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LICENSING BOARD

STATEMENT OF LICENSING POLICY



2023

Approved by the City of Edinburgh Licensing Board
on 27 November 2023

CONTENTS PAGE

Convenor's Introduction

1 Introduction

2 THE LICENSING OBJECTIVES - OVERVIEW

3 Preventing crime and disorder
4 Securing public safety
5 Preventing public nuisance
6 Protecting and improving public health
7 Protecting children and young persons from harm

8 The Wider Context
9 How The Board Works
10 Notification of Applications and Responses to them
11 Temporary Licensing – Occasionals and Extended Hours
12 How the Board considers applications
13 Attaching conditions
14 Overprovision
15 Occupancy capacity
16 How premises operate
17 Hours of trading
18 Off-sales
19 Outside areas
20 Smoking Areas and Waste Disposal
21 Public Entertainment
22 Adult entertainment
23 Take-aways / Deliveries
24 Members' Clubs
25 Review of premises licences
26 Personal Licences

APPENDICES

1 Scheme of Delegation of Licensing Functions
2 Dance Entertainment in Licensed Premises
3 Consultation Details
4 Late Hours Catering – Council policy on hours
5 Interpretation and Statutory Information
6 Licensing Standards Officers
7 Pool Conditions – Occasional Licences

CONVENOR'S INTRODUCTION

As Convenor of Edinburgh's Licensing Board, I'm pleased to introduce the 2023 Licensing Policy. At the time of publication, the current Board has been working together for around 18 months and has placed great importance on our duty to ensure that Edinburgh's hospitality and retail economy shows a duty of care and responsibility in the sale of alcohol. We have worked together over these months and consulted with residents (including young people), community councils, our licensing partners including the Police and the NHS, and with representatives of the alcohol trade – all to ensure that the new Licensing Policy is not only up to date but reflects the balance of safety, health and support for the trade. We have run online consultations, promoted opportunities to share views, and held evidence sessions, so that as wide and diverse a group as possible have contributed to the final published policy.

At the heart of our responsibilities are our duties to observe and uphold the 5 licensing objectives:

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

We have seen over the past 5 years a significant change in the way that alcohol is sold. Home deliveries, something very rare prior to the Covid pandemic, became almost a standard service for many off-licence, take-away and on-sales premises. There is rightly so a growing focus on active travel and get-me-home-safely initiatives, and promoting the safe purchase and consumption of alcohol. The use of temporary (or 'occasional') licences, which offered some flexibility during the pandemic, now needs to come back into a more business-as-usual approach and this is also reflected in the updated policy.

I'm also pleased to that say we introduced webcasting of our Board meetings in 2022, with these covering all the general business of the Board. We will be looking at how we can extend this to improve transparency for new applications.

The new policy is a substantial read but its size means that very practical information and guidance on how the Board operates, and the rules around different types of applications, hopefully work to make it a great reference for those looking to start up in the Edinburgh area, or simply update their business plan. Should you have difficulty finding the information you need, you can reach out to our licensing team on licensing@edinburgh.gov.uk

Thank you

Cllr Louise Young

Convenor

Edinburgh Licensing Board

1. INTRODUCTION

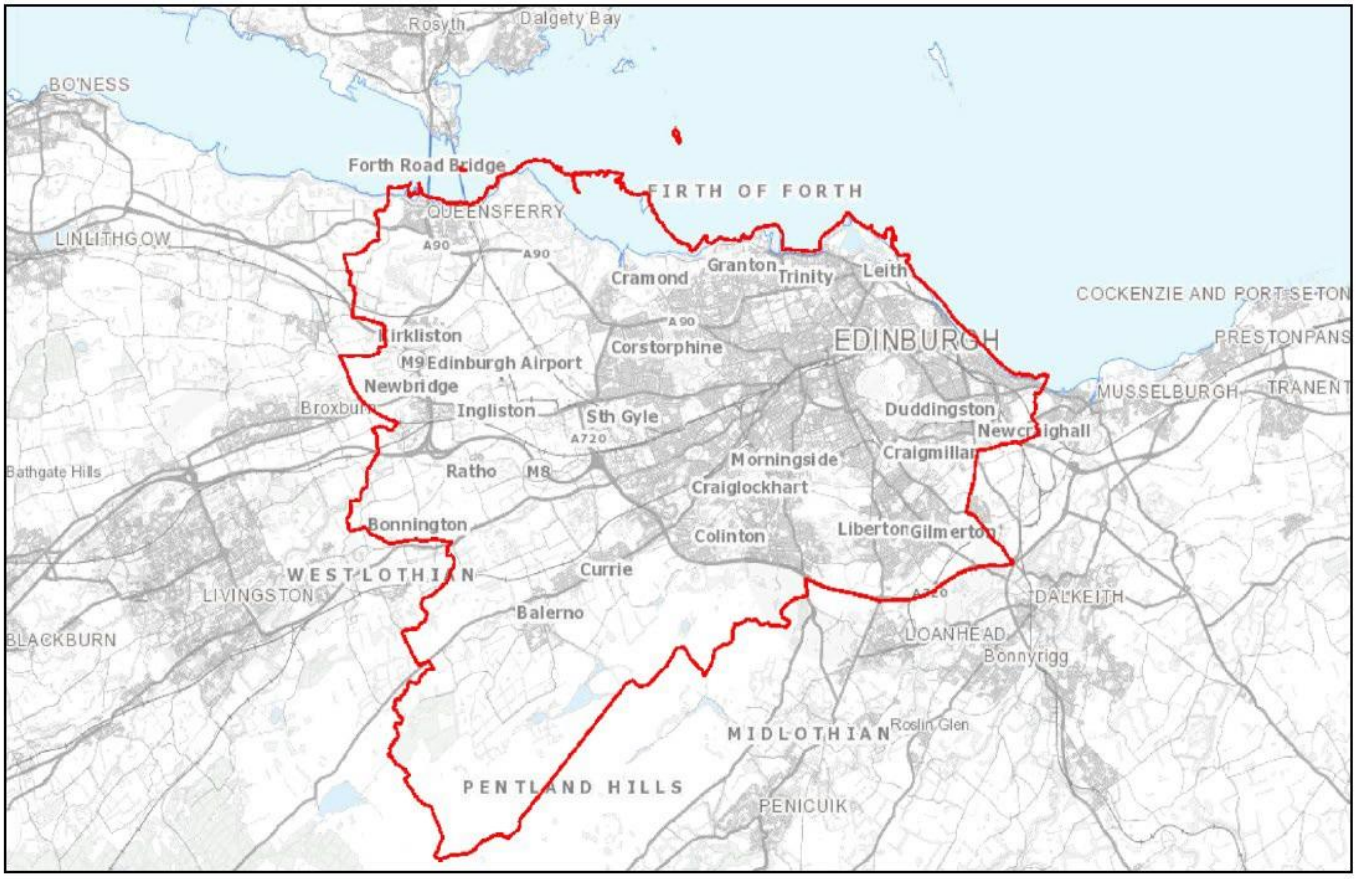
Providing an explanation of the Licensing Board's responsibilities:-

