

**CITY OF EDINBURGH LICENSING BOARD**

**STATEMENT OF LICENSING POLICY**

**LICENSING (SCOTLAND) ACT 2005**

**November 2007 – November 2010**

**Adopted by the City of Edinburgh Licensing Board  
on 26 November 2007**

<b>CONTENTS</b>		<b>PAGE</b>
<b>PREAMBLE</b>		3
<b>SECTION A – GENERAL</b>		
1	Introduction	5
2	Consultation and links to other policies, strategies and legislation	7
3	Applications for licences and disposal of business	10
4	Delegation of licensing functions	11
5	Notification of application, objections and representations	11
6	Conditions attaching to licences	12
7	Need for licensed premises	13
8	Consideration of applications by the board	13
9	Overprovision	13
10	Occupancy capacity	15
11	Review of premises licences	16
12	Occasional licences	16
13	Enforcement and licensing standards officers	17
14	Management of licensed premises	18
15	Personal licences	18
16	Adult entertainment	19
17	Sale for consumption off the premises	19
18	Smoking and nuisance	20
19	Outside areas	21
20	Hours of trading	22
21	Extended hours applications and determinations	24
22	Members' clubs	24
<b>SECTION B – LICENSING OBJECTIVES</b>		
23	Overview	25
24	Licensing objective – preventing crime and disorder	26
25	Licensing objective – securing public safety	28
26	Licensing objective – preventing public nuisance	29
27	Licensing objective – protecting and improving public health	30
28	Licensing objective – protecting children from harm	32

<b>APPENDICES</b>		
1.	Scheme of Delegation of Licensing Functions	35
2.	Draft Policy Circulation September 2007	38
3.	Policy on Dance Entertainment in Licensed Premises	39

## PREAMBLE

1. Section 6 of the Licensing (Scotland) Act 2005 (the Act) requires all licensing authorities such as the City of Edinburgh Licensing Board (the board) to publish every three years a statement of licensing policy (the policy). This statement fulfils that statutory requirement for the board.
2. In accordance with the requirements of section 6 of the Act, and prior to the publication of this policy, the board will consult with and take account of the views of:
  - the local licensing forum for the board area
  - such other person or persons who appear to the board to be representative of:
    - holders of premises and personal licences
    - persons having functions relating to health, education or social work
    - young people
    - persons resident within the licensing board's area and
  - such other persons as the board thinks appropriate.
3. In preparing the policy the board has considered the guidance issued by the Scottish Government, the "Plan for Action on Alcohol Problems" published in February 2007 and the Partnership Agreement between the Alcohol Industry and the Scottish Government accompanying it.

In particular the board has recognised its duty to promote the five licensing objectives set out at section 4 of the Act:

- preventing crime and disorder
  - securing public safety
  - preventing public nuisance
  - protecting and improving public health and
  - protecting children from harm
4. The board welcomes the powers given to it by the Act and intends to use those powers in a socially responsible way. In so doing, it recognises that the interests of the public, residents, businesses and patrons of licensed premises require to be balanced. The five licensing objectives outlined in the Act will provide a starting point.
  5. This policy has been drawn up during a time when the regulations required to be made under the Act by Scottish Ministers are completing their progress through the legislative system. The policy may require revision following its adoption in light of those regulations and of any further guidance issued by the Scottish Government.
  6. There is much expected of boards under the new system and we in Edinburgh welcome the challenges ahead. The board was pleased to receive so many contributions to its consultation exercise, which was a great success and emphasised the issues which were of most concern to those who live and work in Edinburgh and to those who run businesses. Thirty seven responses were

received and the board referred to all of them in the formulation of this final version. You will see that the board listened to what was said and made some changes.

7. There are some innovations; an application for a premises licence may be made to license an external area, which may also require a tables and chairs permit. The board has particular concern for residential areas and, using the powers available under the Licensing (Scotland) Act 2005, is determined to contribute to a regime which ensures that people's lives are not blighted by some of the problems which arise directly from the abuse of alcohol. The board is also delighted to support the culture which has developed in this city and will continue to do so, by applying the Act's provisions, through the framework of this policy, and by listening to the views which are passed on by the City of Edinburgh Licensing Forum and by other interested parties.

8. You can contact the licensing section of the City of Edinburgh Council:

by email to: [licensing@edinburgh.gov.uk](mailto:licensing@edinburgh.gov.uk)

by fax to: 0131 529 4207

in writing to: Licensing Section  
249, High Street,  
Edinburgh  
EH1 1YJ

by telephone to : 0131 529 4208

If assistance is required please discuss this with any member of staff who will be glad to help.

9. The Council's Licensing Standards Officers, Services for Communities, referred to at paragraph 13 of this policy, may be contacted :

by email: [licensing.standards@edinburgh.gov.uk](mailto:licensing.standards@edinburgh.gov.uk)

by fax: 0131 529 3014

in writing: Chesser House, 500 Gorgie Road, Edinburgh, EH11 3YJ

by telephone: 0131 469 5465 or 0131 529 3030

10. The board required to have its policy in place by 30 November 2007. This policy will be applied during the three year period to November 2010; it will be kept under review and revised, if appropriate, by the issue of supplementary statements, during the three year period.

You can access this document on the City of Edinburgh Council's website at:

[www.edinburgh.gov.uk/internet/business/licensing](http://www.edinburgh.gov.uk/internet/business/licensing)

## SECTION A – GENERAL

### 1 INTRODUCTION

1.1 The City of Edinburgh Licensing Board is the licensing authority for the City of Edinburgh local government area for the purposes of the Licensing (Scotland) Act 2005 and is responsible for granting :

premises licences  
occasional licences  
temporary licences  
provisional licences  
personal licences  
variations of licences  
transfers of licences  
extensions of licensing hours

in the city in respect of:

the sale of alcohol by retail  
the supply of alcohol in members' clubs.

1.2 Edinburgh, Scotland's inspiring capital is dramatic and historic. The environment of the area has provided the basis for a successful tourist industry which brings cultural benefits to the city and is a vital part of its economy.

The population of the city of Edinburgh was estimated in mid 2005 at 457,000. It has increased steadily over the last 14 years by a total of 38,000.

The city boundaries cover 264 square kilometres and the local government area is split into 17 wards, with 7 of the wards returning 4 councillors and 10 wards having 3 each. The number of councillors overall is 58. Nine councillors sit as members of the licensing board.

The city accommodates a wide variety of licensed establishments, which contribute to the leisure and employment opportunities in the area.

1.3 There have been a relatively constant number of premises requiring licences over the last few years, although the number has fallen very slightly from previous years. In terms of size, there are more large premises now and less small ones.

Under the present legislation, the number of premises granted licences, permissions, or extensions of hours permitting the sale/supply of alcohol is:

- public house licences – 731
- entertainment licences – 101
- restaurant licences – 175
- off sales licences – 629
- hotel licences – 143
- refreshment licences – 100
- club registration certificates – 188
- regular extensions – 1198
- regular extensions – club – 167
- occasional permissions – 189
- occasional licences – 1081

- restricted hotel licences – 34

- occasional extensions – 1176

1.4 Some existing licensed premises will be operated by members of ethnic minority groups. The board recognises that the requirement for personal licenceholders to undertake training will change the way in which these businesses are operated and managed. The board acknowledges the importance of these businesses in the community and will ensure that licenceholders are fully aware of the requirements of the Act and of the board's expectations as the licensing authority by awareness raising initiatives.

1.5 The Act requires the board to carry out its various licensing functions so as to promote the five licensing objectives, outlined in the preamble but repeated here:

- preventing crime and disorder
- securing public safety
- preventing public nuisance
- protecting and improving public health and
- protecting children from harm

The pursuit of these five objectives is a principal feature of this board's policy. The objectives provide a basis for refusal of an application for the grant of a premises licence or of an occasional licence; their breach may lead to the imposition of sanctions on a personal licenceholder or provide grounds for the review of a premises licence. The attachment of conditions to a premises licence or occasional licence may be based on any of the objectives.

1.6 The Act further requires that the board's published statement of licensing policy sets out the policies the board will generally apply to promote the licensing objectives when making decisions on applications.

1.7 The board is required to have regard to the guidance issued by the Scottish Government and to consult with :

- the local licensing forum for the board area
- such other person or persons who appear to the board to be representative of:
  - holders of premises and personal licences
  - persons having functions relating to health, education or social work
  - young people
  - persons resident within the licensing forum's area as such other persons as the *board* thinks appropriate.

1.8 This policy has been prepared in accordance with the provisions of the Act. It takes effect on 30 November 2007 and will remain in force for a period of not more than 3 years. It will be subject to regular review and further consultation prior to October 2010. If necessary the board will prepare and publish supplementary statements of licensing policy.

1.9 It should be recognised that this policy covers a wide variety of activities and premises including public houses, theatres, cinemas, restaurants, nightclubs, private members' clubs, sports clubs and community centres, as well as those

licensed to sell alcohol for consumption off the premises. It cannot provide for every eventuality but seeks to detail those factors and the board's policies which will influence the achievement of the licensing objectives. Other matters which may be of public interest such as procedures which the board will use in processing applications will be contained in separate guidelines.

