained in good, clean and tidy condition at all times, this includes public footways directly outside licensed premises. At no time should litter of any description be swept and left beyond the perimeter of premises or into the gutter for others to clean up

15.0 Preventing Public Nuisance

- 15.1 Licensed premises can potentially have an adverse impact on communities, as a result of public nuisance arising from their operation. The Board aims to protect and maintain the amenity of residents and occupiers of other business premises from any adverse consequences of the operation of licensed premises whilst also recognising the valuable cultural, social and business importance that such premises provide.
- 15.2 The Board, in assessing applications for licensed premises, may attach conditions as considered necessary, in order to prevent or control any potential detrimental impact of the premises in relation to issues of public nuisance.
- 15.3 Although interpretation is ultimately a matter for the courts, the Board intends to interpret “public nuisance” widely to include such issues as noise, light, odour, litter and antisocial behaviour where these have an impact on the local community.
- 15.4 Applicants and licence holders should be able to demonstrate that all factors, which might contribute to public nuisance, have been considered, these include: -
- the location of the premises and the type of neighbouring premises
 - the hours of opening
 - the nature of the activities to be provided on the premises
 - the occupancy capacity of the premises
- 15.5 In order to meet this licensing objective the Board has set out the following suggested control measures and advises the licence holder to consider and implement these. Suggested control measures include:-
- adherence to any local conditions imposed by the Licensing Board and Planning Department.
 - appropriate instruction, training and supervision of staff to prevent incidents of public nuisance.

- proper management of people entering and leaving the premises.
- implementing a terminal hour dispersal policy including the placement of notices to request customers to leave the premises quietly, respecting local residents.
- using the wind down time between the end of licensable activities and the closure of the premises to indicate to customers that it is time to leave.
- implementing a policy of last admission time to manage safe capacity, prevent disorder and over consumption.
- an effective policy on controlling noise and movement of patrons using outdoor areas, including areas used by smokers.
- a litter and waste management policy should be in place, provisions should be made for the recycling of cans, glass bottles, plastic glasses and rubbish in appropriate receptacles at responsible times between 9am and 9pm, which will not affect nearby residents. The policy should detail management arrangements for the collection and disposal of waste and empty bottles.
- the Board is aware of the public concern of the disposal/misuse of plastic, Licence holders are encouraged to consider using safe alternatives such as Type 5 (polypropylene). Plastic glasses made from polypropylene are translucent, flexible, shatter and crack resistant. Modern polypropylene is almost as clear as PET (Polyethylene terephthalate). Polypropylene plastic glasses are an excellent clean source of plastic and would be readily accepted for recycling. For information on reusable cup schemes please visit - [Public event food and drink | Planning a public event | East Lothian Council](#)
- installation of sound proofing and sound limiting devices.
- sound tests to ensure that noise from equipment used in providing live or amplified music, non-amplified music, singing and speech sourced from licensed premises is not intrusive in any adjoining or nearby residential property.
- reduction of volume of amplified music and live entertainment to protect health and prevent neighbour nuisance.
- consideration of sufficient provision of transport for patrons leaving premises, to prevent nuisance caused by patrons loitering in the vicinity of the premises, particularly after closing. This would include liaison with public transport and taxi providers. Drivers of vehicles dropping off or uplifting should be discouraged from sitting with engines running or idling. This could be publicised by clear signage and /or advice given by door staff.

- installation of a well maintained air conditioning system to provide adequate cooling of public areas of premises during hot weather. This will negate the need to open windows and doors, and therefore prevent noise breakout.
- active membership of Pub Watch or a similar scheme.
- provision of effective and properly maintained CCTV in and around the premises. The Board supports the use of such systems and particularly encourages licensees to use them.
- employment, when necessary, of Security Industry Authority (SIA) licensed door staff.

15.6 **Antisocial Behaviour** – victims of noise nuisance, should contact the police on 101 and report the problem through the anti-social behaviour helpline on 01875 824307 or online [here](#). Investigations are carried out by the Police and Council Departments where necessary.

15.7 **18th or 21st birthday parties** - All premises hosting 18th or 21st birthday parties should give a minimum of 14 days' notice of these events to the Police Licensing Officer and the Licensing Standards Officer. This is so that appropriate advice can be offered on the proper management of such events. Good practice would also be for Licensees to additionally notify any immediate neighbours or those who live along obvious dispersal routes of such parties. The above may be added as a condition to the premises licence should the Board see fit.

16.0 Protecting and Improving Public Health

16.1 The Board is concerned about the link between alcohol consumption and public health. The Board wishes to see responsibly managed licensed premises thriving in East Lothian but not at the expense of the public's health and wellbeing. One of the Board's priorities will therefore be the protection and improvement of the health and wellbeing of the population of East Lothian and visitors to East Lothian. The Board will have regard to the views of any other bodies responsible for, or having an interest in, public health.

16.2 Applicants and licence holders should be able to demonstrate the measures which will be, or have been, put in place to protect public health.

16.3 In order to meet this licensing objective the Board has set out the following suggested control measures and advises the licence holder to consider and implement these. Suggested control measures include:-

- displaying material discouraging drink driving.
- promoting awareness of schemes in relation to safety and responsible drinking

- making available information promoting moderate drinking along with awareness of units of alcohol and recommended guidelines. The UK Chief Medical Officers' guideline for both men and women is that to keep health risks from alcohol to a low level it is safest not to drink more than 14 units a week on a regular basis. Guidance can be found on [Drinkaware](#).
- having a workplace alcohol policy in order to raise awareness, minimise harm and ensure that staff are able to access help (without fear of job loss) when an alcohol related problem arises.
- ensuring that customers are aware of choice in relation to alcohol measures, especially in the case of wine, e.g. small, medium and large measures should be available.
- ensuring that customers are aware of choice in relation to the strength of alcohol in drinks such as wine and beer.
- Where deliveries of alcohol are made to households or other premises, delivery staff must be trained to the same level as those involved in the sale or supply of alcohol from licensed premises. Challenge 25 checks must be made and the mandatory delivery records must be kept in accordance with statutory regulations and made available to Police and the LSO on request. No alcohol must be left at premises if the occupier is under 18 or a responsible adult is not present. Applicants for licences, which include delivery of alcohol, will be required to give details of how they are going to enforce Challenge 25, training of staff and record-keeping requirements when making deliveries. These measures will help protect the health of the young and the vulnerable. Where a courier service to make deliveries, the licensee will ensure that the delivery service is compliant with the Board's required checks and standards of delivery.
- availability of low alcohol and alcohol free alternatives.
- provision of tap water that is fit for drinking free of charge on request. Other non-alcoholic drinks must be available at a reasonable price.
- licence holders are encouraged to provide food or a selection of reasonably priced snacks to encourage patrons to eat at the same time as consuming alcohol.
- providing contact details of where assistance for alcohol related problems may be sought.
- compliance with the law on alcohol pricing and irresponsible drinks promotions.
- having in place a policy/practice to deal with patrons who have consumed excessive alcohol.
- reduction of volume of amplified music and live entertainment to protect the health of patrons and staff and prevent neighbour nuisance.

- Having defibrillation equipment readily available to trained staff to deal with medical emergencies. If provision of such equipment is not practical, then (some licensees work together to provide these facilities for the local community) it is good practice to find out where the nearest facilities are and how they can be accessed. More information can be obtained at [Scottish Ambulance](#) and [British Heart Foundation](#).
- [NHS Inform](#) is the best website in Scotland for impartial health advice.

16.4 Licence holders should have a clear understanding that it is illegal to sell alcohol to a person who appears drunk or to allow drunkenness on the premises.

16.5 Minimum Unit Pricing (MUP)

16.5.1 As of 1 May 2018, no alcoholic drink can be sold at a cost of less than 50p per unit. This is in accordance with Scottish Government policy, which targets high strength alcohol, sold at low prices.

16.5.2 MUP is implemented by way of adding a condition to all licences in Scotland, so failure to adhere to the policy is a breach of your conditions and a criminal offence. Adherence to the conditions is the responsibility of the licence holder, premises manager, and staff working at the point of sale.

16.5.3 Licence Holders should ensure that all staff are aware of the MUP requirements by including this as part of their mandatory staff training.

16.5.4 As with all licensing conditions, MUP will be enforced by our Licensing Standards Officer. They will seek to provide assistance to any licence holder looking for guidance regarding implementation of MUP. Licence holders should be aware however, that they are ultimately responsible for compliance with their conditions and may be subject to enforcement action in the event of non-compliance.

16.5.5 Detailed information and guidance on MUP can be found at [mygov.scot](#). This is being reviewed by Scottish Government and the Board expects all premises to comply with any changes.

16.6 Irresponsible Drinks Promotions and Price Changes

16.6.1 The 2005 Act prohibits the variation of prices within a 72-hour period of a prior change and includes mandatory conditions to tackle irresponsible promotions such as “happy hours”. These are contained within the [mandatory conditions](#) attached to all premises.