- Geographical area
- Details of licence applications considered by the Board
- Promoting the licensing objectives
- Details of annual reports on the Board's Functions and Finances
- Contact details for the Board

Definitions of terms used throughout the policy can be found in Appendix 6.

Wherever possible, links to statutory provisions, guidance, etc have been provided throughout the policy

1.1 The Board is the licensing authority for the City of Edinburgh local government area for the purposes of the Licensing (Scotland) Act 2005 ("the Act").



CEC Council Boundary

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The Act regulates the sale of alcohol and the premises on which alcohol is sold, and connected purposes. The Board is responsible for considering applications for:

- premises licences and provisional premises licences
- occasional licences and extended hours
- personal licences
- variations of licences
- transfers of licences

in the Board's area for:

- 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 the economy.

The population of Edinburgh in 2021 was estimated at 526,470.

The city boundaries cover 264 square kilometres and the local government area is split into 17 wards. The number of councillors is 63. 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. Within the Board's area as at 5 June 2023 there was a total of 1,953 licensed premises (up from 1,917 as at 31 March 2018 in the previous policy). This can be further broken down to 372 on sales (down from 439), 482 off sales (down from 513) and 1,099 offering both on sales and off sales (up from 965).

1.3 The Act requires the Board to carry out its various licensing functions so as to promote the five licensing objectives:

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

The objectives have an important role in the Board's decision making, for example:-

- attaching conditions to the grant of a premises licence or occasional licence
- refusal of an application for the grant or variation of a premises licence or grant of an occasional licence;
- their breach may lead to the imposition of sanctions on a personal licence holder; or
- provide grounds for the review of a premises licence.

1.4 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. More detail on the Board's consideration of each of the licensing objectives is set out below.

The Act also requires that prior to publication of its policy that the Board should have regard to Scottish Government guidance and consult as set out in the Act.

Consultation

The Board carried out extensive consultations on its policy. An initial consultation was carried between 30 September and 20 December 2022. The Board then held evidence sessions throughout 2023 with representatives from the licensed trade, community groups, statutory consultees, young persons and the Licensing Forum. A further consultation was carried out between 2 October and 12 November 2023. Details of the various consultation responses have been published on the City of Edinburgh Council's website, for Board meeting held on 10 February 2023 (link) and 27 November 2023 (link).

1.5 The Board agreed amendments to the policy on 27 November 2023 and the policy statement has been prepared in accordance with the provisions of the Act and adopted by the Board with effect from 30 November 2023. The policy will remain in force until 18 months after the next Scottish local authority elections. The Board will prepare and publish supplementary statements of licensing policy when necessary, including a separate supplementary statement on overprovision. The Board will continue to have regard to legislative changes introduced by the Scottish Government and to any updated guidance issued.

1.6 The Board is required to publish an annual Functions Report, setting out how it exercises its functions in terms of the Act. Reports are published on the Board's website.

1.7 The Board is required to publish an annual Finance Report, setting out the details of income received from licence application fees and annual premises licence fees, and the expenditure incurred by the Board in the financial year. Reports are published on the Board's website. The Board can set fees for applications for premises licences and variations (non minor) up to a

maximum fee prescribed by Scottish Government. All other fees are set by Scottish Government.