- 1.10 It is permissible under the Act for the City of Edinburgh Council to seek premises licences in its own name, and it may seek to do this for public open spaces, which are used for a variety of cultural and community events. This approach may facilitate the use of such areas for licensable activities and may alleviate the need for organisations, performers and entertainers to seek individual licences, for 'one off' events. Any such premises licences would be subject to appropriate conditions to ensure that the use of these spaces does not adversely impact upon any of the licensing objectives.
- 1.11 In exercising its licensing function the board will have due regard to the role and responsibilities of other authorities within the local government area, including those with responsibility for:
- planning controls
  - positive measures to create a safe and clean city environment, in partnership with local businesses and transport operators
  - a positive and robust approach to binge drinking and underage drinking
  - the provision of close circuit television (CCTV) surveillance, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols
  - designating parts of the local authority area as places where alcohol may not be consumed publicly;
  - enforcement of the law concerning disorder and anti-social behaviour
  - greater use of the powers to deal with those who commit offences, such as prosecution of persons selling alcohol to persons who are drunk or under-age, as well as of adults who purchase alcohol for consumption by persons under age and of those under age persons who purchase for self supply.
- 1.12 This policy does not seek to undermine the right of any individual to apply under the terms of the Act and to have such an application considered on its individual merits. If there are no grounds for refusal the board must grant the application. During the transition period an application for a premises licence which attracts no objections and which complies with all the relevant regulations will be considered non controversial and will be submitted to the board for grant. The policy does not seek to override the right of any person to make representations on an application or to seek a review of a licence where provision has been made for this in the Act.

## 2 CONSULTATION AND LINKS TO OTHER POLICIES, STRATEGIES AND LEGISLATION

- 2.1 In developing this policy, the board has consulted widely and given due consideration to the views of all those who responded to that consultation process. There are many organisations and people who have a stake in the leisure industry, including providers, customers, residents, law enforcers and the emergency services, all of whom have views and concerns that require consideration in the promotion of the licensing objectives. Ethnic minorities and

faith groups have been specifically included in the consultation process. The board also consulted those involved and responsible for its local strategies on crime prevention, planning, transport, culture, tourism and economic development.

- 2.2 Having regard to the City of Edinburgh Council's cultural strategies, a diverse provision is welcomed for the benefit of the local communities. The board will seek to ensure that cultural events are not discouraged through the imposition of unreasonable restrictions. However, a balance will be struck between the desirability for such entertainment and the wider cultural benefits arising against the need to protect children and the natural concern to prevent public nuisance and disturbance from premises and in neighbourhoods.
- 2.3 In administering its responsibilities in respect of licensing the board believes that it is important that it does not operate in isolation. Due regard will be given to the policies and decisions of the City of Edinburgh Council and of neighbouring local authorities.
- 2.4 The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way which is incompatible with a Convention Right. The board will have particular regard to the following relevant provisions of the European Convention on Human Rights in respect of its licensing responsibilities.
- 2.5 The Disability Discrimination Act 1995 introduced measures to tackle discrimination encountered by disabled people in the areas of employment, access to goods, facilities and services. On 27 November 2006 the board adopted a Disability Equality Scheme and Action Plan under this 1995 Act. A copy of the Scheme is available on the Board pages of the City of Edinburgh Council's licensing website using the following link: - [www.edinburgh.gov.uk/business/licensing](http://www.edinburgh.gov.uk/business/licensing). The scheme is subject to review at least three yearly.
- 2.6 The board recognises its responsibilities under the Race Relations Act, 1976 and the Sex Discrimination Act 1975. The impact of this policy on race relations and gender equality will be monitored through the board's Race Equality Scheme, adopted in 2002 and Gender Equality Scheme, adopted in 2007. Copies of these are available on board pages of the City of Edinburgh Council's licensing website using the following link: [www.edinburgh.gov.uk/business/licensing](http://www.edinburgh.gov.uk/business/licensing)
- 2.7 The board will liaise closely with the team of Action on Alcohol and Drugs in Edinburgh; the importance of such cooperation is recognised as part of the wider alcohol agenda, especially in relation to the public health and child protection licensing objectives.
- 2.8 The board will have regard to any strategy of the Scottish Government designed to address the social, health and crime and disorder issues raised by the misuse of alcohol, including in particular the "Plan for Action on Alcohol Problems" published in February 2007.
- 2.9 The board will avoid duplication with other regulatory regimes and will not use its powers under the Licensing (Scotland) Act 2005 to arrive at outcomes that can be

achieved under other legislation or by other enforcement agencies.

- 2.10 In particular, the board's licensing functions will be discharged separately from the City of Edinburgh Council's functions as the local planning authority. The board recognises that planning and licensing regimes are separate and that the processing of licensing applications should be an exercise distinct from the processing of planning applications. The board as the licensing authority will not be bound by decisions made by the City of Edinburgh Council as the local planning authority. Applicants for licences will be reminded that planning permission may be required for certain uses and that planning consents may carry conditions.
- 2.11 It is essential that planning permission is obtained prior to an application for a premises licence, or alternatively that a certificate of lawful use or development has been obtained in terms of the proposed activities and trading hours.
- 2.12 In general, planning permissions authorise a broad type of use of premises, whereas licences are granted for a particular type of activity. A planning permission may cover a number of activities that can have a wide range of different impacts in the locality.
- 2.13 There is a presumption of a common approach in the reasoning behind planning and licensing decisions and conditions attached to planning permissions may relate to one or more of the five licensing objectives. Where this is the case, operating plans should make reference to those planning conditions.
- 2.14 The City of Edinburgh Council's planning policies are set out in its Development Plan, supplemented by a variety of guidelines. Government guidance in the form of Planning Policy Guidance Notes (PPG) and National Planning Policy Guidance notes (NPPG) are also relevant, along with the Edinburgh City Local Plan, finalised in March 2007.
- 2.15 The formulation of this policy involved consultation with the City of Edinburgh Licensing Forum ('the forum'), which is under a statutory duty to keep under review the operation of the Act throughout the Edinburgh local government area. The forum will advise and make recommendations to the board as appropriate. The board will have regard to any advice given or recommendation made to it by the forum. The board may provide reports to the forum from time to time to ensure proper communication and to enable the forum to have regard to the detail of matters when deliberating.
- 2.16 All premises for which a licence is being sought will be expected to comply so far as is reasonably practicable with the building standards requirements in force at the time of their construction, or at the time of any alteration. This is particularly relevant in respect of the licensing objectives relating to public health and public safety. Where construction work is proposed or completed, the applicant should be able to produce appropriate certificates issued by the local authority.
- 2.17 Other statutory requirements may apply to the provision of any activities at a premises and the responsibility for compliance lies with the licenceholder. For example if the activity involves the preparation and/or sale of food then it is the

responsibility of the applicant to ensure that all appropriate food safety legal requirements are met. It is not appropriate for the decision on a licence application to address these matters. A responsible licenceholder will conform to all relevant legislation. The council will be involved as appropriate in related decision making, for instance on a late hours catering licence application, and will apply relevant policies as part of that process.

- 2.18 There is considerable overlap between the licensing regime and the wider health & safety regulatory regimes. Many specific licensing requirements relate to matters potentially affecting public health and public safety, two of the licensing objectives. Applicants should keep this in mind when drawing up their operating plan.

### 3 APPLICATIONS FOR LICENCES AND DISPOSAL OF BUSINESS

- 3.1 When assessing applications for premises licences, the board must be satisfied that the measures proposed in the applicant's operating plan aim to achieve the five licensing objectives.
- 3.2 The board will expect individual applicants to address the five licensing objectives in their operating plan. It will expect the plan to have regard to the nature of the area where the premises are situated, the type of premises, the activities to be provided, the arrangements made in respect of children on the premises, operational procedures and the concerns of the local community. The board will expect the plan to demonstrate how it is intended that the premises will be good neighbours to residents and to other venues and businesses.
- 3.3 In respect of each of the five licensing objectives, the board will expect applicants to provide evidence that suitable and sufficient measures, as detailed in their operating plan, will be implemented and maintained, relevant to the individual style and characteristics of their premises and activities. Reference will require to be made to additional measures to be taken on an occasional or specific basis, such as when a special event or promotion is planned, which is likely to attract larger audiences.
- 3.4 The City of Edinburgh Council will itself make applications for premises and occasional licences. When this is the case, the board will consider the matter from an entirely neutral standpoint. If relevant representations are made, they will be given full and equitable consideration by the board.
- 3.5 The board will not accept any premises licence application which fails to satisfy the requirements of Section 20 of the Act and any regulations made under the Act. Any such application will be returned to the applicant. The board intends to hold plans of premises electronically and will expect all applications to be accompanied by an electronic copy of any plans to be submitted.
- 3.6 The board will dispose of its business in an open, fair and transparent manner. Hearings will be conducted in as informal a manner as possible. Guidance will be made available to those persons who wish to apply for a licence, to make representations or to lodge objections.