16.6.2 “Drinks Promotion” means in relation to any premises, any activity which promotes, or seeks to promote, the buying or consumption of any alcohol on the premises. Promotions can occur in relation to on and off sales

- 16.6.3 An irresponsible drinks promotion must not be carried on in or in connection with any premises. Irresponsible drinks promotions will be considered individually against the legislative criteria to assess if the promotion is irresponsible in terms of the Act.
- 16.6.4 The board considers promotions on social media pages and online content linked to the premises that is publicly available to be connected with the premises.
- 16.6.5 Initially, complaints will be dealt with at a local level by the LSO. In most cases, it is hoped that these cases can be resolved in discussion between the LSO and the Licence holder without any sanctions being applied by the Board.
- 16.6.6 Where the Board feels that further action is appropriate, it will instigate a review hearing to determine what action, if any, needs to be taken against the licence holder concerned.
- 16.6.7 Information given by the [Advertising Standards Authority \(ASA\)](#) should be considered by licence holders.
- 16.6.8 The below examples are potentially in breach of the legislation.

Irresponsible Promotion	Example
All-inclusive offers	A party night where the purchase of a ticket or payment of an admission charge entitles the purchaser to a free bar. This would be the supply of unlimited alcohol for a fixed charge – Schedule 3 paragraph 8(2) (d) applies
Alcohol as a prize to be consumed on the premises	A quiz night or competition where alcohol is offered for consumption on the premises as a prize for winning or taking part - Schedule 3 paragraph 8(2) (h) applies
Double up	Premises offers customers the chance to double up by offering a double measure for an extra 50p (in addition to price of single measure). This promotion offers an extra measure of alcohol at a reduced price on the purchase of a measure of alcohol – Schedule 3 paragraph 8(2) (c) applies
4 drinks for £10	Offering 4 of a specific drink for £10 when the individual sale of the drink is £3 – Schedule 3 paragraph 8(2) (b) applies

Price Variation	Example
Cheaper drinks throughout the week	A promotion where the cost of drinks is reduced from Sunday until Thursday and then increased to full price on Friday-Saturday. This constitutes two variations to pricing. The second variation is for less than 72 hours (Friday and Saturday). A variation in pricing cannot occur except at the beginning of the licensed period and the variation must last a minimum of 72 hours.
Best before discount	Offering cans of beer with a best before date that has expired while selling cans of the same brand and size within the date range at the same price. The same products must be sold at the same price

17.0 Protecting Children and Young Persons from Harm

- 17.1 The Board wishes family friendly premises to thrive in East Lothian, it welcomes premises licence applications from those who wish to operate licensed premises which accommodate children and young persons. In terms of the Act, children are aged under 16 and young persons are aged 16 or 17. The Board understands that additional responsibilities will be placed on such applicants whilst at the same time recognising that parents and other adults accompanying children and young persons also have responsibilities. In determining any such application, the need to protect children and young persons from harm will be a major consideration and the Board therefore wishes to ensure that such premises are run in a way that is suitable for children and young persons.
- 17.2 Each application for children and young person's access will be judged on its own merits and the Board may limit the hours that children and young persons are permitted to remain on the premises. Where there are no identified issues during the normal course of business children will only be allowed to remain on licensed premises until 22:00 hours. However, if any child is attending a pre-arranged function they may remain on the premises until the end of the function.
- 17.3 The Board will not normally grant a premises licence in respect of children's access where:
- children under the age of 12 have unsupervised access to pool tables, dart boards or areas where category C or above gaming machines are located.
 - the premises are of unsuitable character or atmosphere.
 - parts of the premises are very small, enclosed and unable to provide a family-friendly environment.
 - the premises have very few suitable facilities for children, including toilet provision.

- the premises have a history for underage drinking. i.e. underage persons often target these premises using fake identification to gain entry.
- there is a serious element of gambling within the premises, which does not make separate provision for children's' activities or family orientated events e.g. the premises are used by persons to watch betting sports, and or prepare their bets which are taken to nearby betting shops.
- the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the service provided.
- there has been a known association with drug taking or drug dealing on the premises.

17.4 **The Board also takes very seriously the issue of underage drinking.** Licence holders that they and their staff **must** comply with all legislation in relation to children and young persons, including not selling, or allowing the sale for consumption of alcohol to children and young persons unless with a meal as allowed by law.

17.5 A written age verification policy **MUST** be kept on every premises signed by all staff authorised to make sales of alcohol.

17.6 A refusal log **MUST** be kept on every premises and made available to Police and the Licensing standards Officer on request.

17.7 Fake Identification is now readily available to order online. The Board encourages licence holders and premises managers to alert and train staff in relation to the use of fake ID and to be vigilant in checking. Guidance can be found at [Gov.uk](https://www.gov.uk).

17.8 Applicants and licence holders must be able to demonstrate the measures, which will be, or have been, put in place to protect children and young persons from harm.

17.9 In order to meet this licensing objective the Board has set out the following suggested control measures and advises the licence holder to consider and implement these. Suggested control measures include:-

- appropriate instruction, training and supervision of staff in accordance with recognised standards
- employers will make careful checks where premises or entertainment is specifically targeted towards children, to ensure all persons employed or involved with their supervision or management, are deemed appropriate persons to be engaged in the activity. An example of such a check would be the completion of a Disclosure Scotland check to the appropriate standard.

Licence holders are reminded that they and their staff **must** comply with all other legislation in relation to children and young persons.

- risk assessments for all areas to which children and young persons have access.
- responsible retailing practices in cases of premises selling other goods as well as alcohol such as:
 - Not displaying alcohol alongside confectionary or other goods likely to be of interest to children
 - Not having alcohol displayed at places within the premises where it is likely to trigger impulse purchases by customers who would not have otherwise purchased alcohol, for example at the end of aisles and near check outs or till points.

Where deliveries of alcohol are made to households or other premises, delivery staff must be trained to the same level as those involved in the sale or supply of alcohol from licensed premises. Challenge 25 checks must be made and the mandatory delivery records must be kept in accordance with statutory regulations and made available to Police and the LSO on request. No alcohol must be left at premises if the occupier is under 18 or a responsible adult is not present. Applicants for licences, which include delivery of alcohol, will be required to give details of how they are going to enforce Challenge 25, training of staff and record-keeping requirements when making deliveries. These measures will help protect the health of the young and the vulnerable. Where licensees use a courier service to make their deliveries, the licensee will ensure that the delivery service is compliant with the Board's required checks and standards of delivery.

- Develop a Policy on recognising and dealing with the sexual exploitation of children and young persons. Guidance on this can be found at [EMPCC](#).
- where possible, a separate servery accessible to children and young persons should be used for the sale and supply of soft drinks and foodstuffs.
- It is preferable that alcohol aisles in supermarkets should be segregated from other goods, with greater separation between alcohol and commodities popular with children and young persons i.e. soft drinks.
- all electrical sockets in public areas of the licensed premises must have safety appliances fitted. Likewise, fixed fireguards should be fitted to all open fires and mobile heaters should not be used when young children are on the premises.
- non glass drinking containers must be available for children on request.

- appropriate measures to ensure that children and young persons do not purchase or consume alcohol on the premises (unless such consumption is permitted by a young person in terms of section 105(5) of the Act)
- exclusion of children from areas in which gambling is taking place such as casino, poker or race nights and areas where category C or above gaming machines are available for use.
- acceptance of accredited proof of age card schemes are available at [Challenge25](#).
- measures to ensure that children are not exposed to strong language, violence or disorder.
- where children under five years are permitted on the premises, baby-changing facilities must, in accordance with a mandatory condition of the licence, be provided which are accessible to persons of either gender.
- high chair facilities must be available for use by young children.
- children’s menus should be provided where food is served on the premises.

17.10 It should be noted, that the Board has imposed a Local Condition that in the interests of public safety, children must be excluded from an area of **1.5 metres** from any bar servery in the premises. An exception to this rule is where a child is passing through the excluded area from one part of the premises to another and there being no other convenient way.

17.11 The Licensing Board may approve adult entertainment facilities. Each application will be given due consideration on its own merits. Conditions may be imposed to protect the vulnerable from harm. Included in any conditions will be that such entertainment will be for adult consumption only and children and young persons will not be permitted access to any part of the premises at times when adult entertainment is being provided.

Adult Entertainment is defined as *“The performance in a public place of any activity that a reasonable person would, in all the circumstances, consider to be for the purpose of providing sexual gratification and/or titillation”*.

Sexual Entertainment Venues should refer to the East Lothian Council Sexual Entertainment Policy

17.12 The following link to information regarding Alcohol and Young People is available at [Alcohol Focus Scotland](#).

18.0 Local Conditions

- 18.1 The 2005 Act provides a power for Boards to impose additional licence conditions to the mandatory conditions discussed above. This power could be used in circumstances where additional conditions were needed for the purposes of achieving any of the five licensing objectives established by the 2005 Act and where some other form of activity not covered by schedule 3 was being undertaken on the premises. However, the legislation also provides that a Board may only impose additional licence conditions which do not run counter to the effect of national conditions, and which do not attempt to alter or add to those conditions to make them more onerous or restrictive.
- 18.2 The Board will impose the conditions detailed in Appendix 1 as it sees fit.