1.8 As set out in the guidance to the Act, in exercising its licensing function the Board will have due regard to the role and responsibilities of other authorities within its 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 underage and of those under age persons who purchase for self supply.

1.9 This policy does not seek to undermine the right of any individual to apply under the terms of the Act and in the light of policies adopted by the Board and to have such an application considered on its individual merits. If there are no grounds for refusal in terms of the Act, the Board must grant the application. 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.

Contacting the Board

The City of Edinburgh Council provides administrative support for the Board and you can contact the Council's Licensing Service, Directorate of Place:

by email: licensing@edinburgh.gov.uk

in writing: Licensing Service, City Chambers Business Centre G3, 249, High Street, Edinburgh EH1 1YJ

by telephone: 0131 529 4208

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

This policy is published on the Board's website at:
Edinburgh's Licensing Board – The City of Edinburgh Council
and can be made available in other formats upon request.

Return to Contents

2. THE LICENSING OBJECTIVES

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

2 OVERVIEW

2.1 The following chapters set out the Board's policy relating specifically to the five licensing objectives:

3 preventing crime and disorder
4 securing public safety
5 preventing public nuisance
6 protecting and improving public health
7 protecting children and young persons from harm

2.2 In each chapter, the Board has defined its intended outcome. Each 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.

2.3 In each chapter, 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.

2.4 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 licence holder, in the event of requiring to make application for a variation or in response to changing circumstances or conditions at the premises.

2.5 Additional measures may be necessary on an occasional or specific basis such as when a special event is planned which is intended to, or likely to, attract larger audiences or audiences of a different nature; this can have a significant impact on the achievement of the licensing objectives.

2.6 The Board encourages applicants and licence holders to ensure that they have adequate arrangements in place for the 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.

Return to Contents

3 PREVENTING CRIME AND DISORDER

3.1 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.

3.2 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.

3.3 The promotion of the licensing objective to prevent crime and disorder, places a responsibility on licence holders 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.

3.4 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
- antisocial behaviour
- litter
- unauthorised advertising

3.5 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.

3.6 Close circuit television makes a significant contribution to addressing antisocial behaviour across the city of Edinburgh. Public space CCTV across the city has assisted in the identification and prosecution of criminals and provided reassurance to residents. With an extensive network of 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 antisocial behaviour.

Where CCTV is installed in premises 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.

3.7 The Board is aware of the condition relating to the installation of CCTV in late opening premises, which is contained in The Licensing Conditions (Late Opening Premises) (Scotland) Regulations 2007. The Board will continue to consider conditions which go beyond those published by Scottish Ministers where circumstances dictate. The Board will expect to see CCTV installed in and around certain off sales premises. Reference is made to Chapter 18 of this policy in this connection.

3.8 The consumption of alcohol in designated public places continues to be subject to the terms of the City of Edinburgh Council's Alcohol in Public Places Byelaw, as published on the Council's register (here) and the Board expects licence holders to be aware of it.

Return to Contents

4 SECURING PUBLIC SAFETY

4.1 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.

4.2 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 or 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 alcohol is sold, if different
- customer profile for instance age, disability
- the use of special effects such as lasers, pyrotechnics, smoke machines and foam machines

4.3 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, including compliance with the requirements of the Fire (Scotland) Act 2005
- 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.

4.4 In order to ensure that the objective of securing public safety is addressed the Board will circulate relevant applications for occasional licences and all applications for variations of licence to relevant Council officers and request reports highlighting matters which the Board considers it needs to take into account in its consideration of the application.

Police Scotland and NHS Scotland have highlighted the potential use of toughened glass in certain circumstances and in certain premises, as detailed in Chapter 13 of the policy, connected particularly with promotion of the securing public safety and preventing crime and

disorder licensing objectives, but also relevant to the protecting and improving public health licensing objective.

Return to Contents

5 PREVENTING PUBLIC NUISANCE

5.1 The Board recognises 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.

5.2 The Board will interpret public nuisance in its widest sense and will take it to include such issues as noise, light, odour, litter and antisocial behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.

5.3 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 Chapter 18 of this policy, relating to off-sales and to Chapter 17 relating to hours of trading.

5.4 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.

5.5 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.

5.6 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 character of their premises and events.

5.7 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 11pm and 7am
- 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

5.8 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.

Return to Contents

6 PROTECTING AND IMPROVING PUBLIC HEALTH

6.1 The Board recognise the main strategic aim of the Scottish Government's Alcohol Strategy is to reduce per capita consumption of alcohol. 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 Edinburgh Alcohol and Drugs Partnership and take advice from appropriate bodies, including those represented on the 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 children and young person licensing objectives.

6.2 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.

6.3 The Board recognises continued concern about excessive alcohol consumption and its impact on people's health. More information is available on advisable daily and weekly units of alcohol which may be safely consumed and the number of units in commonly consumed drinks, with improved information available 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 licence holders the importance of this issue and continues to 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.

6.4 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.

6.5 The Board is very aware of the risk of harm to children and young persons' health and this will be of paramount consideration when determining applications. Children and young persons 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 and young persons' health while in or around their premises.

6.6 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 and young persons or persons who are drunk.