- 3.7 The board will remain at all times mindful of the need to be accessible to all and assistance will be available on request to those who require any special arrangements to be made. The board will normally hold its meetings in the premises of the City of Edinburgh Council. Timescales will be laid down for applications to the board, in accordance with any regulations issued and these will be widely publicised. An appropriate number of staff will be employed to ensure an efficient disposal of business. The board will meet on a regular basis and the meeting dates will be widely advertised.
- 3.8 In accordance with the Act, training of members was carried out within the three month period following the election of the board in May 2007. All members appointed have obtained the required certificate of training. Members will be kept informed of developments in the licensing arena and further training will be initiated as necessary.
- 3.9 The board is committed to the use of e-government technology and to applying the benefits of this to ensure continuous improvement in the board's operation. In particular the board intends to introduce an electronic public register in order to comply most effectively with its duty under section 9 of the Act. This register will be available for public inspection at all reasonable times.

#### 4 DELEGATION OF LICENSING FUNCTIONS

- 4.1 It is the board's intention to provide a speedy, efficient and cost effective service to all parties involved in the licensing process.
- 4.2 Decisions on licensing matters will be taken in a transparent manner and in accordance with an approved scheme of delegation, aimed at underlining the principles of timely, efficient and effective decision making.
- 4.3 Delegations will be made by the board in accordance with the Act. A table setting out how the board intends to delegate its various licensing functions is attached at Appendix 1.
- 4.4 In order to maintain an overview the board will receive regular reports regarding the use of delegated decision making powers.
- 4.5 Unless there are justifiable reasons or, as provided in regulations made under the Act, the board will meet in public, although members may retire into private session to consider their decision.

#### 5 NOTIFICATION OF APPLICATION, OBJECTIONS AND REPRESENTATIONS

- 5.1 The board will give notice of each premises licence application it receives to those persons referred to in the Act, namely:
- each person with a notifiable interest in neighbouring land
  - any community council within whose area the premises are situated

- the City of Edinburgh Council
- the Chief Constable of Lothian & Borders Police (the Chief Constable')
- Lothian and Borders Fire and Rescue Service as enforcing authority in terms of section 61 of the Fire (Scotland) Act 2005.

5.2 The board expects the Chief Constable to consider all applications and to provide one of the statutory notices as appropriate. Where the Chief Constable considers that it is necessary for the purposes of the crime prevention objective that the application be refused, a recommendation to that effect may be included in the notice. The Chief Constable may lodge an objection but only if a connection with serious organised crime is detected and the crime prevention objective is threatened.

5.3 The board will consider all relevant representations or objections from any person as defined in section 22 of the Act. Objections or representations which are regarded as frivolous or vexatious may not be considered and in the case of an application for the review of a licence may be rejected by the board if it does not disclose any matter relevant to any ground for review.

## 6 CONDITIONS ATTACHING TO LICENCES

6.1 The board acknowledges the mandatory conditions laid down in Schedules 3 and 4 of the Act and in regulations. Appropriate use will be made of all such conditions.

6.2 Where relevant representations are made, the board will make an objective judgement as to whether other conditions may need to be attached to a licence to secure achievement of the licensing objectives. Any such conditions will be consistent with section 27 of the Act. Any conditions arising as a result of representations will primarily focus on the impact of the activities taking place at the licensed premises, on those attending the premises and members of the public living, working or engaged in normal activity in the vicinity of the premises, and will cover matters that are within the control of the licenceholder. In particular where the operating plan indicates that music is to be played in a premises, the board will consider the imposition of a condition requiring amplified music from those premises to be inaudible in residential property. In addition, where an ATM is made available for use on licensed premises the board will consider the imposition of a condition that the ATM should not be located in any part of the premises where alcohol is available for purchase and consumption so that a customer wishing to use the ATM must cease drinking in order to do so.

6.3 The board recognises that all applications should be considered on their own merits. Any condition attached to a licence will either be derived from the licenceholder's operating plan, or as a result of a representation and will be tailored to each individual premises.

6.4 The board understands applicants may suggest conditions which they consider are necessary to achieve the five licensing objectives.

6.5 If an applicant volunteers a prohibition or restriction in their operating plan

because their own assessment has determined such prohibition or restriction to be appropriate, such prohibition or restriction if adopted by the board will be attached as a condition of the licence and will be enforceable as such.

## 7 NEED FOR LICENSED PREMISES

7.1 The board acknowledges that need, in the sense of the commercial demand for further licensed premises, is not a licensing policy matter. Licensing decisions will not therefore be based upon this issue. The issue of overprovision of licensed premises is dealt with elsewhere in this policy

## 8 CONSIDERATION OF APPLICATIONS BY THE BOARD

8.1 When considering whether any licence should be granted, the board will assess the likelihood of the grant having an adverse impact. The board will take into account relevant matters including :

- the nature of the premises, the style and type of use, including the nature of the activities which will take place and whether amplified music will be played, the potential number and profile of the customers likely to attend the premises
- the proposed hours of operation
- whether children are to be admitted to the premises and the arrangements made for them
- the means of access to the premises including the location and adequacy of customer entrances and exits
- the level of public transport accessibility for customers either arriving or leaving the premises and the likely means of public or private transport that will be used by them
- the likely level of car parking demand on principal roads and surrounding residential streets in comparison with the existing situation, its effect on local residents and on residential parking and emergency access
- the provision of toilet facilities and ventilation of the premises

8.2 Where it is possible to take steps to mitigate or prevent any potential impact the board may still be able to grant a licence subject to conditions; each case will be considered on its merits.

8.3 When considering any application for premises, which have been previously licensed, or in any review of an existing licence, the board will take into account the impact on local residents as borne out by any history of complaints and investigations into these. The board will also consider measures put into effect by the applicant to mitigate any adverse impact.

## 9 OVERPROVISION

9.1 Overprovision of licensed premises in a particular locality impacts on the promotion of the licensing objectives. In the course of 2009 the board will come under a duty in terms of section 7 of the Act to include in this policy document a statement of the extent to which it considers there to be overprovision of licensed premises or overprovision of licensed premises of a particular description, in either

case in any locality within the area of the board. The approach to the definition of locality will be flexible, recognising that different areas throughout the city exhibit a variety of characteristics.

- 9.2 In July 2007 the board reaffirmed its existing policy on recognised overprovision in the locality comprising the Grassmarket, Cowgate and other streets leading into these main thoroughfares. In those localities there was a presumption against the grant of any further licences although all applications continued to be considered on their own merits. Although the duty to make the overprovision declaration will not be commenced until the main provisions of the Act come into force in 2009, the board intends to commence aspects of the required assessment by the beginning of 2008. The first areas which will be assessed are those covered by the overprovision policy reaffirmed in July 2007.
- 9.3 The board will take into account the relevant Ministerial guidance and statutory provisions. There will be close liaison in this area with appropriate services of the Council and other statutory agencies. Cognisance will also be taken of trends in other licensing authority areas. As well as consulting licenceholders, persons resident in the locality and the Chief Constable as required by section 7 (4) of the Act, the board will consult more generally throughout the city and will take into account all observations as part of its commitment to the wider alcohol agenda, including those submitted by the City of Edinburgh Licensing Forum. Building standards officers from the Council's department of City Development will advise the board in the whole area of capacity, seating and overprovision.
- 9.4 Account will be taken of the type, size and capacity of premises and the board will pay close attention to licensed premises of particular descriptions, which have distinct styles of operation, recognising that they may have a greater impact on a local community.
- 9.5 The board has determined that it is inappropriate to retain a policy of overprovision within the city until it has progressed work in connection with the statutory overprovision assessment. Accordingly, for the purposes of determining applications for licences within the city where the concentration of particular types of licensed premises is having an impact, the board will rely on the information supplied in connection with the individual application and will judge each application on its merits.
- 9.6 In furtherance of its already established approach to overprovision, the board acknowledges that public nuisance and overall levels of disturbance arising from the density of licensed premises in a locality are likely to be increased, where particular premises are of a size enabling a very large number of patrons to be inside at one time. The board has a particular concern about large drinking establishments, which are used primarily for the sale and consumption of alcohol and provide little or no seating for patrons. The board defines these premises as those with a capacity for 200 or more patrons, whether seated or standing at any particular time.

- 9.7 The board would be concerned if evidence was presented in connection with a large premises of the following matters :
- noise and disturbance on the streets on several nights during the week and particularly at weekends
  - high levels of bad behaviour in public places, particularly at night, with much of it being associated with excessive drinking of alcohol
  - high numbers of pedestrians on the pavements which spill on to the roads
  - high volumes of litter associated with fast food outlets
  - fouling of doorways, alleys and private gardens and courts by urination and vomiting
  - difficulty in providing and maintaining adequate street cleaning and refuse collection services
  - traffic congestion caused by dropping off and picking up people at licensed premises
  - long queues and long waiting times at taxi ranks which contribute to nuisance disorder and occasionally crimes of violence
  - the views of a significant proportion of the public who avoid areas in the vicinity of large premises because of the fear of crime and disorder.

- 9.8 The board wishes to highlight its growing concern at the high number of existing off sales premises and its intention to examine any applications for more such licences to assure itself that the application will not undermine the licensing objectives.