PART 3

LICENSED HOURS

19.0 Off Sales

- 19.1 Board recognises the national shift in drinking habits from on sales to off sales as detailed in section 5.6. This will be kept under review in line with the on sales hours detailed below.
- 19.2 In terms of the Act, the sale of alcohol for consumption off the premises is not permitted before 10.00 am and after 10.00 pm. The Board's policy is that maximum available licensed hours of 10.00 am to 10.00 pm each day are generally appropriate for off sales. However, each off sales application will be assessed on its own merits against these licensed hours and the Board will wish to ensure that the licensing objectives are being promoted in such applications. If this is not demonstrated to the Board, the Board may grant reduced hours for off sales.

20.0 On Sales

- 20.1 For applications relating to premises licences and occasional licences, the Board's general policy on the licensed hours for the sale of alcohol for consumption on the premises is: -

11.00 am to 11.00 pm Monday to Wednesday (inclusive)

11.00 am to 1.00 am Thursday to Saturday (inclusive)

11.00 am to 12.00 midnight on Sunday

Outside areas

11.00 am to 10.00 pm Monday to Sunday (inclusive)

- 20.2 In formulating the on sale policy hours, the Board has taken account of the licensing objectives, Scottish Government Guidance under the Act and the provisions of the Act itself. The Board recognises that licensing hours are important to individual licensed premises but can have a wider impact for an area. Balanced against this, the Board does not wish to unnecessarily inhibit the development of thriving and safe evening and night time local economies, which are important for investment, employment and tourism. The Board considers that the on sale policy hours are appropriate for East Lothian and represent a balance between the interests of the public, residents, licensed businesses and patrons of licensed premises.
- 20.3 The Scottish Government Section 142 Guidance advises the Board "considers flexibility and pragmatism in decision-making and sensitivity to the wider economic situation should be at the forefront of how a board decides to operate" **Each application for a premises licence will be assessed on its own merits**, against the general on sale policy hours, the appropriateness of the type of activity for which a licence is being sought against the licensing objectives. Where an application received is requesting licensed hours exceeding 14 hours, the Board will require further information for the consideration of such applications and the Board will take into

account the effect the granting of such a licence will have on the area and the licensing objectives.

- 20.4 Should an application be received in respect of opening earlier than 11am, the Board will expect the applicant to justify their request and demonstrate measures that promote the five licensing objectives.
- 20.5 Applicants seeking licensed hours, which extend after 1.00 am should note that mandatory conditions will be imposed on the licence. These mandatory conditions are set out in regulations under the Act. The Board will also expect the applicant to justify their request and demonstrate measures that promote the five [licensing objectives for late openings](#). Additional local conditions may be applied by the board.
- 20.6 The Board has an existing practice of allowing longer licensed hours over the festive period. This only applies to ON-SALES premises. The Board's policy is to allow an extension to **2am** during the festive period on Christmas Eve, Christmas Day, Boxing Day, New Year's Eve and New Year's Day.

The Board may also, from time to time, make other such declarations in recognition of events of local or national significance, as these arise.

General Extensions will be publicised on [East Lothian Council's website](#).

21.0 Extended Hours Applications

- 21.1 The Board may extend the licensed hours in respect of premises for a period not exceeding one month. The Board may do so in connection with; -
- a special event or occasion to be catered for on the premises; or
 - a special event of local or national significance.
- 21.2 Each extended hours' application will be assessed on its own merits. When the extended hours sought, in respect of on sales premises, fall out with the on sales policy hours as appropriate to the premises, the applicant will require to demonstrate to the Board that there are good reasons for the hours sought and that the hours are appropriate in the circumstances.

The Board will not grant an extended hours application where the applicant fails to satisfy the Board that a genuine special event is taking place and the application merely relates to extra drinking time. Where the applicant is seeking extended hours they must clearly demonstrate to the Board in their application, the nature of the special event taking place.

The Board considers that this approach is consistent with the objective of protecting and improving public health.

The applicant will require to provide the Board with sufficient information to enable a decision to be made. This information will include: -

- the hours sought
- a description of the special event or occasion
- the proposed activities to take place during these hours
- when each activity will take place
- why the event or occasion is considered to be special
- why the event or occasion cannot take place within the on sales policy hours appropriate to the premises.

The Board will not normally grant applications for early drinking prior to travelling to sporting events.

21.3 Extended hours applications can only be submitted by a premises licence holder. Should a premises licence holder wish a member of staff to act as an agent in order to submit extended hours applications, all applications must be accompanied by a letter verifying that the person is authorised to act on the premises licence holder's behalf.

21.4 It was suggested during consultation that the Board considers what constituted an event of national significance and/or what information the Board would expect applicants to provide in support of events hosted on premises where extended hours are applied for.

21.5 Accordingly the Board has now added the following:

Applications for Extended Hours can be considered by the Board in respect of (i) a special event or occasion to be catered for on the premises and (ii) a special event of local or national significance.

Festive extensions will be considered by the Board on a yearly basis normally in Oct and published thereafter.

In addition to the above, when considering applications made in connection with special events or occasions to be catered for on the premises and special events of local or national significance the Board provides the following as indicative of the type of events which are generally considered by the Board to be examples of such events:-

- i) Special events of occasions to be catered for on the premises:-
 - Weddings and other celebratory occasions
- ii) Special events of local or national significance
 - Burns Night
 - St Andrew's Day, St Patrick's Day
 - Televised Major sporting Events where coverage is provided beyond normal licensed hours, such as Football and Rugby World Cups, Olympics, Superbowl.

21.6 The above list is indicative only and the Board will continue to consider individual applications for Extended Hours on their merits.

- 21.7 Applicants are encouraged to provide as much notice as possible. The Board would expect submission of applications at least **28 days** in advance. As with applications for occasional licences as set out below the Board recognises that the Act allows for applications for extended hours to be dealt with on a shortened timescale, where the Board is satisfied that the application requires to be dealt with quickly. Where applicants wish to apply on this basis, the Board would expect applicants to provide a written submission as to why the shortened timescale should be agreed. The Board expects that applicants seeking the relaxation of the timescale requirement would be able to demonstrate that there are exceptional reasons for doing so. Consideration of the reasons will be dealt with by the Clerk of the Board.
- 21.8 It has been an issue of concern to the Board in the past that a number of premises were applying for extended hours on a regular basis and that the board's general policy on licensed hours, and the licensing objectives that it seeks to promote were being undermined. The Board considers it necessary and appropriate in order to protect its policy on the licensed hours and licensing objectives to place a restriction on the number of extended hours which will be granted to individual premises each calendar year.
- 21.9 Generally, the Licensing Board considers that it would not be appropriate to grant licensed premises extended hours on more than 8 days in a 12 month period on a pro rata basis in respect of new premises.
- 21.10 The maximum 8 days is in addition to any extended hours covered by the festive period extensions referred to in section 20.6 or any general extension of licensed hours granted by the Board under section 67 of the Act.

PART 4

OCCASIONAL LICENCES

22.0 Occasional Licences

22.1 The Licensing board considers that as Occasional Licences authorise the sale of alcohol for a period of up to 14 days without the need to go through the more detailed requirements associated with a Premises Licence, it is important to set out the terms on which such application will be granted.

22.2 It is possible to make an application for an occasional licence authorising the sale of alcohol on premises that are not licensed premises. This may be made by:

- the holder of a premises licence,
- the holder of a personal licence; or
- a representative of any voluntary organisation including a non-profit making members club.

An occasional licence lasts up to a maximum of 14 days. The holders of a premises licence or a personal licence may make unlimited applications.

Where the application is from a voluntary organisation, the applicant will be required to demonstrate that the event is connected with the organisation's activities. Section 56 of the Act contains details in relation to the number of applications that can be made by voluntary organisations. In any 12 month period, the Board may not issue more than 4 licences each lasting 4 days or more, and not more than 12 licences each lasting less than 4 days; and during that period the total number of days on which occasional licences have effect must not exceed 56.

22.3 Personal licence applicants holding a personal licence out with East Lothian Licensing Board will be required to produce a copy of their current personal licence on application accompanied by Annexes A-C with every application.

22.4 The Act does not provide a definition of what constitutes a voluntary organisation. The Board feel it useful to set a definition to assist applicants in assessing their organisation's status.

22.5 The definition which will now be applied by the Board in considering occasional licence applications is as follows:

“A group of people who have decided to work together to accomplish a common agreed non-commercial purpose. Voluntary organisations are formally constituted, non-profit making bodies which consist of a group of volunteers who do not get paid or employ staff. The main aim of a voluntary organisation is to deliver social benefit in a variety of forms, rather than to generate profit for distribution to its members.”