6.7 In terms of the mandatory conditions set out in 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.

6.8 Adequate ventilation and sanitary provision must be provided by the applicant to the satisfaction of the Board.

Return to Contents

7 PROTECTING CHILDREN AND YOUNG PERSONS FROM HARM

7.1 For this objective, 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. The Licensing Forum will be another body from whom the Board will seek advice on achieving this objective.

7.2 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 and young persons. In determining any such application the risk of harm to children and young persons will be a paramount consideration for the Board. Following a previous recommendation from the Forum, the Board agrees that where licence holders and applicants make applications seeking access or increased access to premises for children and young persons, where the Board considers it appropriate to do so it will continue to carry out site visits of the premises to assess their suitability prior to considering applications.

7.3 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 and young persons also have responsibilities.

Applicants will be expected to demonstrate that suitable and sufficient measures have been identified and will be implemented and maintained to protect children and young persons from harm.

7.4 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 and young persons from harm, relevant to the individual style and character of their premises and the licensable activities for which a licence is being sought.

7.5 When addressing the issue of protecting children and young persons from harm, the applicant must demonstrate that those factors, which may particularly impact on harm to children and young persons, 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 and young persons or offences against children and young persons
- there has been a known association with drug taking, drug dealing or other criminal activity on the premises, and
- the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided there

7.6 The following examples of control measures are given to assist applicants who may adopt them in any combination, taking into account the individual style and character of their premises:

- effective and responsible premises management which may include the requirement for a policy on child protection
- appropriate instruction, training and supervision of those employed
- consideration of imposing a requirement for a Disclosure Scotland check

- consideration of imposing a limitation on the hours when children and young persons may be present
- consideration of imposing a limitation of the parts of the premises where children and young persons may be present
- consideration of imposing a requirement for children and young persons to be accompanied by an adult
- acceptance of only accredited proof of age cards e.g. passport, photographic driving licence or PASS scheme cards
- through enforcement and revocation based on complaints, police reports or related enforcement activity, measures to ensure children and young persons are not exposed to incidences of violence or disorder

7.7 The Board is aware of, and will apply, the relevant conditions included in the regulations issues by the Scottish Government and will have regard to the Guidance. The Board also expects that holders of a premises licence which allows children and young persons entry to the premises will seek to ensure that:

- accompanying adults are able to take responsibility for and supervise the children at all times
- children's food and drinks must be served in suitable and safe containers
- any stairs on the premises are risk assessed and where necessary shall be adequately guarded by a gate or other suitable means
- all heating appliances are risk assessed and where necessary shall be adequately guarded
- all electrical plug sockets in areas accessible to children shall be adequately protected
- all furniture and fittings shall be of safe design having regard to their use by children
- there is an accessible wash-hand basin with piped supplies of hot and cold water. Hot water shall be thermostatically controlled to 43ºC
- the floor covering in the public toilets shall be a non-slip and easily cleaned material
- a menu shall be available at all times that children are allowed on the premises with either a children's section or indicating that half portions are available for children
- no gaming machines may be situated in the part of the premises accessible to children and young persons except in accordance with the provisions of the Gambling Act 2005

7.8 In addition, the Board expects that holders of a premises licence which caters for children under 5 years seek to ensure that :

- paper or plastic cups are available for children under 5 years
- a minimum of two high chairs that allow stable seating and have suitable safety restraints are provided
- adequate, clean and safe baby changing facilities will be provided that are accessible to both genders.
- a lidded, leak proof bin marked 'for the disposal of nappies' shall be provided
- the premises comply with the law on breast-feeding in public areas

7.9 The Board has imposed in most premises licences and occasional licences where children and young persons are admitted a condition creating an area adjacent to any bar of the premises where children and young persons are not allowed to stand or sit. The Board is aware that the terms of this condition are not identical in all licences and wishes to emphasise it expects that licence holders subject to a condition in these general terms operate and manage their premises to ensure that children and young persons are not encouraged to stand or be seated adjacent to bars.

Return to Contents

8. THE WIDER CONTEXT

Explaining the Board's relationships with other public bodies, including:-

- City of Edinburgh Council
- Edinburgh Alcohol and Drugs Partnership
- Scottish Government

Emphasising importance of Equality Act 2010:-

- Board's Equalities Diversity and Rights Policy
- Board's Equalities Outcomes

Explaining the relationship between Planning and Licensing, and that the two are separate regulatory regimes

8.1 Having regard to the 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 young persons from harm and the natural concern to prevent public nuisance and disturbance from premises and in neighbourhoods.

8.2 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 Council and of neighbouring local authorities.

8.3 The Board continues to recognise the importance of the Equality Act 2010 and the Public Sector Equality Duty, requiring public authorities (as defined in the 2010 Act and which includes the Board) to have due regard to:

- the need to eliminate discrimination
- advance equality of opportunity
- foster good relations between different people when carrying out their activities

The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 requires that the Board take various steps to enable better performance of the general equality duty. This includes reporting on the mainstreaming of the general equality duty, publishing equality outcomes and reporting progress on meeting the outcomes and impact assessing both new and existing policies. The Board's Equalities Diversity and Rights Policy and Equalities Outcomes will be published on the Board's website.