## 10 OCCUPANCY CAPACITY

- 10.1 Reference is made to the provisions of paragraph 9 above, which relate to overprovision. The occupancy capacity of premises is an important factor in the assessment of overprovision.
- 10.2 The occupancy capacity for premises and events is important in the achievement of the five licensing objectives except in respect of premises licensed only for the consumption of alcohol off the premises. The board will take account of any maximum occupancy limits set by building standards officers from the City of Edinburgh Council's department of City Development in circumstances where this is deemed appropriate to ensure the safety of persons in the premises and safe escape in the case of an emergency. If there are additional concerns about crime and disorder or public nuisance, the board may consider setting a lower maximum occupancy limit than that recommended by officers.
- 10.3 The board will expect applicants to consider various factors when assessing the appropriate capacity for premises or events. These include:
- the design and layout of the premises
  - the location, availability and size of entrances and exits, including particularly emergency exits
  - the nature of the premises or event
  - the nature of the activities being provided, including the noise in the neighbourhood
  - the provision or removal of temporary structures such as a stage or

furniture

- the number of staff available to supervise customers both ordinarily and in the event of an emergency
- the age of the customers
- the attendance by customers with disabilities, or whose first language is not English
- the availability of suitable and sufficient sanitary accommodation
- the nature and provision of facilities for ventilation.

10.4 The board will expect the operating plan of premises with a capacity of 200 or more patrons, whether seated or standing, to designate all parts of the premises as either seated or standing areas, as part of their description of the activities engaged in at their premises.

10.5 The determination of a capacity for premises or events should be interpreted as a requirement to ensure an adequate supervision of the premises at all times. There should be constant arrangements to verify the number of persons present, such as door staff or attendance clickers. The board will expect large capacity premises to ensure that door supervisors are particularly vigilant about numbers entering or leaving the premises, denying entry to those who are drunk or disorderly on arrival. Where the capacity is likely to be reached, such as on known busy evenings and particularly where a special event or promotion is planned, the applicant will be expected to detail the additional arrangements that will be put in place to ensure that the capacity of the premises is not exceeded.

10.6 Each case will be considered on its merits but the board will consider very carefully the type, size and capacity of licensed premises in the particular locality in respect of which the application is made.

## 11 REVIEW OF PREMISES LICENCES

11.1 A licence may be reviewed on the application of any person on the grounds specified in section 36 of the Act. A review will include consideration being given to the suspension, revocation or variation of a licence or alternatively to the issue of a written warning.

11.2 The board may reject a premises licence review application if it does not disclose any matter relevant to any ground for review or if it is vexatious or frivolous.

## 12 OCCASIONAL LICENCES

12.1 An occasional licence authorises the temporary sale or supply of alcohol on premises other than licensed premises, which is not authorised by a premises licence

It may be applied for by:

- the holder of a premises licence
- the holder of a personal licence

a representative of any voluntary organisation to cover a period of a maximum of 14 days.

- 12.2 Any applicant for such a licence should be made aware of their responsibility, where appropriate, to apply for a public entertainment licence or late hours catering licence, issued under the Civic Government (Scotland) Act 1982.
- 12.3 The board recognises the right of any person to object to an application for an occasional licence in terms of section 58 of the Act.
- 12.4 Event organisers are encouraged to provide as much notice as possible of their event to the board.
- 12.5 The grant of an occasional licence is subject to the mandatory conditions laid out in schedule 4 to the Act.
- 12.6 An applicant for an occasional licence must demonstrate that they have made adequate provision to fulfil the requirements of the licensing objectives and in particular the objective relating to the protection of children. This might include supervisors at entrance and exit points, public notices regarding the rules relating to the entry of children to an event and adequate delineation of the area for the sale and consumption of alcohol by means of a barrier. Appropriate conditions in terms of section 60 of the Act will be attached by the board to any occasional licence issued and the board will take a very serious view of any breaches of conditions attached.

### **13 ENFORCEMENT AND LICENSING STANDARDS OFFICERS**

- 13.1 The City of Edinburgh Council's licensing standards officers (LSOs) investigate allegations of unlicensed activities, ensure that licence conditions are complied with and provide information and guidance to and a mediation service for licenceholders. The council's Services for Communities initially employed two LSOs on a pilot scheme limited to the city centre but the intention is to build up the numbers.
- 13.2 LSOs will be an integral part of the monitoring and enforcement regime under the Act. Their role is :
- providing information and guidance concerning the operation of the Act to licenceholders, members of the public and other interested persons
  - supervising compliance with licence conditions, board policies and other requirements under the Act by premises licenceholders and holders of occasional licences.
  - providing mediation services in order to avoid or resolve disputes or disagreements between the holders of premises or occasional licences and other persons concerning issues of compliance.
- 13.3 There is a firm commitment to ensuring that the LSOs are enabled to carry out their functions efficiently, including one of them participating as a member of the City of Edinburgh Licensing Forum.
- 13.4 While LSOs will visit all licensed premises on a periodic basis, more regular inspections will be targeted at premises, whose activities in terms of the operating plan give rise to the most serious risks or those premises that have been the subject of enforcement action by the licensing board.

- 13.5 The City of Edinburgh Council delivers a wide range of enforcement services aimed at safeguarding the environment and the community and at providing a level playing field. The enforcement of the licensing regime is one of these services. The council has adopted the Government's Enforcement Concordat designed to ensure effective and efficient public protection services. Specifically, the council has confirmed that it is committed to the principles of good enforcement practice by carrying out its regulatory functions in a fair, open and consistent manner.
- 13.6 The board recognises the interests of both citizens and businesses and will work closely with its partners, to assist licenceholders to comply with the law and the five licensing objectives it seeks to promote. Proportionate but firm action will be taken against those who commit offences. The board expects enforcement agencies to adopt a similar approach and will seek to work actively with them to enforce the licensing legislation. In particular the board intends to work closely with the police, sharing information where appropriate in order to enhance the promotion of the five licensing objectives.

#### 14 MANAGEMENT OF LICENSED PREMISES

- 14.1 Within the operating plan for premises on which alcohol will be sold, a premises manager must be specified. The board will expect the premises manager to have the day to day responsibility for running the premises and to be present at the licensed premises on a regular basis when alcohol is being sold. The board expects that there will be in place appropriate arrangements for monitoring by the premises manager and details of these arrangements should be recorded in the operating plan. The premises licenceholder is expected to ensure that the premises manager has experience commensurate with the size, capacity, nature and style of the premises.
- 14.2 The premises manager must hold a personal licence.
- 14.3 Within all licensed premises, whether or not alcohol is to be sold, the board will expect there to be proper management arrangements in place which will ensure that there is an appropriate number of responsible, trained persons on the premises and will also ensure compliance with all statutory responsibilities and the terms and conditions of the premises licence.

#### 15 PERSONAL LICENCES

- 15.1 Any individual may seek a personal licence whether or not they have current employment or business interests associated with the use of the licence.
- 15.2 The board will grant a personal licence if it is satisfied that the applicant:
- is over 18 years of age
  - possesses a relevant licensing qualification
  - has not had a personal licence revoked in the previous five years, ending with the day on which the application was received,
  - has not been convicted of any relevant offence or foreign offence

- 15.3 The board will give notice of any personal licence application to the Chief Constable, who must give notice to the board in one of the forms laid out in section 73 of the Act. Where such notice is received, the board will hold a hearing at which it will consider carefully whether it is satisfied that the grant of a licence would not breach the objectives of the Act. It will consider the seriousness and relevance of any conviction, the period that has elapsed since the offences were committed and any mitigating circumstances. If not so satisfied the board will refuse the application.

## 16 ADULT ENTERTAINMENT

- 16.1 The board adopted a policy on adult entertainment in licensed premises in November 2006. The board has responded to the Scottish Executive consultation on draft regulations on adult entertainment. The draft regulations differ in significant respects from the provisions of this board's adopted policy.
- 16.2 Until the introduction of national regulations, this board will seek to improve and regulate standards in licensed premises offering adult entertainment, by reference to the policy adopted in November 2006 subject to minor update necessary to give effect to subsequent changes. A copy of the policy as updated is attached at Appendix 3 and is also available on the Board pages of the City of Edinburgh Council's licensing website by using the following link: [www.edinburgh.gov.uk/business/licensing](http://www.edinburgh.gov.uk/business/licensing). The council's LSOs will monitor the operation of this policy.
- 16.3 The board will expect licence applicants to show evidence of having given consideration to the promotion of all the licensing objectives, in particular those relating to the protection of children, the prevention of crime and disorder and the prevention of public nuisance.
- 16.4 Where the operating plan for a premises licence application identifies that adult entertainment will take place in the premises, the board will have particular regard to the location of the premises in relation to places of religious worship, schools, youth clubs or other premises where significant numbers of children are likely to congregate.
- 16.5 All applications involving adult entertainment of any kind will be considered on their own merits but particular regard will be given to this section of the statement of policy and the policy referred to at paragraph 16.2 and attached at Appendix 3 to this document will be applied. Reference is made to paragraph 30.7 in this connection.

## 17 SALE FOR CONSUMPTION OFF THE PREMISES

- 17.1 Applicants for licences for premises which are to be used for the sale of alcohol for consumption off the premises will be expected to address the five licensing objectives in their operating plan.
- 17.2 The board is concerned to ensure that all possible steps are taken in this area to promote the licensing objectives. It will work towards the adoption of a policy

concerning the layout of such premises and the responsible display of alcoholic liquor in premises, which are not exclusively or mainly used for the sale of alcohol. The board will monitor developments in the area of test purchasing and will take appropriate action as part of its wider alcohol agenda. Information regarding safe drinking will be made accessible. Consideration will be given to adopting a standard condition relating to proof of age, without which no sale will be made and to point of sale signage to show penalties for selling to or buying for under-aged persons.