- 22.6 In order to be satisfied that the applicant meets the above definition in all cases the application must be accompanied by:
- A copy of the organisations constitution
 - A letter from the Chair or Secretary confirming that the applicant is authorised to make the application
- 22.7 In order that Licensing Board members and all relevant interested parties can appreciate and properly assess the merits of each occasional licence application, applicants must complete the **supplementary information form** with application form available on the council website.
- 22.8 Although a layout plan is not required under legislation the Board will require a layout for external/outside areas to ascertain the area to be included in the licence. If no layout plan of external/outside areas is received the Board will assume it is only the building/structure of the premises that is to be licensed.
- 22.9 Where the capacity of the alcohol licensed area is for 500 persons or more, an alcohol management plan (AMP) and layout plan should be submitted along with the occasional licence application. Guidance is available on what the Board expects to be in the AMP and layout plan on the council website.
- 22.10 To allow time to consult the Police and the Licensing Standards Officer, and for a hearing to be convened if any objections are received, applications should be submitted not later than **42 days** before the date or starting date of the event/licensed period. . Where an application is submitted later than this, applicants are warned that it may not be possible to fully process and/or determine the application in time for the planned event. To be clear, where an application is lodged late, and accepted for processing, applicants cannot be assured that their application will be processed in time, therefore, applicants lodge them at their own risk.
- 22.11 The Board considers that applications which require to be dealt with quickly in terms of section 57(4) of the Act, will generally only be considered appropriate in relation to funeral functions when the application is submitted at least 48 hours in advance.
- 22.12 Applications for occasional licences should be within the on-sale hours stated in this policy or that of the associated premises. Any applications for times out with this will not be granted on delegated powers and will be required to be heard at a licensing board hearing for determination. Applicants will be required to provide a clear and detailed justification as to why hours out with policy have been requested. Applicants should be mindful of section 22.10 above as applications submitted no later than 42 day may not be processed in time for a Board hearing before the event.
- 22.13 Occasional licence holders are not exempt from the requirements to hold a Public Entertainment Licence under the Civic government (Scotland) Act 1982. Applicants may require a public entertainment, market operator, and/or a late night catering licence issued by East Lothian Council under the Civic Government (Scotland) Act 1982 as per the resolution Other

forms of licence may also be required and it is the responsibility of the applicant to check and apply for these licences as appropriate. If a public event is planned, the [Council should be separately notified](#).

22.14 It is the policy of the Licensing Board that events that are predominantly organised for children should not necessarily attract the need for an alcohol licence to be granted in relation to it. Therefore, applicants for events mainly focused towards children and families, where the majority of attendees will be children, young persons and families, will be required to justify why an alcohol licence is required and may be required to attend a Licensing Board hearing for a determination.

22.15 Holders of an Occasional Licence must have and observe an age identification policy, when operating under the Occasional Licence as per the mandatory condition. This policy should incorporate the following: -

- identification policy, for example to require ID if a customer appears under 25. This should also include clear signage to leave customers in no doubt as to the policy,
- provisions to ensure that staff comply with the policy; and
- training conforming to the requirements of the Act and on the policy for those individuals who will be responsible for the sale of alcohol.

23.0 Repeated Occasional Licence Applications

23.1 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. This includes where there are different applicants for the same premises, but the activities are similar e.g. weddings, corporate events. It is largely expected that the premises in question should consider an application for a Premises Licence.

23.2 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.

Where an application is to allow premises to trade on a regular basis prior to a Premises Licence application having been determined, the application will be referred to the Board for consideration in the first instance.

- 23.3 Mandatory conditions are automatically applied to occasional licences by virtue of the licensing legislation. Local conditions are applied by authority of the Licensing Board based on the type of event and those attending. A list of approved local conditions is shown at Appendix 1

24.0 Occasional Licences and Provisional Premises Licences

- 24.1 A provisional premises licence is considered to be for a premises that are yet to be, or in the course of being constructed or converted for use as a licence premises. Justification will be required to be submitted for this type of application as to why a provisional premises licence is required and what works will be carried on. If there are no works to be completed, an application for a premises licence will be expected.
- 24.2 Premises granted a provisional premises licence will only be permitted to sell alcohol when granted an occasional licence. Applications for occasional licences where there is a provisional premises licence, will be granted on delegated powers for a duration of 12 months. Following this period if the licence has not been confirmed the occasional applications will be required to be heard by the Licensing board and the applicant is expected to give an update on progress and an indication as to when the provisional premises licence will be confirmed. Should a report be received from the Licensing Standards Officer or Police at any time, the occasional licence application(s) will not be granted on delegated powers and will be required to be heard by the Licensing Board.
- 24.3 The Board recognises that holders of provisional premises licences are legally entitled to apply for occasional licences for the premises to which the provisional licence applies. In recent years, this mechanism has increasingly been used by provisional licence holders as a means of enabling them to open their premises for the sale of alcohol before they are ready to apply for confirmation of the provisional licence.
- 24.4 The Board is concerned that in circumstances where the provisional licence holder is not yet in a position to apply for confirmation, this may strongly indicate that the condition of the premises themselves is such that they are not yet suitable for use for the sale of alcohol. This

in turn may raise issues of public safety for patrons frequenting the premises to consume alcohol or buy alcohol to take away.

- 24.5 Consequently, and in order to verify that there is no risk to public safety as a result of the condition of the premises, the Board will require any holder of a provisional licence who applies for an occasional licence for the premises to which the provisional licence applies to submit, with their application for the occasional licence, either a building standards certificate containing the information prescribed in Section 50(6) of the 2005 Act, or a permission for the temporary occupation or use of the premises granted under Section 21(3) of the Building (Scotland) Act 2003.
- 24.6 It is recognised that in all cases where an occasional licence is sought the Board must satisfy itself, amongst other things that the condition of the premises is such that they are suitable for the sale of alcohol and there is no risk to public safety. The Board would normally rely on Police Scotland and the Licensing Standards Officer to verify this when they are consulted on the application. However, for the reasons given above, it is considered appropriate and reasonable that this additional form of verification (submission of a building standards certificate or a permission for temporary occupation or use) is provided by the applicants in the case of premises with a provisional licence but not yet ready for confirmation of the provisional licence.

PART 5

25.0 OVERPROVISION

- 25.1 [Changing Scotland's relationship with alcohol](#) – a framework for action identifies that Scotland is drinking too much and this causes excessive harm. Action is stated to be urgently required to reduce overall consumption by making alcohol less easily accessible. This is, as already identified, the rationale for the protecting and improving public health objective and control of availability is a large part of this strategy which also seeks to include price control, prevention and treatment.
- 25.2 Section 7 of the Licensing (Scotland) Act 2005 requires Licensing Boards to include in their statement of licensing policy a statement to the extent to which the Boards consider there to be overprovision of licensed premises generally, or licensed premises of a particular description, in any locality within the relevant Board's area. In determining whether or not there is overprovision Boards must have regard to the number and capacity of licensed premises within the locality (although member's clubs are discounted) and may have regard to such other matters as Boards think fit including the licensed hours of premises in the locality.
- 25.3 In considering whether there is overprovision, the Board must consult the Chief Constable and NHS. It must also consult persons as appear to the Board to be representative of the interest of holders of premises licences in respect of premises within the locality, persons resident in the locality, and such other persons as the Board thinks fit. As with the whole of the Board's Policy Statement, the overprovision Statement must seek to promote the Licensing Objectives.
- 25.4 The Scottish Government Statutory Guidance to Licensing Authorities in relation to overprovision makes it clear that if there is to be finding of overprovision there must be robust and reliable evidence, which indicates that:
1. A saturation point has been reached or is close to being reached and
 2. A causal link must be identified between that evidence and the operation of licensed premises in that locality.
- 25.5 The Board in preparing its overprovision statement has consulted widely. It consulted the Chief Constable of Police Scotland and a report was produced and submitted to the Board.
- 25.6 Board consulted the NHS and a detailed report was produced by the Public Health and Health Policy Directorate of NHS Lothian.
- 25.7 A short survey was conducted on the previous policy and overprovision via the East Lothian Council Consultation Hub in November – December 2022. A longer consultation on this updated policy was held between July – August 2023. Intimation of the consultation was circulated via the East Lothian Council website, East Lothian Courier and East Lothian Council social media.

25.8 The Board is grateful to all respondents of the various consultations conducted, especially to East Lothian Licensing Forum, which set up a policy working group and provided the Board with a substantial report and recommendations.

25.9 The Board also considered information from the Centre for Research on Environment, Society and Health (CRESH) and Monitoring and Evaluating Scotland's Alcohol Strategy (MESAS) reports, which provided both local and national data relating to alcohol related death rates, hospitalisations and crime statistics. The Board is also grateful to Alcohol Focus Scotland for their report offering views on the general policy direction and emerging issues relevant to alcohol licensing. Suggestions about aspects of licensing policy that may warrant particular scrutiny at this time have been considered.