8.4 The Board continues to work closely with the Edinburgh Alcohol and Drug Partnership (EADP) a significant policy consultee. The importance of such closer working is recognised as part of the wider alcohol agenda, especially in relation to the public health and children and young persons licensing objectives. The Board will look to the EADP to continue to supply the Board with data relevant to its consideration of the licensing objective of protecting and improving of public health.

8.5 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.

8.6 The Board will avoid duplication with other regulatory regimes and will not use its powers under the 2005 Act to arrive at outcomes that can be achieved under other legislation or by other enforcement agencies.

8.7 In particular, the Board's licensing functions will be discharged separately from the 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. Notwithstanding that, consultations with the Council's Planning service are carried out on all licensing applications to underpin the common approach referred to below. The Board as the licensing authority will not be bound by decisions made by the 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 enforceable under the planning regime.

8.8 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.

8.9 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.

8.10 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.

8.11 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.

8.12 Other statutory requirements may apply to the provision of any activities at 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.

8.13 There is considerable overlap between the licensing regime and the wider health and 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.

Return to Contents

9. HOW THE BOARD WORKS

Applications for premises licences – what the Board expects applicants to do:-

- provide statement to show support of licensing objectives
- disabled access and facilities statements
- detailed layout plans – in electronic format
- incomplete applications not accepted

Details of Board meetings:-

- where and when they are held
- information about how they are conducted

9.1 When assessing applications for premises licences, the Board must be satisfied that applications will not be inconsistent with the licensing objectives. To assist this, the Board expects applicants to set out details in their operating plans, as below.

9.2 The Board will expect individual applicants to address the five licensing objectives in their operating plan (statutory template in schedule 5 of The Premises Licence (Scotland) Regulations 2007). 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 and young persons 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, and to consider safe and accessible onward travel options for staff and for customers. To supplement the information given in the plan the Board will ask applicants to supply a statement in writing detailing how the applicant will promote the objectives. This "statement of licensing objectives" should accompany new applications for licences. The Board will expect premises licence holders to ensure that the statement of licensing objectives attached to their licence remains relevant to the operation of the premises, particularly in the event of significant changes to their operation.

9.3 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.

The Board continues to expect applicants for new licences to ensure they include a disabled access and facilities statement (schedule 6 added by The Premises Licence (Scotland) Amendment Regulations 2018 and statutory guidance). The Board previously agreed that the Council's Licensing Standards Officers (LSOs) would consider the terms of statements provided by applicants to ensure they contained all of the necessary information. The Board agreed that LSOs would highlight concerns about the content of particular statements to the Board, when applications were being considered.

9.4 The Council may 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.

It is permissible under the Act for the 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 and subject to any separate licensing requirements.

9.5 The Board will not accept any premises licence application which fails to satisfy statutory requirements as to matters to be included in or to accompany an application. Any such application will be returned to the applicant and will not be accepted until considered a complete application**.** The Board intends eventually to hold plans of premises electronically and will expect all applications to be accompanied by an electronic copy of any plans to be submitted.

9.6 The Board will dispose of its business in an open, fair and transparent manner. General business and any matters around Board process will be discussed at the start of each meeting under a “Business section” and will be webcast for public viewing. This includes any policy matters and an update from the Licensing Convenor.

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 (referred to in 9.7 below).

The Board is considering the option to webcast the applications section of the agenda and will explore this during the course of the new Board term.

9.7 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. This is reflected in the Board’s Equality and Rights Policy and Equality Outcomes. The Board will normally hold its formal meetings in the Dean of Guild Room in the City Chambers, High Street, Edinburgh but arrangements will usually be in place to allow for attendance virtually. Timescales are laid down for applications to the Board and these are publicised on the Council’s Licensing registers website. Agendas are published on the Council’s Meetings website. An appropriate number of staff are employed to ensure an efficient disposal of business. The Board meets on a regular basis as laid down in its Rules as adopted from time to time and the meeting dates together with the Agendas for meetings are published on the Board’s website. The Board is continuing to give consideration to the manner in which meetings are conducted, following representations made during the policy consultation, and will address this in a future set of Rules, to be agreed at a later date.

Information about how Board meetings are conducted, the procedures followed when applications are being considered and the order in which people attending the Board would normally be invited to speak are all set out in information as provided on the Board’s website (details in the document “What to expect when you attend a Licensing Board meeting”). The Board agreed in the course of discussions on the policy consultation that separate work would be carried out to update this document.

9.8 In accordance with the Act and Regulations, all members appointed to the Board have been trained within three months of being elected or re-elected as a member of the Board, on an accredited course of training.

9.9 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. Applications for premises licences, variations and transfers, occasional licences and appropriate fees can be submitted on-line. Details are available on the “licences and permits” section of the Council’s website.

Payment of the annual fee for a premises licence is a mandatory condition of a licence and should be paid promptly. Any concerns over making payments should be discussed with the Licensing Service prior to the deadline. Repeated or significantly late payments of fees are likely to result in a report for consideration by the Board.

9.10 Applications are advertised for the statutory periods on the Licensing registers website. The Board is committed to ongoing improvements to the website and encouraging wider use of the internet to inform the public of public notices.