- 17.3 Applicants for premises licences should take note of the following:
- in supermarkets and hypermarkets only responsible displays of alcoholic products will be permitted and the overall volume of alcohol on display should not exceed a specified capacity; there should be proper and appropriate systems of security; and supervision by staff, CCTV or a combination of both.
  - in smaller, non-specialist premises display and sale of alcoholic products should take place either in a boutique within a shop, for instance an area separated by fixed partitions or, where there is no customer self-service, over a counter into the main retail body of the shop.

The board takes the view that a responsible display will not include the following:

- displays located at the entrance/exit points of the premises
- displays located in aisles whether or not they interfere with customer flow
- displays at or near check-outs

- 17.4 With regard to the licensed hours for the sale of alcohol for consumption off the premises, they are as laid down in the Act between 10 am and 10pm each day. There is no discretion to permit licensed hours outwith these times. The board may take the view in particular circumstances that the permitted terminal hour of 10pm should be restricted. Reference is made in this connection to paragraph 20.2, which refers to the policy on opening hours of licensed premises and also to the provisions of the Act at section 65. Each case will be taken on its merits, considering all the licensing objectives, in particular those relating to crime, children, public health and public nuisance. The board is concerned to promote best practice in this area and will consider most carefully whether late opening hours are justified. If separate trading areas, as referred to at paragraph 17.3 above, provide a responsible approach, the board will be prepared to consider that as an alternative to the whole premises being closed. Reference is made also to paragraph 26 of this policy, relating to public nuisance.

- 17.5 The board will insist on certain premises licensed to sell alcohol for consumption off the premises installing an effective CCTV system covering both the interior and exterior of the premises complying with current legislative requirements. Reference is made to paragraph 26 of this policy relating to the prevention of crime and disorder objective.

## 18 SMOKING AND NUISANCE

- 18.1 The board acknowledges that control of smoking is not a matter within the responsibilities of licensing boards. The LSOs employed by the City of Edinburgh Council will monitor the control of smoking in particular premises closely and will

liaise appropriately with other council officers. It is anticipated that they will take a robust line in any situation where complaints are received from nearby residents about nuisance, including noise.

- 18.2 The health risks associated with smoking and with passive smoking continue to be well publicised; licenceholders will require to be aware of their own statutory responsibilities, public opinion generally, the expectations of their patrons and the legislation concerning smoking in public places.
- 18.3 The board expects that licenceholders will have regard to good practice. It is their responsibility to ensure that patrons do not create a nuisance or disturbance for residents living nearby. This includes noise arising as a result of patrons smoking outside the premises and any associated littering of the area. Where appropriate the board may impose conditions including requiring licenceholders to provide litter bins in the vicinity.
- 18.4 Every business has a duty to ensure that waste is disposed of securely and to keep their premises clear of all litter generated by staff and customers; the board expects licenceholders to be aware of their responsibilities and of the possibility of statutory street litter control notices being served in the case of non compliance.

## 19 OUTSIDE AREAS

- 19.1 The board recognises the growing trend for outside seating areas in licensed premises. It will expect any licenceholder who intends to provide outside seating, tables and chairs or other such facilities to hold a premises licence which includes the outside area. These areas should be shown on the required plan of the premises and will be taken into account in the overall assessment, particularly in relation to exits and sanitary facilities.
- 19.2 When applicants propose to provide outside seating, tables or other facilities in any outdoor area, whether covered or not, they will be expected to ensure that the use of such areas will not cause disturbance or nuisance to the occupiers of other premises in the vicinity.
- 19.3 The City of Edinburgh Council operates a scheme whereby a permit may be obtained under the Roads (Scotland) Act 1984 allowing an applicant to occupy the footway with tables and chairs. The board expects that licenceholders will not only comply with any conditions of such a permit in respect of the tables and chairs but will also put into place effective management controls, supervision and other measures to ensure that the use of such areas by patrons or by any other persons does not have a negative impact in the vicinity.
- 19.4 The board may decide to visit premises, which wish to offer outside seating areas and will monitor all such operations carefully. The board recognises that the proliferation of outside areas is a matter of public concern and will take a robust line with any licenceholder in breach of a condition of a premises licence relating to the external area.
- 19.5 Reference is made to paragraph 26 of this policy, relating to the public nuisance objective.

## 20 HOURS OF TRADING

- 20.1 This section primarily relates to premises where alcohol is sold with or without any other licensable activity. Reference is made to paragraph 17.4 of this statement of policy which relates to licensed hours for sales of alcohol for consumption off the premises. The board expects that all applicants for all types of licensed premises will consider hours of trading to be an important issue when preparing their operating plans.
- 20.2 In determining its approach to the hours of trading, the board has given full consideration to the Scottish Government guidance under the Act and to the provisions of the Act itself. Each case will be dealt with according to its individual circumstances.
- 20.4 The board recognises the importance of taking into account all the statutory licensing objectives laid down in the Act in its assessment of any application for a licence, including consideration of the hours of trading. In addition, the board is aware that there is a strong view in some areas against allowing later opening of licensed premises. This view is particularly strong in mixed residential and commercial areas.
- 20.5 The previously adopted policy on hours of operation has served the city well but the board recognises that this is a matter which requires to be given further consideration in certain circumstances. The board will consider a restriction on opening hours as one mechanism of combating anti social behaviour, if appropriate.
- 20.6 The board reaffirms the hours which have operated in the city of Edinburgh over a number of years, updated to reflect the terms of the Licensing (Scotland) Act 2005.

### Opening hour – every day

off sales premises 10am  
all other premises 9am

### Terminal hour – every day

10pm: off sales premises  
1 am: licensed premises, except off sales and premises offering entertainment or restaurant facilities  
3 am: licensed premises offering restaurant facilities, and those offering entertainment (except adult entertainment which is 1am) and members' clubs

- 20.7 Applicants will be expected to give due consideration to the impact their patrons may have after leaving their premises, taking into account the likely exits of patrons from the nearby licensed establishments.
- 20.8 The following issues should be considered:

- the effect of the grant of a licence for later or earlier hours on crime and disorder, public safety, public nuisance, public health and children
- the proposed hours when any music, including incidental music, will be played
- the hours when customers will be allowed to take food or drink outside the premises or be within open areas which form part of the premises
- the existing hours of licensable activities and the past operation of the premises if any and hours of licensable premises in the vicinity
- whether customers and staff have adequate access to public transport when arriving at and leaving the premises, especially at night
- the capacity of the premises
- the type of use, recognising that premises which sell alcohol, play music for dancing, provide late night refreshment or takeaway food, are more likely to be associated with crime and disorder and public nuisance than restaurants, theatres, cinemas or other performance venues
- the hours at which noise may occur and the disturbance of nearby residents' rest, relaxation and sleep.

- 20.9 When preparing operating plans applicants should give consideration to the principle of winding down periods at the end of the night. By gradually increasing the lighting and winding down entertainment such as loud music before the end of the permitted hours, thereby creating a calmer ambience, patrons leaving the premises may be inclined to behave less boisterously after they have left licensed premises. In addition patrons may be inclined to leave the premises spasmodically in small groups on a gradual basis rather than simultaneously.
- 20.10 Restricted licensing hours may be appropriate in cases where licensed premises are situated in the vicinity of residential property or where the trading hours of the premises and competing businesses are likely to lead to undue pressure on public transport systems or additional public nuisance, disorder or anti social behaviour and where licensed premises include external areas. Where the whole circumstances of particular premises dictate, including promotion of the licensing objectives, the board will consider restricting the opening hours so that an earlier terminal hour will apply. The board may impose different restrictions on hours for different licensable activities and for different days of the week.
- 20.11 Consideration will always be given to an applicant's individual case and the board will take into account any proposals the applicant has to minimise the risk of nuisance or disorder being caused or exacerbated by customers departing from the premises.
- 20.12 Where no relevant representations are received from either a responsible body or any interested party and there is no departure from the board's adopted policies, the board will consider granting an application in accordance with the terms of the operating plan.
- 20.13 The board believes that by adopting an approach which is sufficiently flexible, it is possible to ensure that:
- all areas of the city, its businesses and residents will be treated equitably and arbitrary restrictions will be avoided
  - restrictions on the hours of trading will only be applied where this is necessary in order to promote the board's policy and the licensing objectives

- restrictions are not placed on hours of trading which may contribute to rapid binge drinking near closing time.

## 21 EXTENDED HOURS APPLICATIONS AND DETERMINATIONS

- 21.1 Extended hours applications allow for an extension of licensed hours and operate only for a period of up to one month. If the board receives a number of applications to extend licensed hours it will expect the applicant to consider whether an application should be made to vary the premises licence, by a suitable adjustment of the operating plan.
- 21.2 The board may make a determination under section 67 of the Act to extend licensed hours to enable premises to remain open longer for certain special occasions or large public events. In addition to consulting the City of Edinburgh Licensing Forum the board will give notice to the Licensing Standards Officers of the City of Edinburgh and to the Chief Constable and will request observations on the issues of crime prevention, public safety and the protection of children in particular. It will notify its determination to the Chief Constable, to holders of licences and other relevant parties and will take appropriate steps to publicise the determination as widely as necessary.