25.10 In considering the question of whether the Board should identify any specific localities as overprovided the following points were considered:

- The NHS and Police felt that premises were generally well run and did not pose any significant problems in relation to promotion of the Licensing Objectives in any part of East Lothian.
- As of 31st March 2023 East Lothian had 283 alcohol outlets (54 on sales premises, 90 off sales premises and 139 on & off sales) which means there is approximately one outlet for every 285 residents aged 18 and over and roughly one outlet for every 71 'harmful' drinkers in the region (consuming over 14 units a week).
- Only one application for alcohol sales licenses in East Lothian was refused in the 5 years between 01 April 2017 and 31 March 2022. Over the same period, 82 applications were approved.
 - Work looking at the association between alcohol outlet density and alcohol related harm in East Lothian was completed in 2018 by Alcohol Focus Scotland and the Centre for Research on Environment, Society and Health (CRESH) in 2020. The local profile showed East Lothian, as a local authority was ranked quite low for alcohol availability, however over 20% of neighbourhoods had higher availability than the Scottish average. Taken in perspective, East Lothian as a whole has an alcohol outlet availability lower than the Scottish average.
- 85% of all alcohol purchased in Scotland was from off-sale outlets².
- In East Lothian 25% of people drink above the Chief Medical Officers' low-risk guidelines. This includes 21% of women and 31% of men. This compares to 24% of people in Scotland who drink above the guidelines³.

² [Place and recovery from alcohol dependence: A journey through photovoice - PubMed \(nih.gov\)](#)

³ [East Lothian LAP May 2023 \(alcohol-focus-scotland.org.uk\)](#)

- Parental drinking was a concern identified for 14% of children on the child protection register in East Lothian⁴.
- The Scottish Burden of Disease study estimates the total impact of alcohol use on years of healthy life lost. For males in East Lothian alcohol use is the sixth leading cause of years of healthy life lost, and in 2019 was estimated to be directly associated with 212 years of healthy life lost (corresponding to a rate of 417 years per 100,000 population). Meanwhile for females, alcohol use wasn't in the top 25 causes⁵.
- Relatively small numbers are recorded for alcohol related attendance at A&E by East Lothian residents for 2022. Approximately 173 attended over the year and were coded with any of the following ICD 10 diagnosis codes, Alcohol intoxication, Alcohol dependence syndrome; Alcohol Withdrawal syndrome; Alcohol withdrawal seizure. Data excludes the Western General Hospital as ICD diagnosis codes for A&E attendances are recorded only at Royal Infirmary of Edinburgh and St John's Hospital. There were 522 alcohol-related hospital admissions in 2021 – 2022. This was lower than the overall rate for Scotland.
- Around half of the admissions to general acute hospitals for East Lothian in 2020/ 21 were for patients that were admitted for the first time for alcohol-related conditions.
- In East Lothian 12 people died from conditions solely cause by alcohol⁶. The rate was similar to Scotland as a whole.
- Excessive drinking over a period of years may lead to a condition known as alcohol-related brain damage (ARBD). Although current numbers of individuals with ARBD are likely to be low in East Lothian, the impact of increasing rates of alcohol consumption at harmful levels can increase the risk to individuals. Nationally and locally there are people currently undiagnosed and therefore not known to services or being counted.
- Alcohol specific deaths in Scotland increased by 17% in 2020 and a further 5% in 2021. In 2022 there were 19 alcohol specific deaths in East Lothian an increase of 7 from the previous year.
- The rates of alcohol specific deaths vary significantly across East Lothian between the most deprived communities (SIMD 1) and the least deprived communities (SIMD 5).

⁴ [East Lothian LAP May 2023 \(alcohol-focus-scotland.org.uk\)](https://alcohol-focus-scotland.org.uk)

⁵ <https://scotland.shinyapps.io/phs-local-trends-scottish-burden-diseases/>

⁶ [East Lothian LAP May 2023 \(alcohol-focus-scotland.org.uk\)](https://alcohol-focus-scotland.org.uk)

- A recent Scottish study stated that alcohol use is the leading cause of harm in young people and increases the risk of alcohol dependency in adulthood. Key messages from the study were that⁷:
 - Off sale alcohol outlets accounted for 47% of children’s exposure.
 - Children living in the most deprived communities were almost 5 times more likely to be exposed to off sale alcohol outlets than children in the least deprived areas.
 - Children living in the most deprived communities were almost 3 times more likely to be exposed to on sale alcohol outlets than children in the least deprived areas.
 - Children in deprived areas experienced 31% of their exposure to off sales outlets within 500 m of their homes compared to 7% for children from less deprived areas.
 - Children from all areas received 22—32% of their exposure within 500 m of schools, but the proportion of this from off sales outlets increased with area deprivation.

25.11 East Lothian average neighbourhood crime rate is 218.7 alcohol related crimes per 10,000 populations, which is 34% lower than the Scottish average of 331.2.

25.12 The significance of the above data is not wholly that East Lothian has had a decrease in numbers of outlet availability or lower averages than the national picture. There are nevertheless still deaths, hospitalisations and crime being caused by alcohol related problems. Research has found that the greater the availability of alcohol the more problems there are in those areas with highest density of outlets. This is no exception in East Lothian where there are pockets of higher availability and greater harm compared to others. Despite alcohol specific death rates decreasing in numbers, the significant variation still exists, with alcohol specific death rates in the most deprived communities compared to the least deprived communities. Hospitalisation cases were double in the areas with greater number of outlets and crime figures were double in areas of greatest number of on-sales premises and higher in areas of neighbourhoods with greater numbers of off-sales outlets. These relationships were found even though other factors such as income deprivation, urban/rural status, age and gender were taken into account.

25.13 As can be identified from these findings there are pockets of problems across the county and these problems relate to availability density rather than demographics or geographical location. Some respondents to the previous policy were of the opinion that East Lothian is too large and diverse a county to be classed as a single locality and were minded to consider each area and rural village as individual localities. Conversely, many respondents, including the Licensing Forum and NHS, felt that East Lothian is a place where if alcohol cannot be found in one area then people would happily travel to an adjoining area or further afield to purchase it. Therefore, their view was that dividing East Lothian up into smaller localities would have little impact on preventing harm to health or reducing crime and that the whole of East Lothian should be considered as one locality.

⁷[Young people experiencing harms from alcohol and drugs: literature and evidence review - gov.scot \(www.gov.scot\)](http://www.gov.scot)

- 25.14 The Board has considered the consultation contributions. It has decided that given the fact that people living in East Lothian generally have reasonable access to both on and off-sales licensed premises throughout the Board's area, it is unreasonable to assume that residents across the county are purchasing alcohol only in their immediate locality. Indeed, people can obtain alcohol from outlets anywhere in the county or beyond due to ease of travel, online availability, home deliver and their preferred shopping options. Therefore, the Board considers that East Lothian should be treated as one locality rather than specifying those areas where there are above average alcohol related deaths and hospital admissions.
- 25.15 When considering overprovision, the Board agrees that there are still significant health and crime problems in our communities that should not be ignored and need to be addressed. Clearly access to alcohol is a key issue and the majority of alcohol (85%) obtained is through off-sales. Local knowledge of the trends associated with drinking recognises that much of the alcohol purchased in off-sales outlets is consumed at home or prior to going out later in the evenings to on-sales premises where one or two drinks can result in overconsumption. Alcohol and drugs can make existing domestic abuse worse, or be a catalyst for an attack, but they do not cause domestic abuse.
- 25.16 The cost of alcohol harm in East Lothian was assessed at £26.77m per annum in terms of health, social care, crime, and productivity capacity, meaning a cost of £275 per person.
- 25.17 Consumption of alcohol by young people has been found to be obtained from home or purchased for them by family or friends.
- 25.18 When comparing figures with pre-covid rates with that of 2021/2022 there has been a reductions in police recorded incidents at licensed premises.
- 25.19 Of the 907 recorded crimes of violence for 2021-2022, a total of 206 had an alcohol marker attached to the report. Of that 117 were in residential locations leaving 89 acts of violence in a public space.

26.0 Summary

- 26.1 The evidence available provides no causal links to any specific licensed premises but does corroborate that there is an overall link to problems associated with availability of alcohol via off-sale premises.
- 26.2 Given consideration to all the contributions and responses received during the consultation period, the Board has determined that the harm caused by alcohol in East Lothian is not a direct and sole consequence of the number of premises, but is a result of a wider, complex set of factors. Placing a limit on the number of licensed premises, or premises of a particular kind, would not in the Board's view, at this point in time, serve to promote any of the five licensing objectives. However, with a view to controlling availability of access to alcohol and preventing harm to health and reducing crime, the Board intends to consider closely all applications for

new off-sales licences. The Board acknowledges that East Lothian is one of Scotland's fastest growing areas in terms of population and has many new build developments. The Board recognises that applications for new licences are to be expected for areas where there is particular growth in the population.

- 26.3 Each application requires to be determined on its own merits the Board expects applicants to address each of the Licensing Objectives within the application and also at a hearing.
- 26.4 If an existing licence in any area ceases to exist, this will not necessarily mean that there is capacity for a new licence in that area.
- 26.5 Each application will be considered in the context of information available to the Board at the time of the application. The Board in its consideration will also look at the number, capacity and type of licensed premises within an 800 metre radius of applicants' premises.