Return to Contents

10. NOTIFICATION OF APPLICATIONS, AND RESPONSES TO THEM

Explaining:-

- Who receives notice of applications for premises licences and major variations
- Site Notice requirements
- Police involvement in the licensing process
- How the Board considers objections/representations to applications
- How late objections/representations will be dealt with
- Council's Building Standards involvement in licensing process

10.1 The Board will give notice of each premises licence and relevant variation application it receives to those persons specified in the Act, namely:

- each person with a notifiable interest in neighbouring land
- any community council within whose area the premises are situated
- the Council
- the relevant health board, being NHS Lothian
- the Chief Constable
- Scottish Fire and Rescue Service as enforcing authority in terms of section 61 of the Fire (Scotland) Act 2005

The Board agreed following consultation that it would be appropriate, for the purposes of ensuring wider awareness of Board conduct of business that, for major variations or new premises licence applications, ward councillors will also be notified for information only.

In providing notice of applications, the Board is committed to ensuring that application details are provided in a clear, concise and understandable way, both by means of Site Notices (premises template here and major variation template here) provided to applicants for display, and also by means of notification to those detailed above, and by online notification on the Council's register of applications.

10.2 The Board expects the Chief Constable to consider all applications and to provide statutory notices as appropriate. Where the Chief Constable considers that it is necessary for the purposes of any of the licensing objectives that an application be refused, a recommendation to that effect may be included in the notice. The Board recognises the benefit of antisocial behaviour reports in connection with its consideration of applications, and will continue to call for these from the Chief Constable from time to time, recognising their entitlement to provide such reports where they consider them necessary.

10.3 The Board will consider all relevant representations or objections from any person. 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. This is addressed at Chapter 25 of the policy.

10.4 Where an objection or representation in respect of a premise licence application or a variation application is received late, after the specified date for receipt, the Board will normally treat the objection as not made unless the objector has provided an explanation for late receipt. The applicant or their representative will also be asked for their opinion on the lateness of the objection. If the Board decides there are good reasons to treat the objection as made, consideration will be given in the interests of justice to a continuation of the hearing into the application, objections and representations to a future meeting of the Board (also see Licensing Regulations).

10.5 The Board expects the Council's Place Directorate (Building Standards Section) to advise the Board in relation to applications for provisional premises licences regarding suitability. This will enable a pro-active approach to be adopted permitting applicants sufficient notice of any issues that may require to be addressed within premises prior to completing construction or renovation when it would be likely to be too late to incorporate changes into the design at the stage of confirmation.

Return to Contents

11. TEMPORARY LICENSING – OCCASIONALS AND EXTENDED HOURS

Occasional Licence applications:-

- Who may apply
- How Board makes decisions on applications
- Policy on longer-term use of Occasional Licences – pop-up bars,
- Provisional Premises licences
- Applicants to allow enough time, when making applications
- Information required from applicants:-
    - Details of event
    - Layout plans
    - Sufficient consideration of licensing objectives
- Use of “pool” conditions
- Shortened notice procedure

Extended Hours applications:-

- When applications may be made
- Policy on extended hours during Festival and festive times of year
- Information required from applicants:-
    - Description of event
    - Activities proposed
    - Reason for extended hours
- Examples of events where extended hours may be considered
- Applicants to allow enough time, when making applications
- Shortened notice procedure

Occasional Licence applications – Part 4 of the 2005 Act

11.1 An occasional licence authorises the temporary sale of alcohol on premises other than licensed premises, on application by:

- the holder of a premises licence
- the holder of a personal licence
- a representative of any voluntary organisation

to cover a period of up to 14 days.

11.2 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. The Board's Scheme of Delegation (Appendix 1) sets out the basis upon which the Board will consider applications for Occasional Licences. The Board recognises that there are particular applications which, whether or not the subject of objections, require detailed consideration at a Board meeting, for example applications which are considered to be contentious or may have particular complications requiring further attention, or where there have been a significant number of sequential applications. Individual Board members or the Clerk may refer such applications to the Convenor for further consideration and a final decision on whether or not to refer the application to the Board for a hearing.

11.3 **The Board is concerned to ensure that the availability of Occasional Licences as a short-term means of licensing premises is not abused.** The Board is concerned that in some instances provisional licences are being obtained and the premises are then trading on occasional licences for periods in excess of a year, and sometimes significantly longer.

Where premises are intended for long term use for the sale of alcohol, the Board expects applications to be submitted for provisional or premises licences. Where an operator obtains a provisional premises licence the Board recognises the availability of occasional licences as a means of providing short term cover for the sale of alcohol from premises which have been practically completed and give rise to no public safety concerns. This will allow the licence holder to secure appropriate section 50 certificates and obtain confirmation of the provisional premises licence. The Board expects licence holders to take all reasonable steps to secure confirmation as soon as possible and reserves the option to refuse applications for repeated occasional licences where there are concerns about the suitability of the premises, having regard to any of the licensing objectives and also having regard to the Board's general position on consecutive applications as set out in this Chapter.

11.4 The Board consulted specifically on the use of Occasional Licences and the greater enforcement of referring repeated applications to the Board for consideration. The Board has agreed that where applications for Occasional Licences are received for a continuous trading period of more than three months or alternatively more than six consecutive applications, then such further applications will generally be referred to a meeting of the Board for determination unless an exceptional case has already been made. These exceptional cases (e.g. listed buildings) will be determined on a case by case basis.