## 22 MEMBERS' CLUBS

- 22.1 Members' clubs have been included in the premises licensing system. The Scottish Government acknowledges that it would be reasonable to reflect their special characteristics.
- 22.2 In order to benefit from the exemptions available members' clubs will require to meet the criteria prescribed in the Licensing (Clubs) (Scotland) Regulations 2007.
- 22.3 When members' clubs apply to the licensing board they will be asked to certify whether or not they comply with the criteria referred to at paragraph 22.2 in order to benefit from the exemptions. If they do the members' clubs will have to submit to the board a copy of their written constitution and rules. They will be subject to inspections by licensing standards officers, who will check clubs for compliance.
- 22.4 Members' clubs will be subject to the same provisions regarding access by children as other licensed premises. They will require to specify in their operating plans whether or not it is proposed that children and young persons are to be allowed entry to the premises and, if so, to specify the terms, to include the times, the ages of such children and the parts of the premises to which they would be permitted access. Appropriate conditions relating to access by children may be attached by the licensing board.

## SECTION B - LICENSING OBJECTIVES

### 23 OVERVIEW

23.1 The following sub-sections set out the board's policy relating specifically to the five licensing objectives:

- preventing crime and disorder
- securing public safety
- preventing public nuisance
- protecting and improving public health
- protecting children from harm

23.2 In each section relating to the objectives, the board has defined its intended outcome. Each section lists the influencing factors on the achievement of that objective but, because of the wide variety of premises and activities to which this policy applies, the lists provided are not exhaustive. Applicants 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 authorisation.

23.3 In each sub-section, a list of possible control measures is provided. This is intended to be of assistance to applicants, but again, is not intended to be an exhaustive list. Many control measures achieve more than one objective but have not necessarily been listed under each objective.

23.4 The board welcomed comments in the course of the consultation on this document on additional conditions it may require to attach in addition to the mandatory and discretionary conditions laid down in regulations.

23.5 The selection of control measures should be based upon a risk assessment of the premises, the proposed activities and the type of customers expected to attend, for example their age range and numbers. Risk assessment is considered to be good practice and a useful tool in the instruction and training of staff, as well as a sound basis for review by the licenceholder, in the event of requiring to make application for a variation or in response to changing circumstances or conditions at the premises.

23.6 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; this can have a significant impact on the achievement of the licensing objectives.

23.7 The applicant should provide in the operating plan details of the arrangements for effective and responsible management of the premises and for instruction, training and supervision of staff. This is considered to be an essential control measure for the achievement of all the licensing objectives.

## 24 LICENSING OBJECTIVE - PREVENTING CRIME AND DISORDER

- 24.1 The City of Edinburgh Council together with other agencies supports a strategy aimed at making the city a safe place to live in and visit. The board is committed to further improving the quality of life for the people of the city by continuing to adopt policies and to introduce measures designed to increase community safety and to reduce crime, the fear of crime and disorder.
- 24.2 There are already in existence a wide range of measures for preventing and reducing crime and disorder. The Act reinforces the duty of the board to make this a top priority.
- 24.3 The promotion of the licensing objective to prevent crime and disorder, places a responsibility on licenceholders to become key partners in achieving this objective. Applicants will be expected to demonstrate in their operating plan that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and the activities at those premises.
- 24.4 The applicant should be able to demonstrate that all those factors, which impact on crime and disorder, have been considered. These include:
- underage drinking
  - drunkenness on premises
  - public drunkenness
  - illegal possession and/or use of drugs
  - violent behaviour
  - anti-social behaviour
  - litter
  - unauthorised advertising
- 24.5 The following examples of control measures are given to assist applicants who may need to take account of them in their operating plan, having regard to their particular type of premises and/or licensable activities:
- effective and responsible management of premises
  - training and supervision of staff
  - adoption of best practice guidance where available, including those relating to drinks promotions and safe drinking/units guidance.
  - acceptance of accredited proof of age cards for instance PASS or locally approved cards
  - provision of effective CCTV in and around the premises, which complies with all current legislative provisions and provision of external lighting and other security measures
  - employment of Security Industry Authority licensed door supervisors
  - provision of litterbins outside premises
  - membership of local pubwatch schemes or similar organisations
  - responsible advertising
  - distribution of promotional leaflets and posters.

- 24.6 Close circuit television makes a significant contribution to addressing antisocial behaviour across the city of Edinburgh. In recent years extensive investment in public space CCTV across the city has assisted in the identification and prosecution of criminals and provided reassurance to residents. With a network of one hundred and ten cameras, CCTV cameras are a vital part of the City of Edinburgh Council's strategy to tackle antisocial behaviour as well as contributing to the development of safer communities. These cameras are designed both to prevent and to detect anti social behaviour. Where CCTV is installed the board will expect cameras to be left on for a minimum of thirty minutes after the terminal hour and that the licensing section of the Council is immediately informed of any fault in the operation.
- 24.7 The board is aware of the condition relating to the installation of CCTV in late opening premises, which is contained in regulations made by Scottish Ministers. In order to ensure the greatest possible degree of protection for the public this board intends to consider conditions which go beyond those published by Scottish Ministers where circumstances dictate. In particular the board will expect to see CCTV installed in and around certain off sales premises. Reference is made to paragraph 17.5 of this policy in this connection.
- 24.8 In 2006 the City of Edinburgh Council made byelaws prohibiting the consumption of alcohol in designated public places. These were adopted as part of the overall strategy to make safe all the public areas within the city. The text of the byelaws is available on the City of Edinburgh Council website at:  
[www.edinburgh.gov.uk/business/licensing](http://www.edinburgh.gov.uk/business/licensing)

## 25 LICENSING OBJECTIVE – SECURING PUBLIC SAFETY

25.1 The board is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised. To this end, applicants will be expected to demonstrate in their operating plan that suitable and sufficient measures have been identified and will be implemented and maintained to ensure public safety, relevant to the individual style and characteristics of their premises and the licensable activities for which the licence is being sought.

25.2 When addressing the issue of public safety, an applicant must demonstrate that those factors which impact on standards of public safety have been considered.

These include:

- the occupancy capacity of the premises
- the standard of maintenance of the building having regard to its age and the design and layout of the premises, including the means of escape in the event of fire
- the structural stability of the premises
- the adequacy of vehicular access to the premises by the fire and rescue service
- the safety of gas and electrical installations
- the nature of the activities to be provided, in particular the sale or supply of alcohol and the provision of music and dancing, including whether those activities are of a temporary or permanent nature
- the hours of operation differentiating the hours of opening from the hours when licensable activities are provided, if different
- customer profile for instance age, disability
- the use of special effects such as lasers, pyrotechnics, smoke machines and foam machines

25.3 The following examples of control measures are given to assist applicants who may need to take account of them in their operating plan, having regard to their particular type of premises and/or activities :

- suitable and sufficient risk assessments
- effective and responsible management of premises, including installation of a CCTV system which complies with current legislative requirements in and around premises
- provision of a sufficient number of people employed or engaged to secure the safety of the premises and patrons
- appropriate instruction, training and supervision of those employed or engaged to secure the safety of the premises and patrons
- adoption of best practice guidance
- implementation of crowd management measures
- proof of regular testing and certification where appropriate of procedures, appliances and safety systems.

## 26 LICENSING OBJECTIVE - PREVENTING PUBLIC NUISANCE

- 26.1 The board believes that licensed premises may have a significantly adverse impact on communities, through public nuisances which arise from their operation. It wishes to maintain and protect the amenity of residents and occupiers of other businesses from the potential consequence of the operation of licensed premises, whilst recognising the valuable cultural, social and business importance that such premises provide.
- 26.2 The board will interpret public nuisance in its widest sense and will take it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.
- 26.3 The board acknowledges the provisions of section 65 of the Act in relation to off-sales by shops, stores, supermarkets and other premises selling alcohol for consumption off the premises. The board may permit the hours during which alcohol is sold to match the normal trading hours during which other sales take place, unless there are reasons for not doing so, such as disturbance or disorder attributable to the location and / or the premises. Reference is made in this connection to paragraph 17 of this policy, relating to off-sales and to paragraph 20 relating to hours of trading.
- 26.4 However, applicants need to be aware that the board may apply stricter conditions, including controls on licensed hours, where premises are in residential areas; where their activities may impact on residents or other business premises; and where relevant representations have been received.
- 26.5 The board believes that the impact licensed premises can have on a neighbourhood is significantly influenced by the times when those licensed premises are open. The board may stipulate shorter hours when considering a premises licence application, if it considers this to be appropriate depending on where the premises are situated or the likelihood of their becoming a source of antisocial behaviour. The board will consider each case on its merits but may be inclined to stipulate a terminal hour as early as 6pm for the sale of alcohol in appropriate circumstances.
- 26.6 Applicants will be expected to demonstrate in their operating plan that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance, relevant to the individual style and characteristics of their premises and events.
- 26.7 When addressing the issue of prevention of public nuisance, the following facts are relevant:
- the location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices, care homes and places of worship
  - the hours of opening, particularly between 23.00 and 07.00
  - the nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held

inside or outside premises

- the design and layout of premises and in particular the presence of noise limiting features and a CCTV system, which complies with current legislative requirements
- the occupancy capacity of the premises
- the availability of public transport
- the wind down period between the end of the licensable activities and the closure of the premises
- the last admission time

26.8 The following examples of control measures are given to assist applicants who may need to take account of them in their operating plan, having regard to their particular type of premises and/or activities:

- effective and responsible management of premises
- appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance, for instance to ensure that customers leave quietly
- control of operating hours for all or parts of the premises, for instance garden areas, including deliveries and disposal of glass
- adoption of best practice guidance
- installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices
- management of people, including staff and vehicular traffic and resulting queues, arriving and leaving premises
- liaison with public transport providers
- siting of external lighting, including security lighting and installation of an effective CCTV system which complies with current legislative requirements
- management arrangements for collection and disposal of waste and empty bottles
- effective ventilation systems to prevent nuisance from odour and noise from air conditioning units.