PART 6

MISCELLANEOUS

27.0 Board Business

- 27.1 The Board will deal with its business in an open and transparent manner. Information and assistance will be made available to persons wishing to apply for a licence, to make representations or to lodge objections. Whilst Licensing Officers will give practical advice and assistance, they will not complete applications or operating plans or give legal advice.
- 27.2 Application forms are available on the [East Lothian Council website](#).
- 27.3 The Board is aware of the need to ensure that the licensing process is accessible to all. Assistance will therefore be available on request for those who require special arrangements to access any part of the process.
- 27.4 To address increasing postal costs, The Board will, wherever practical, take steps to reduce such costs by communicating with licensees, legal and licensing agents and all other interested parties by way of email. It is therefore, in the best interests of licensees that they keep the Board informed of their current email address, telephone number and preferred means of communication.
- 27.5 The Board will facilitate, where possible, a hybrid meeting in the Council Chambers, Town House, Haddington and using an online platform. In terms of Schedule 1 to the Act, Board meetings will be held in public.
- 27.6 The Board will attempt to make Hearings as informal as possible, consistent with it carrying out its quasi-judicial function. All actions of the Board will follow best practice and will be proportionate, accountable, consistent, transparent and targeted.
- 27.7 In order that Licensing Board members and all relevant interested parties can appreciate and properly assess the merits of each application other than for a Minor Variation, applicants must complete the **supplementary information appendix** attached to the application available on the council website. The Licensing Board reserves the right to return incomplete application forms unprocessed.
- 27.8 Processing applications will be dealt with as quickly as possible and within timescales set out by statute. When the Board receives a properly completed application, it will be acknowledged, and confirmation will be given that the application and any accompanying documents meets the prescribed requirements, and will be dealt with within an approximate period of time. This period will be no later than 9 months from the date of acceptance (“the determination period”). This period can only be extended if the Board makes an application to a Sheriff showing there is good reason to do so and where no previous extension has been granted.

- 27.9 Incomplete or incorrect applications will be refused and returned to the applicant for amendment.
- 27.10 Applications will be deemed to have been granted if the determination period has expired and no extension has been granted by a Sheriff.
- 27.11 The Board will prepare and publish a Functions Report, no later than 3 months after the end of each financial year, explaining how the Board has had regard to the licensing objectives and its statement of licensing policy during the course of the preceding year. In addition, the Board will similarly publish and prepare an Annual Financial Report. This will include a breakdown of the relevant income received, during the preceding financial year, in connection with the exercise of the Board's functions associated with the various Licensing Acts and regulations. It will detail the amount of expenditure during that period, along with an explanation of how the amounts were calculated.
- 27.12 The Board's aim is to provide a speedy, efficient and cost effective service to all parties involved in the licensing process. To this end, the Board has adopted a Scheme of Delegation to officers. The Scheme sets out those decisions that may be made by the Clerk of the Board and other specified Board officers.

28.0 Annual Fees

- 28.1 Payment of the Annual Fee is a mandatory condition attached to every Premises Licence and failure to pay may be treated as a breach of the terms of the licence.

Licence holders are reminded that it is their responsibility to ensure that the fee is paid each year on or before the due date of 1 October.

Due to the number of licence holders who have historically defaulted by paying their annual fee after the due date, the Board has decided to deal firmly with those licence holders who fail to pay on time.

- The Board will notify licensees in early July of the due date for payment and the amount of the annual fee along with details of how payment can be made. A final email reminder will be issued at the beginning of September.

- The Board has determined that all those in default on 1 October will be required to attend a review hearing at the October Licensing Board to explain the breach of this mandatory condition of their licence.

- The Board may on review of a licence:
 - (a) issue a written warning to the licence holder,
 - (b) make a variation of the licence,

- (c) suspend the licence for such period as it may determine,
- (d) revoke the licence.

29.0 Licensing Standards Officer

- 29.1 A licensing standards officer (LSO) is employed by East Lothian Council to exercise the functions set out in the Act. The LSO's role involves guidance, mediation and compliance. The LSO works with the public and licensees to promote the licensing objectives and to ensure compliance with the Act. The Board recognises that the LSO plays a key role in the licensing regime. The LSO will also bring this policy to the attention of Licence holders and prospective licence holders and will encourage compliance with its terms.
- 29.2 The Board expects that applicants for a grant, transfer or variation of a premises licence will liaise with the Licensing Standards Officer as part of the application process. The Licensing Standards Officer can assist with guidance and information on Board policy and liaison with the Board. Contact should be made with the Licensing Standards Officer as early as possible in the application process.
- 29.3 While the LSO is not in a position to give legal advice or to make applications or objections on behalf of any party, it is expected that the LSO will advise both licence holders and the public on their rights and responsibilities.
- 29.4 The LSO's resources will be targeted at high-risk premises and activities, which require greater attention. Active promotion of policy will be employed in respect of low risk premises, which are well operated.
- 29.5 The LSO will be a member of East Lothian Licensing Forum.

30.0 Members Clubs

- 30.1 The Board has agreed to attach two local conditions to premises licences for members clubs, which is defined by regulation at [legislation.gov.uk](https://www.legislation.gov.uk).

These are:

- The Police and Licensing Board must be notified of any change in office bearers within 14 days of such change.
- No more than 6 guests may be signed in by any one member

- 30.2 Club licences will be open to review for failure to comply with the above conditions.

31.0 Excluded Premises

- 31.1 An application for a premises licence must be refused if the subject premises are 'excluded premises'. Excluded premises are defined as motorway service stations and, with certain qualifications, garage premises or fuel filling stations.
- 31.2 These premises are not excluded if the applicant can demonstrate that local residents are reliant to a significant extent for the premises to be a principal source of fuel or groceries.

32.0 Outdoor Areas

- 32.1 Where an applicant proposes providing seating, tables or other facilities in any outdoor area (whether covered or not), the Board will assess the suitability of such area having regard to all the licensing objectives.. The Board reiterates that it considers effective and responsible management to be key in ensuring that such areas operate in a manner consistent with the licensing objectives.
- 32.2 It is the board's preference that outdoor areas are included in the premises licence rather than use through occasional licences. Non-minor variations should be sought for existing premises to add outside areas to the premises licence. Minor variations will not be accepted on the basis that an increase in capacity will have to be provided for as well as a change to the operating plan to include outside drinking.
- 32.3 As per section 21.0 Repeat Occasional Licences, applications for the continuous use of an outside area over 3 months will not 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 a non-minor variation application to add the outside area to the premises licence. The increase in capacity of adding an outside area to a premises licence will be assessed in line with the overprovision statement and the licensing objective. In particular visibility of alcohol to children and persons in recovery passing by will be considered.
- 32.4 In each individual case where an outdoor area is proposed, the Board will consider whether there should be a physical demarcation of the area, unless such demarcation already exists.
- 32.5 Where there is a physical separation between a licensed premises from which alcohol is sold and a proposed outside area to be licensed for example across a road or footpath, a condition that table service will be required by staff from the premises where alcohol and food will be prepared, will be added to the occasional licence.
- 32.6 The Board's general policy is that there shall be no consumption of alcohol in any outdoor area after 22.00 on any day. As narrated elsewhere in this policy statement, every application will be considered on its own merits.

- 32.7 Licensing Law is not the primary mechanism for the general control of nuisance and antisocial behaviour by individuals once they are no longer on the licensed premises and beyond the direct control of the individuals, club or business holding the licence concerned. Good practice includes regular checks of outdoor areas to preserve the peace, dissuade anti-social behaviour and identify when there is a need to clean up and deposit litter into a suitable waste receptacle.
- 32.8 The Board may make conditions relating to outdoor drinking/seating areas to uphold the licensing objectives
- 32.9 Applicants must seek consent of the Roads/Transportation Department of the East Lothian Council prior to submitting any application where the proposed area forms part of the public footpath or road. In particular the Board expects applicants applying for outdoor areas to have obtained consent under Section 59 of the Roads (Scotland) Act 1984 and the licence holder will comply with all the conditions that may be attached to that consent. A valid permit from the Roads Department must be submitted with every application.
- 32.10 If an occasional licence is obtained for an event to be held on East Lothian Council land, a permit must also be obtained from the Landscape and Countryside Management service of the Council.
- 32.11 Where the outside drinking area utilises an area of footpath outside the premises the Board may attach the following conditions to the licence:
- The outside area must only be used by persons occupying the seats provided.
 - The outside area must be clearly delineated by means of removable barriers.
 - The barriers, tables and chairs must be removed at the end of the permitted hours for use of the outside area and stored securely in an area off the footpath.
 - The area must be capable of being monitored by staff either physically or via an approved CCTV system.
 - Alcohol supplied to the outside area(s) should be by table service only by a trained staff member.
 - No public entertainment, amplified music, amplified vocals or live music played in the outdoor area to ensure the use does not cause nuisance neighbouring residential properties.
 - The premises licence holder must ensure that the defined area is kept clear of all waste, including cigarette litter, associated with their business.
 - If the outside area is on council land or a road/pavement then a valid permit/authorisation issued from the East Lothian Council Roads Department must be in place in order to use the occasional licence.
 - Access to any public utility plant or fire hydrant in the area must be made available when required.