Applicants should therefore be mindful that there could be a period of time at the end of an occasional licence and before any consideration by the Board of a further application. This period will be unlicensed and alcohol display or sales would not be permitted. Applicants are therefore encouraged to apply early if they anticipate needing to continue with sequential occasional licences beyond 3 months. The Board is not responsible for any 'gap' period between licences if it is due to referral to the Board after 3 months. However in referral instances, if there are no objections then further Occasional Licences may be applied for, and issued, to cover the period until the next meeting of the Board.

11.5 Event organisers are encouraged to provide as much notice as possible of their event to the Board. The minimum period for consideration to be given to an application is 28 days. This is to allow publication of details of the application on the Board's website for a continuous period of 7 days and notification of the application to the Chief Constable and LSOs. The Chief Constable has 7 days to respond and LSOs have 21 days to decide if they wish to submit a notice or report. The Board expects applicants to provide layout plans for outdoor areas in support of their applications and in any other case where there is likely to be any doubt over the extent of the premises for which the licence is sought.

Where there are a series of events requiring an occasional licence by the same Premises, each time period requires a separate licence application but these can be submitted together as a group.

11.6 The Board recognises that the Act allows for applications to be dealt with on a shortened timescale, where the Board is satisfied that the application requires to be dealt with quickly. Where applicants wish to apply on this basis, the Board expects applicants to provide a written submission as to why the shortened timescale should be agreed. The Board expects that applicants seeking the relaxation of the timescale requirement would be able to demonstrate that there are exceptional reasons for doing so. Consideration of reasons will be dealt with in terms of the Scheme of Delegation at Appendix 1.

The Board has noted comments provided during consultation about the shortened notice procedure for applications, and has expressed its own concerns about the use of this facility by applicants. The Board agrees that requests will only be considered where applicants have provided detailed written submissions relevant to the notice period along with the application and in the absence of such information, normal notice procedures will be applied.

11.7 The grant of an occasional licence will be subject to the Mandatory Conditions set out in Schedule 4 of the Act.

11.8 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 objectives relating to securing public safety and the protection of children and young persons. This might include supervisors at entrance and exit points, public notices regarding the rules relating to the entry of children and young persons 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.

Following previous consultations, the policy included a set of "pool" conditions to be attached to occasional licences, covering the conditions regularly requested by police and LSOs. The Board continues to be of the view that the benefit of agreeing a set of "pool" conditions is that applicants and all other interested parties have a better understanding of the conditions which are likely to be requested by statutory consultees. After consideration of consultation responses the Board agreed the updated conditions set out at Appendix 8 as appropriate local conditions which may be attached to Occasional Licences, and the Board may attach other conditions as also considered necessary or expedient for the purposes of the licensing objectives.

11.9 In order to ensure that the objective of securing public safety is addressed the Board will, when considered necessary, circulate relevant applications for occasional licences to the Council's Place Directorate (Building Standards Section) and request reports highlighting matters which the Board may need to take into account in its consideration of the application.

11.10 Extended Hours applications – Part 5 of the 2005 Act

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 and operating plan, or to explain why this is not appropriate..

The Board discussed with interested parties during its pre consultation exercise about the use of extended hours applications by licence holders. The Board's extended hours policy for festive and festival periods (referred to in more detail at Chapter 17 Hours Of Trading below) was highlighted by police in particular, as an example of generous licensing hours during those periods.

Consultees were generally in agreement that a consistent approach to consideration of extended hours applications would be preferable. Trade representatives highlighted the potential for grant of applications where there is no inconsistency with the licensing objectives.

It was also discussed during consultation what constitutes an event of national or local significance and/or what information the Board would expect applicants to provide in support of events hosted on premises where extended hours are applied for.

11.11 Accordingly the Board has now updated this Chapter in the following terms:-

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

Whilst Festival/Festive extensions detailed in Chapter 17 allow for an additional two hours of trading, the Board will consider on a case by case basis whether any other application should be granted for similar extended hours for one hour only. Views were also sought on whether additional annual events should come under "seasonal hours". However due to the limited level of demand for extensions for other dates, no changes were proposed.

Having regard to the above, the applicant will be required to satisfy the Board that the hours sought are appropriate in the circumstances of the application. Accordingly in order to assist the Board in making a decision, applicants will require to provide the Board with comprehensive information including a description of the special event or occasion, the activities and times proposed, and the reason for the event or occasion requiring extended hours.

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

i) Special Events or occasions to be catered for on the same premises :-

- weddings and other celebratory occasions

ii) Special events of local or national significance:-

- Burns Night
- St Andrew's, St Patrick's
- Edinburgh Pride

- Televised Major Sporting Events where coverage is provided beyond normal licensed hours, such as Football and Rugby World Cups, Olympics

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

11.12 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 Edinburgh Licensing Forum the Board will give notice to the LSOs and to the Chief Constable and will request observations on the issues of crime prevention, public safety and the protection of children and young persons 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.