## 27 LICENSING OBJECTIVE – PROTECTING AND IMPROVING PUBLIC HEALTH

27.1 The board wishes to see premises thriving in the city but this cannot be at the expense of public health and wellbeing. The board will have particular regard to the views of the relevant bodies responsible for, and interested in, the protection and improvement of public health in the City of Edinburgh. It will continue its representation on the local Drugs and Alcohol Action Team and take advice from appropriate bodies, including those represented on the City of Edinburgh Licensing Forum, The critical importance of such close liaison is recognised as part of the wider alcohol agenda, particularly in relation to the public health and child protection licensing objectives.

27.2 Applicants will be expected to demonstrate in their operating plan that suitable and sufficient measures have been identified and will be implemented and maintained to protect patrons' health. This will include such measures as

making available information with regard to sensible drinking, the effects of excessive alcohol consumption and contact points where assistance is available to address problem drinking.

- 27.3 A major concern about excessive alcohol consumption is its impact on people's health. There is ignorance of the advisable daily and weekly units of alcohol which may be consumed which are that men should not regularly drink more than 3 to 4 units a day and that women (excluding pregnant women) should not drink more than 2 to 3 units a day. There is also ignorance of the number of units in commonly consumed drinks, although some manufacturers are taking an initiative in this regard and publishing information on the labels of their products. The board considers that greater awareness of this issue would be achieved by more overt displaying of information. It wishes to impress upon licenceholders the importance of this issue and will expect prominent informative signage to be displayed in appropriate places within their premises. If necessary, and as the result of a relevant representation, such a requirement may be imposed by way of a condition on a premises licence.
- 27.4 The measures identified by an applicant may depend on the individual characteristics of the premises for which the licence is sought. The board will be receptive to conditions which are proposed by individual applicants in respect of the promotion of this licensing objective. This might include the use of drink mats with sensible drinking messages and the use of posters on areas of circulation and in the toilet areas.
- 27.5 The board is very aware of the risk of harm to children's health and this will be of paramount consideration when determining applications. Children may be adequately protected from harm by the action taken to protect adults but they also may need special consideration. It is recognised that no policy can anticipate every situation but applicants will be expected to demonstrate that they have given particular care to introduce measures designed to protect children's health while in or around their premises.
- 27.6 Licence applicants, door supervisors where employed and premises managers, as well as other staff employed in the premises, must remain vigilant at all times to the risks of excessive consumption; there should be established practice within the premises to ensure that a standard approach is taken where patrons' demeanour demonstrates an excessive consumption of alcohol. There should also be a clear understanding of the offences committed in connection with the service of alcohol to children or persons who are drunk.
- 27.7 In terms of schedule 3 of the act applicants must provide a wide selection of reasonably priced non alcoholic beverages during the whole period the premises are open. They are also encouraged to provide food on the premises, so that patrons may eat at the same time as consuming alcoholic beverages if they wish.
- 27.8 Adequate ventilation and sanitary provision must be provided by the applicant to the satisfaction of the board.

- 28 LICENSING OBJECTIVE – PROTECTING CHILDREN FROM HARM
- 28.1 The board will seek advice from and have particular regard for the views of the most relevant body in the city of Edinburgh. This is currently the Edinburgh Child Protection Committee.
- 28.2 The board wishes to see family friendly premises thriving in the city; it will welcome applications from those who wish to operate a licensed premises which accommodates children. In determining any such application the risk of harm to children will be a paramount consideration for the board
- 28.3 Where applicants wish to operate such premises, the board expects them to appreciate that this places additional responsibilities upon them, at the same time recognising that parents and other adults accompanying children also have responsibilities.
- 28.4 Applicants will be expected to demonstrate in their operating plan that suitable and sufficient measures have been identified and will be implemented and maintained to protect children from harm, relevant to the individual style and characteristics of their premises and the licensable activities for which a licence is being sought. Reference is made to paragraph 30.8 below.
- 28.5 Children may be adequately protected from harm by the action taken to protect adults but they may also need particular measures to be taken; no policy can anticipate every situation. When addressing the issue of protecting children from harm, the applicant must demonstrate that those factors, which may particularly impact on harm to children, have been considered. These factors include whether:
- entertainment or services of an adult or sexual nature are commonly or regularly provided
  - members of the current staff at the premises have been convicted for serving alcohol to children or offences against children
  - the premises have a reputation for under age drinking
  - there has been a known association with drug taking or dealing and
  - the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided there
- 28.6 The following examples of control measures are given to assist applicants who may adopt them in any combination. They are considered to be among the most essential that applicants should take account of in their operating plan, having regard to their particular type of premises or activities:
- effective and responsible premises management
  - appropriate instruction, training and supervision of those employed to secure the protection of children from harm and consideration of imposing a requirement for a pre-employment Disclosure Scotland check
  - adoption of best practice guidance
  - limitations on the hours when children may be present, in all or parts of the premises

- limitations or exclusions by age when certain activities are taking place
- imposition of requirements for children to be accompanied by an adult
- acceptance of accredited proof of age cards with photographs, or passports
- measures to ensure children do not purchase, acquire or consume alcohol
- measures to ensure children are not exposed to incidences of violence or disorder

28.7 The board requires applicants who submit operating plans for premises, including provision for children, to ensure that those children are not given access to the premises when activities such as adult entertainment are taking place. The board has given particular consideration to these types of entertainment and adopted a policy on Dance Entertainment in Licensed Premises in November 2006. The board has now decided to adopt an updated version of this. The policy is set out at Appendix 3 and may also be accessed by using the following link to the board pages of the City of Edinburgh Council's licensing website: [www.edinburgh.gov.uk/business/licensing](http://www.edinburgh.gov.uk/business/licensing). The policy outlines the board's expectation of applicants for licences where adult entertainment will be made available. Reference is made to paragraph 16 of this policy in this connection.

28.8 The board is aware of and will apply the relevant conditions included in the regulations issued by the Scottish Government. For completeness the list of standard conditions below, which the board adopts, repeats those conditions and is to be applied where premises include provision for children :

- the accompanying adults must be able to supervise the children at all times
- children's drinks must be served in plastic or paper containers
- any stairs on the premises shall be adequately guarded by a gate or other suitable means, taking into account the use to which the stairs will be put
- all heating appliances including open fires, calor gas fires and electric bar fires, shall be adequately guarded
- all electrical sockets in public areas shall be adequately protected
- furniture and fittings shall be of safe design, with particular regard for sharp-edged tables, glass tables and high bar stools
- a minimum of two high chairs must be provided for very young children. The high chairs must allow stable seating of the child and have restraints to ensure that the child can be safely retained in the chair
- baby changing facilities shall be provided in a room separate from the ladies' and gents' toilets. Where space is limited in the premises so that these facilities cannot be provided in a separate room and the premises comply with all other criteria then it shall be acceptable to provide these facilities within both the ladies' and gents' toilets
- a changing surface of a smooth and impervious readily cleaned material shall be provided at a suitable height and be of suitable dimensions, for instance a surface provided at a height of 3 feet and 3 feet wide x 2 feet deep shall be deemed acceptable
- a wash-hand basin with piped supplies of hot and cold water or warm

water thermostatically controlled to 30°C shall be provided

- a lidded bin, separate from that provided for hand towels, marked 'for the disposal of nappies' shall be provided
- the walls shall be of a smooth, impervious, readily cleaned material in public toilets and baby changing facilities
- the floor covering shall be a non-slip easily cleaned material in public toilets and baby changing facilities
- a menu shall be available at all times either with a children's section or indicating that half portions are available
- no gaming machines may be situated in the premises, except in accordance with the provisions of the Gambling Act 2005

**DELEGATION OF LICENSING FUNCTIONS**

Licensing (Scotland) Act 2005 Schedule 1 Paragraph 10 and named sections of the Act

	<b>Subject Matter</b>	<b>Licensing Board</b>	<b>Committee of Board</b>	<b>Clerk of the Board and Deputes</b>
1	<b>Determination of the board's policy for the purposes of the licensing policy statement or supplementary licensing policy statement</b>	✓		
2	<b>Determination, for the purposes of the licensing policy statement or supplementary statement, whether there is over provision of licensed premises or overprovision of licensed premises of any particular description, in any locality</b>	✓		
3	<b>Determination of a premises licence application</b>	✓		
4	<b>Determination of a premises licence variation application other than a minor variation</b>	✓		
5	<b>Determination of an application for the transfer of a premises licence where the applicant has been convicted of a relevant offence or foreign offence</b>	✓		
6	<b>Determination of a personal licence application or a personal licence renewal application, where the applicant has been convicted of a relevant offence or foreign offence</b>	✓		
7	<b>Conducting a hearing under the Licensing (Scotland) Act 2005</b>	✓		
8	<b>Making a closure order (section 97)</b>	✓		
9	<b>Refusing an application for confirmation of a provisional premises licence</b>	✓		