- An authorised officer of the Council or Police Scotland may temporarily suspend the use of the area for reasons of public safety.

33.0 Smoking

- 33.1 Licence holders have been effective in ensuring that patrons do not smoke within their premises. However, at times other issues can arise in the area around licensed premises such as noise nuisance, litter, disorder, obstruction of footways and smoke drift into neighbouring residences or back into the licensed premises.
- 33.2 The Board appreciates that smokers have a right to smoke in outdoor areas, but expects licence holders to have regard to good practice to ensure that patrons do not create a nuisance or disturbance for neighbouring residents. This includes noise arising as a result of patrons smoking outside the premises, smoke drift and litter becoming a nuisance to members of the public and obstructions that may be caused as a result of patrons standing in public areas. Good practice includes regular checks of outdoor areas to preserve the peace, dissuade anti-social behaviour and identify when there is a need to clean up and deposit litter into a suitable waste receptacle. Cigarette ends and any other rubbish must not be swept into the roadway/gutter. Such practice will be considered a breach of the licensing objective of preventing public nuisance.
- 33.3 The Board expects residents of neighbouring properties to show a degree of tolerance and understanding towards nearby businesses and licensed premises particularly in town centres.

34.0 Management of Premises

- 34.1 All licensed premises, other than those premises that hold non-profit making members club premises licence status, must have a designated premises manager (DPM), whose details must be shown in the Premises Licence. A DPM must be a personal licence holder and cannot be the DPM for more than one premises.
- 34.2 The Board expects the DPM to have day-to-day responsibility for the running of the premises and to be present on the premises the majority of time when alcohol is being sold. The premises licence holder is expected to ensure that the DPM has experience appropriate for the size, capacity, nature and style of the premises.
- 34.3 Although the legislation does not require the DPM to be on the premises at all times, each sale of alcohol must be authorised (either generally or specifically) by a personal licence holder. The Board suggests that licence holders ensure that, where possible, a personal licence holder is present on the premises to authorise the sale of alcohol at all times during licensed hours.

35.0 Duty to Trade

The Board recognises the need for businesses, particularly in a rural environment, to remain economically viable when faced with a lack of demand. Premises may wish to restrict their opening hours during quieter periods and may, therefore, not be trading to the full extent of the hours set out in their Operating Plan. While the Board will not treat instances of restricted trading as a breach of the terms of the Operating Plan, it would urge licence holders to keep their trading hours under review.

36.0 Premises that have Ceased to be Used for the Sale of Alcohol

- 36.1 Premises that cease trading in the sale or supply of alcohol must notify the Licensing Board of the reason for closure and the timescale for re-opening. The Board may decide to hold a hearing to determine whether in the circumstances the premises licence has ceased to have effect. If premises have been closed or ceased the sale of alcohol for a period of 18 months or more the Board will consider that the premises licence has ceased to have effect. In making a determination on this matter, the Board may hold a hearing and will consider any representations made by the licence holder as to the circumstances in which the premises closed and the likelihood of them reopening for trade.

37.0 Licence Holders - Dissolved/Insolvent Companies or Individuals

- 37.1 It should be noted that the Board takes the view that if any Licence Holder becomes dissolved or insolvent, the licence will no longer exist unless an application for it to be transferred has been made within 28 days.
- 37.2 In the respect of cases of insolvency, nominated trustees, liquidators or administrators should make contact with the Licensing Board as soon as possible should there be a likely delay in the insolvency process that may cause a problem in relation to the 28-day transfer procedure. In the case of dissolution, the Board takes the view that the licence no longer exists, as there is no longer any licence holder.

38.0 Deliveries, Online and Remote Sales

- 38.1 All premises who conduct deliveries online or remote sales must detail these operations as an activity in the operating plan.
- 38.2 Applicants for licences that include any type of alcohol delivery or shipping should produce a 'policy' on preventing children and young persons accessing the alcohol. This should include the staff training that will be provided, how deliveries are recorded and age verification procedures in place. Police and the LSO will have access to delivery records. (ref. Section 119 L(S)A 2005).

- 38.3 Applications for deliveries from cafes, restaurants and other food businesses, not considered to be predominantly grocers/supermarkets outlets, may be granted home delivery services, provided the order is ancillary to a meal and/or any alcohol purchased with the order, is proportionate. The licensee will be expected to be responsible for deciding what is proportionate in relation to individual orders placed bearing in mind the licensing objectives.
- 38.4 When making a delivery that includes alcohol, certain checks should be carried out such as Challenge 25 and checking that the customer is 18 years or over. No orders that include alcohol are to be left in nominated safe places. Staff delivering alcohol must be trained to the same level as staff who sell or supply alcohol in licensed premises. Licensees who use couriers to make their deliveries should ensure that they comply with the checks and standards required by the Licensing Board.
- 38.5 A meal is considered to be a substantial food offering. Snacks, sandwiches and crisps are not considered to constitute a substantial meal.

39.0 Layout Plans

- 39.1 The layout plans of premises should adhere to the rules of content as prescribed in the relevant regulations of the Act as per the [Premises Licence \(Scotland\) Regulations 2007](#).
- They should show, among other things, the area where alcohol will be sold, seating arrangements and areas to which children will have access. Each area should be clearly delineated including any beer gardens, outdoor seating areas and smoking areas. Inclusion of any outside areas will avoid any doubts when it comes to byelaws concerning the consumption of alcohol in public places. Where the premises cover more than one floor then there should be a layout plan included for each floor.
- 39.2 Off-sale plans should clearly show all areas where alcohol will be displayed for sale. Off-sale premises are permitted one area of display accessible to the public and one area which is inaccessible to the public. Plans should show the maximum width and height (in metres) of the frontage to be used for each display of alcohol within that area or areas. More information can be found in Section 5 of the regulations, as shown at the above link.
- 39.3 Layout plans will be on the scale of 1:100 millimetres or on such other scale as may be acceptable to the Licensing Board. Alternative scales must be clear and readable and contain all the information required under the Premises Licence (Scotland) Regulations 2007. **The Electronic submission of layout plans is preferred** otherwise applicants will require to submit paper plans. Inadequate plans will be rejected.
- 39.4 Where electronic layout plans are submitted, for ease of distribution and security, applicants are requested to note that wherever possible the format of image used should be .pdf. Other types of specialist application, such as .cad, or general applications prone to manual alteration

should not be used. Electronic formats should be capable of being clearly viewed or printed so they can be read clearly.

39.5 **Security of stock.** Theft of alcohol is recognised as a serious problem for off-sales premises, especially large supermarkets. The Board will therefore have particular interest in the location of alcohol displays and the security that is put in place. The Board may place conditions on licences designed to prevent theft of alcohol. These thefts adversely impact on the health of those who are involved in them or on others to whom the stolen alcohol is passed by sale or otherwise.

In considering the layout of alcohol displays, it is recommended that:

- displays in supermarkets and large retail outlets are covered by CCTV cameras
- displays in smaller shops should be easily visible to counter staff
- particularly in larger stores, that a member of staff should be located in the alcohol display area at all times.
- where the risk of theft in small stores is high, consideration should be given to storing and displaying all alcohol behind the sales counter.
- alcohol aisles in supermarkets be segregated from other goods, with greater separation between commodities popular with children and young persons e.g. soft drinks.

40.0 Activities

40.1 Activities that occur on the premises are to be detailed on the operating plan including activities that occur out with core hours. These include and are not limited to:

- Deliveries
- Online/remote sales
- BYOB
- Use of any inflatable structures such as bouncy castles
- Funfairs
- Fireworks
- Markets
- Events to occur on the premises e.g. charity nights, quiz nights, karaoke

40.2 Should a premises licence holder wish to offer a new activity such as above that is not listed on the operating plan, a major variation application should be submitted.

40.3 The Civic Government (Scotland) Act 1982 provides at section 41 that a public entertainment licence shall not be required in respect of licensed premises within the meaning of the Licensing (Scotland) Act 2005 in which public entertainment is being provided during the licensed hours within the meaning of the 2005 Act.

The 1982 Act was amended by the Air Weapons and Licensing (Scotland) Act 2015 to the effect that the exemption from Public Entertainment licensing would not apply to premises licensed by means of occasional licences. Organisers of events or persons otherwise seeking to licence temporary use of premises where public entertainment is to be provided, as per the Council's Public Entertainment Resolution will be required to ensure that they obtain a public entertainment licence and do so in sufficient time to permit the Board to consider the application for occasional licence.

- 40.4 Although the above gives exemption from obtaining a public entertainment licence for licensed premises the board expects that all activities relating to public entertainment are detailed in the operating plan.

41.0 Social Media

- 41.1 The use of social media platforms has increased significantly with most premises utilising one or more platforms. The Board expects all premises continue to promote all the licensing objectives in relation to content on social media.
- 41.2 The Board considers promotions on social media pages and online content linked to the premises that is publically available to be connected with the premises licence holder and designated premises manager. Licence holders should refer to section 15.6 in relation to irresponsible promotions.
- 41.3 The Advertising standards Authority (ASA) is the UK's independent regulator of advertising across all media. They apply Advertising codes, which are written by the Committees of Advertising Practice (CAP). Guidance on advertising can be found [here](#).

APPENDIX 1 – APPROVED LOCAL CONDITIONS

LIST OF APPROVED LOCAL CONDITIONS THAT CAN BE ATTACHED TO PREMISES LICENCES

MANDATORY

1. In the interest of public safety, children must be excluded from an area of 1.5 metres from any bar servery in the premises.
2. A Risk Assessment must be prepared to ensure the health and safety of staff members, volunteers, visitors and members of the public attending the premises/event. Copies of the documented risk assessments must be available for inspection by authorised officers from the Council.
3. All amplified announcements / music / entertainment noise levels / speech should be controlled so that they are non-intrusive / low level to any neighbouring residential properties.
4. Appropriate signage must be clearly displayed within the bar area, relative to age restrictions and relevant conditions of the licence. Signage should include:
 - A sign prohibiting sale or supply of alcohol to persons under 18 to be clearly displayed at any bar servery.
 - Challenge 25 policy and signage must be used and a refusal/incident record must be kept on the premises.
 - A sign stating that no children are permitted within 1.5 metres of any bar servery to be clearly displayed.
 - Responsible drinking message.
 - No smoking signs.
 - A notice advising whether children and young persons are admitted, and the terms of admission is displayed at each point of entry.

OPTIONAL

5. Positive measures of entry control should be introduced to prevent uninvited persons gaining access to the premises during events. From 1st November 2007, when the relevant provisions of the Private Security Industry Act 2001 came into force, there is mandatory licensing of the private security industry. This means that it is an offence to employ unlicensed door stewards or “bouncers” at events. Volunteers who carry out these roles are exempt from the requirements of the Act but organisers may wish to take independent advice on the legality of their security arrangements at events. For further information, visit the [Security Information Authority](#).
6. The use of outdoor areas will cease by 10.00pm
7. Should a service of delivery of alcohol to customers be conducted, the terms of the Licensing (Scotland) Act 2005 Section 119 and those of the Board’s statement of licensing policy on deliveries of alcohol, should be complied with.

8. Indoor and external areas should be covered by an effective and properly maintained CCTV system.
9. A member of staff who has charge of the licensed premises must be fully training on the operation of the CCTV and be able to provide footage when requested by Police and any relevant Council Officer.
10. A daily written record to be maintained by staff, to detail refusals and incidents and state circumstances.

LIST OF APPROVED LOCAL CONDITIONS TO BE ATTACHED TO CLUB PREMISES LICENCES

1. The Police and Licensing Board must be notified of any change in office bearers within 14 days of such change.
2. No more than 6 guests may be signed in by any one member.

LIST OF APPROVED LOCAL CONDITIONS TO BE ATTACHED TO ALL OCCASIONAL LICENCES

1. Where a function is to be held in a Marquee, all music must cease no later than 12.00 midnight.
2. Any marquee/outside area, must be clearly delineated and stewarded by the organiser to ensure that there is no alcohol taken from this area.
3. Where a function is to be held in a building, a marquee or any other temporary structure, it will for the duration of the event, be designated as a No Smoking area:
 - Signs must be displayed in such a way as to make staff, customers and visitors aware that smoking is prohibited. In addition, signage should state the name of the person to whom a complaint may be made by anyone who observes someone smoking
4. A Risk Assessment must be prepared to ensure the health and safety of staff members, volunteers, visitors and members of the public attending the premises/event. Copies of the documented risk assessments must be available for inspection by authorised officers from the Council.
5. Access to the bar area should be restricted to persons of the age of 18 years and over i.e. no children or young persons to be permitted within 1.5 meters of the bar.
6. All amplified announcements / music / entertainment noise levels should be controlled so that they are non-intrusive / low level to any neighbouring residential properties.
7. All reasonable requests made by the police or Licensing Standards Officers are complied with.
8. Appropriate signage must be clearly displayed within the bar area, relative to age restrictions and the relevant conditions of the licence. Signage should include:
 - No under 18's served alcohol.
 - Persons who appear to be under the age of 25 will be asked to provide identification.

- The specific opening and closing times of the bar.
- Responsible drinking message.
- No smoking signs.
- A notice advising whether children and young persons are admitted, and the terms of admission is displayed at each point of entry.

LIST OF APPROVED POOL CONDITIONS TO BE ATTACHED TO OCCASIONAL LICENCES

1. There should be a personal licence holder present within the bar area at all times and all staff involved in the sale and/or supply of alcohol should have received the two hours mandatory training, as required under the legislation.
2. All staff employed and or volunteers in a position involving the sale or service of alcohol to undergo a minimum of two hours training prior to commencing duty (as defined in the Licensing (Training of staff) (Scotland) Regulations 2007) with a record of this training being kept at the location and available for inspection by Police or Licensing Standards Officers.
3. Positive measures of entry control should be introduced to prevent uninvited persons gaining access to the premises during events. From 1st November 2007, when the relevant provisions of the Private Security Industry Act 2001 came into force, there is mandatory licensing of the private security industry. This means that it is an offence to employ unlicensed door stewards or “bouncers” at events. Volunteers who carry out these roles are exempt from the requirements of the Act but organisers may wish to take independent advice on the legality of their security arrangements at events. For further information, visit the Security Information Authority.
4. There is a written policy in respect of the management of dispersal.
5. Children and Young Persons (0-17 years) may remain as long as a responsible parent or guardian over 25 years old is present.
6. Children (0-15 years) may remain until **** hours. The hours will be stipulated by the police or Licensing Standards Officer.
7. Young Persons (16 & 17 years) may remain until ***** hours but only if supervised by a responsible parent or guardian over the age of 25 years. The hours will be stipulated by the police or Licensing Standards Officer.
8. No glass or cans permitted. All drinks should be served in alternative containers such as plastic or a reusable alternative.

9. For safety purposes, adequate transport must be considered for patrons attending events in isolated areas.
10. The Alcohol and Drug Management Plan, Medical Plan, Event Plan and Stewarding Plan submitted prior to the event will be adhered to for the duration of the event.
11. Should any person be refused entry, found within or ejected from the event due to alcohol intoxication or heavily under the influence of other substances, appropriate provisions and care must be provided through first aid services and/or emergency services. Such persons are not to be left unattended.

Voluntary Organisations (no personal Licence holder)

1. The serving of alcohol by all staff must be undertaken in a responsible and safe manner.

Occasional Licence Conditions - 18th and 21st Birthday Parties:

1. Access to the bar area should be restricted to persons of the age of 18 years and over i.e. no children or young persons to be permitted within 1.5 meters of the bar.
2. Appropriate signage must be clearly displayed within the bar area, relative to age restrictions and the relevant conditions of the licence. Signage should include:
 - No under 18's served alcohol.
 - Persons who appear to be under the age of 25 will be asked to provide identification.
 - The specific opening and closing times of the bar.
 - Responsible drinking message
 - No smoking signs.
3. The organiser should obtain a guest list, which will be made available to the police for inspection in the event of an incident. There should be a personal licence holder present within the bar area at all times and all staff involved in the sale and/or supply of alcohol should have received the two hours mandatory training, as required under the legislation.
4. No glass or cans permitted. All drinks should be served in alternative containers such as plastic or a reusable alternative.
5. Wrist banding of 18 year olds and above to assist in easily identifying persons who are under 18 years.
6. Security Industry Accredited door staff to be used for search purposes and checking ID on entry to the premises.

7. Children and Young Persons (0 – 17 years) may only gain entry to the event if accompanied by a responsible parent or guardian over the age of 25 years.
8. All reasonable requests made by the Police are complied with.

Outdoor Areas:

1. The outside area must only be used by persons occupying the seats provided by the premises.
2. The outside area must be clearly delineated by means of removable barriers.
3. The barriers, tables and chairs must be removed at the end of the permitted hours for use of the outside area and stored securely in an area off the footpath.
4. The area must be capable of being monitored by staff either physically or via an efficient and functioning CCTV system.
5. Alcohol supplied to the outside area(s) should be by table service only by a trained staff member.
6. No public entertainment, amplified music, amplified vocals or live music played in the outdoor area to ensure the use does not cause nuisance neighbouring residential properties.
7. The premises licence holder must ensure that the defined area and neighbouring areas are kept clear of all waste, including cigarette litter, associated with their business and that may have been dropped.
8. If the outside area is on council land or a road/pavement then a valid permit/authorisation issued from the East Lothian Council Roads Department must be in place in order to use the occasional licence.
9. Access to any public utility plant or fire hydrant in the area must be made available at all times.
10. An authorised officer of the Council or Police Scotland may suspend the use of the area for reasons of public safety.

Please note that the above lists are not exhaustive and the Board will have the right to amend or adapt conditions that tailor to the premises specific requirements or attach other conditions as they consider appropriate.