	<b>Subject Matter</b>	<b>Licensing Board</b>	<b>Committee of Board</b>
			<b>Clerk of the Board and Deputes</b>
10	As a result of a hearing (reference 7), above or following a review hearing in respect of a premises licence- (i) issuing a written warning to the licenceholder (ii) Revoking or suspending the licence (iii) making a variation of the licence or in respect of a personal licence, making an order revoking, suspending or endorsing it (section 39)	✓ ✓ ✓	
11	Determination of an application for an occasional licence where there is notice of objection or representations in relation to it or notice from the chief constable recommending refusal of the application (section 56)		✓
12	Granting an occasional licence application where there is no notice of objection or representations in relation to the application or no notice from the chief constable recommending refusal of the application (section 56)		✓
13	Application for personal licence with no unspent convictions (section 74)		✓
14	Application for club premises licence	✓	
15	Application for provisional premises licence (section 45)		✓
16	Application to vary a premises licence where the variation sought is minor (section 30(2))		✓
17	Application for transfer of a licence where notice received under section 33(6)		✓
	<b>Subject Matter</b>	<b>Licensing Board</b>	<b>Committee of Board</b>
			<b>Clerk of the Board and Deputes</b>

	Board	Board	Board and Deputes
<b>18</b>	<b>Application to review premises licence/club premises certificate (section 36)</b>	✓	

# **CITY OF EDINBURGH LICENSING BOARD**

## **STATEMENT OF LICENSING POLICY**

**November 2007 – November 2010**

**DRAFT POLICY CIRCULATION SEPTEMBER 2007**

1. City of Edinburgh Licensing Board and City of Edinburgh Council
2. Director of City Development and service representatives
3. Director of Services for Communities and service representatives
4. Director of Children and Families and service representative
5. Director of Health and Social Care and service representative
6. Edinburgh Child Protection Committee
7. City of Edinburgh Licensing Forum
8. Community Councils
9. Lothian and Borders Fire and Rescue Service
10. Lothian and Borders Police
11. NHS Lothian
12. Neighbourhood Partnerships Managers

CITY OF EDINBURGH LICENSING BOARD  
POLICY ON DANCE ENTERTAINMENT  
IN LICENSED PREMISES

-----

This policy has been adopted by the City of Edinburgh Licensing Board in order to promote best practice in licensed premises where any form of dance entertainment is provided. Whilst the policy has no statutory basis, the Board will generally expect compliance with its terms and any failure to do so may be taken into account in assessing the continuing suitability of any affected premises for the sale of alcoholic liquor. The policy has not been drafted in the manner of a legal document with interpretation clauses. Words and expressions used in the policy should therefore be given their usual and normally accepted meaning. Licenceholders should seek guidance from the Licensing Board if in doubt as to the requirements of the policy or if they wish to seek exemption from any of the stated requirements either generally or in respect of a particular occasion or event.

1. **Code of Conduct**

The licenceholder shall have in place a code of conduct for behaviour of staff and customers, copies of which shall be available to staff and customers. The code will deal with matters such as information for the dancers on distance to be maintained from customers during a dance, prohibitions on sexual behaviour and propositioning, and what to do if a customer breaches the rules.

2. **The Dancers**

The licenceholder should maintain a register of dancers engaged to perform in the licensed premises. The register should show the name, age and current address of the dancer. The licenceholder should require photographic proof of identity which should be via the production of the dancer's passport if available. Foreign Nationals must be asked for their passport and the licenceholder should take appropriate steps to ensure that there are no restrictions on the dancer's entitlement to stay and work in the United Kingdom. No dancer, below the age of 18, should be engaged.

2. **Changing Facilities**

The licenceholder should provide suitable changing facilities for the dancers to comply with the following basic standards:-

- a) the facilities should have a minimum floor area of 1.86m<sup>2</sup> per dancer engaged to perform at any one time;
- b) the facilities should be secure, private and for single sex use only and should not be accessible by patrons;
- c) the facilities should be located near to, but not within, sanitary conveniences;

- d) the facilities should include private and lockable storage units for each dancer for the safe-keeping of valuables and clothing;
- e) the facilities should include a plentiful supply of wholesome chilled drinking water for all dancers;
- f) a strict no smoking policy should be enforced.

### 3. **Performances**

Dancers should generally only perform in the open public areas of the licensed premises which should at all times be appropriately stewarded and covered by CCTV cameras. No dance entertainment should take place in private booths. Dancers' genitalia should be covered at all times. There should be no touching between dancers and patrons at any time during a performance, the only contact allowed being the hand to hand payment of money at the conclusion of the performance. Dancers remaining in the public dance areas before, following or between performances should be suitably clothed at all times with no exposure of breasts or genitalia. Any advertising of performances outwith the licensed premises whether by way of newspaper advertisements or notices at the premises may only depict dancers suitably clothed as aforesaid. Performances involving the removal of clothes should not be visible from outwith the premises.

### 4. **Supervision**

The licensed premises should be appropriately stewarded by personnel licensed by the Security Industry Authority. Stewards should be provided in all public dance areas in addition to at least one steward positioned at each entrance to and / or exit from the premises. All public dance areas and entrances and exits should be monitored constantly while the premises are open to the public via the use of CCTV. CCTV should be provided of a high quality to ensure that individuals may be clearly identified whilst in any part of the premises. Licenceholders should ensure that the CCTV cameras operate properly whenever dancers are performing on the premises. CCTV recordings should be retained for a period of at least 2 months.

### 5. **General Health and Safety Issues**

#### **A. Risk Assessment**

A risk assessment should be undertaken and appropriate control measures should be implemented in respect of

- the precise work activities required of dancers
- the personal safety of dancers
- the use of chemicals which may come into contact with dancers' skin.

This is not an exhaustive list and licenceholders should ensure that all hazards are assessed.

In addition, the premises should be subject to a fire risk assessment to the standard of the Fire Precautions (Workplace) Regulations 1997 as amended. This assessment should be recorded and kept available for inspection by a duly authorised fire safety officer of the Lothian and Borders Fire and Rescue Service.

## **B. Ventilation**

All dance areas and the changing facilities provided for dancers should be mechanically ventilated with fresh or purified air. There should be at least ten air changes per hour.

## **C. Temperature**

All dance areas and the changing facilities provided for dancers should be maintained with a minimum temperature of 25 Celsius / 72 Fahrenheit. A thermometer should be provided in all rooms used by dancers. Portable LPG heaters are not an acceptable form of permanent heating.

## **D. Lighting**

All dance areas, changing facilities provided for dancers and sanitary conveniences should have lighting of a sufficient standard to enable dancers and others to move around safely.

## **E. Cleanliness**

All dance areas, changing facilities provided for dancers and any furniture, fittings etc should be kept clean. The surfaces of floors, walls and ceilings of all dance areas, changing facilities and other parts of the licensed premises to which dancers have access should be capable of being kept clean.

## **F. Sanitary Conveniences**

Sanitary conveniences should be provided in accordance with the requirements of the Workplace (Health Safety & Welfare) Regulations 1992. The facilities should be for the exclusive use of dancers and should provide privacy and security from intrusion by members of the opposite sex and from patrons.

## **G. Washing Facilities**

Wash hand basins and showers should be provided in accordance with the requirements of the Workplace (Health Safety & Welfare) Regulations 1992 and the currently approved Code of Practice made thereunder. Such facilities should be for the exclusive use of staff and should have a supply of warm, or hot and cold water and provide privacy and security from intrusion by members of the opposite sex and from patrons. Washing facilities should be provided in the immediate vicinity of the sanitary conveniences and the changing facilities.

## **H. Condition of Floors**

Every floor used for dancing or for access to the dancing areas should be of a construction suitable for the intended uses and should be kept free from obstruction and from any substance that may cause a dancer to trip or slip.

## **I. Facilities to Eat Meals**

Eating facilities to include a table, chairs, kettle and sink with hot and cold water should be provided. Good hygiene standards should be maintained in the facility

## **6. Public Order Issues**

In the interests of providing for and maintaining public order and safety in the premises during the hours when they are open to the public, the licenceholder should ensure that empty glasses and bottles are regularly cleared from areas to which the public have access. Any receptacles provided on the premises for the collection, or disposal by patrons, of empty bottles should be of solid construction, emptied regularly by staff and designed so that bottles already deposited therein cannot be retrieved by patrons. No glasses or bottles should be permitted in cloakrooms, sanitary conveniences or dance floors located on the premises. Sufficient shelves, ledges, tables and counters should be provided on the premises to accommodate glasses and bottles before collection.

## **7. Compliance**

Licenceholders should seek their own professional advice if they are in any doubt as to whether their premises comply with the requirements of this Policy. Advice on health and safety issues may be sought from the City of Edinburgh Council's Environmental Health Services. The council's licensing standards officers will visit the premises from time to time to check for compliance with all aspects of the policy.