11.13 Applicants are encouraged to provide as much notice as possible and similar to ccasional Licences, the Board would expect submission of applications at least 28 days in advance. As with applications for occasional licences as set out above, the Board recognises that the Act allows for applications for extended hours to be dealt with on a shortened timescale, where the Board is satisfied that the application requires to be dealt with quickly. Where applicants wish to apply on this basis, the Board would expect applicants to provide a written submission as to why the shortened timescale should be agreed. The Board expects that applicants seeking the relaxation of the timescale requirement would be able to demonstrate that there are exceptional reasons for doing so. Consideration of reasons will be dealt with in terms of the Scheme of Delegation at Appendix 1.

As with the comments set out in connection with shortened notice period for occasional licence applications above, the Board agrees that requests will only be considered where applicants have provided detailed written submissions relevant to the notice period along with the application and in the absence of such information, normal notice procedures will be applied.

Return to Contents

12. HOW THE BOARD CONSIDERS APPLICATIONS

Importance of the licensing objectives in the applications process.

Details of the potential impacts Board will assess, when considering applications.

Use of antisocial behaviour reports.

Decision-making process.

12.1 In assessing the following matters, the Board will have regard to the licensing objectives and will expect applicants to pay similar regard to their terms as set out in Chapters 3-7 above. The Board will also have regard to any reports on whether an applicant is a fit and proper person to hold a licence.

12.2 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, activities to be carried on 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 and young persons 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 and by premises' staff at the end of the evening
- the likely level of car parking and delivery vehicle 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

The Board recognises that the level of control which applicants and licence holders will have on transport and parking considerations above may be limited, but expects these matters to be considered by applicants and licence holders.

12.3 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.

12.4 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 and any antisocial behaviour report made available by the Chief Constable. The Board will also consider measures put into effect by the applicant previously to mitigate any adverse impact.

12.5 It is the Board's intention to provide a speedy, efficient and cost-effective service to all parties involved in the licensing process.

12.6 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.

12.7 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 comprises Appendix 1 to this statement.

12.8 The Board will be required to publish annual functions reports (published online). The exercise of delegated functions may be considered for inclusion in these reports.

12.9 The Board will normally meet in public session, although in exceptional circumstances members may retire into private session to consider their decision. The Convenor may also consider hearing an application in private if an applicant's personal sensitive information is likely to be discussed, with agreement from Board members.

All decisions will be delivered by the Convenor in public.

Return to Contents

13. ATTACHING CONDITIONS

Details of mandatory conditions for premises licences, additional conditions for late night premises

Use of local conditions:-

- amplified music and vocals
- Toughened glassware
- Takeaways/deliveries

13.1 The mandatory conditions attached to all premises licences are set out in schedule 3 of the 2005 Act. The Board expects premises licence holders to ensure that sufficient arrangements are put in place to ensure adherence to the Mandatory Conditions, and, in relation to premises operating later hours beyond 1.00am, the Late Night Conditions set out in the schedule to the Licensing Conditions (Late Opening Premises) (Scotland) Regulations 2007.

The Board notes mandatory conditions include the requirement for licence holders to ensure payment of annual premises licence fees on time, every year. Failure to comply may result in premises review proceedings, set out in Chapter 25.

13.2 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 premises, the Board will always consider the imposition of a condition requiring that amplified music from those premises shall not be an audible nuisance (see appendix 6 for LSOs' working definition) in neighbouring residential premises.

13.3 The Board continues to support the use of toughened glass and other recognised safety products particularly in late opening premises (nightclubs), though recognises premises take appropriate steps in this regard.

The Board acknowledges that the use of toughened glass or other recognised safety products can play a vital part in reducing the number of glass related injuries. The Board will continue to consider the possibility of the imposition of a condition in relation to the use of toughened glass particularly in late opening premises operating after 01.00 hours where the Board is of the view that such a condition is necessary or expedient for the purposes of the licensing objectives.

Such a condition may include reference to:-
i) all drinks should be served in toughened glass or other recognised safety products, and
ii) no conventional glass bottles whether open or sealed, should be given to customers, whether at the bar or by staff service to any area away from the bar.

13.4 The existing policy on amplified music in licensed premises was consulted upon in 2016. The Board will continue to monitor the effectiveness of this part of the policy. Following consideration of consultation responses, the Board has agreed the current policy will remain unchanged, and an evaluation and review of the policy will be undertaken within the tenure of the current Board.

13.5 Where premises offer takeaways or deliveries, the Board will consider the use of a condition requiring that alcohol sales which form part of a takeaway or delivery order are only to be with the provision of food.

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

13.7 The Board understands applicants may offer to make adjustments to their licence application to address concerns relating to the licensing objectives and points raised in deliberation by the Board. Objectors may also request adjustments in order to address their concerns. Board members can consider all of these in making a determination.

13.8 If an applicant volunteers a prohibition or restriction in their operating plan because their 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.

Return to Contents

14. ASSESSMENT OF OVERPROVISION

14.1 Introduction

This section sets out information about how overprovision is determined by the Board.
It contains details about: -
• The Board's consultation on overprovision
• The evidence considered by the Board
• The Board's assessment of overprovision
• General information about the Board's approach to overprovision

Note: This part was revised by means of the adoption of a supplementary Statement of Licensing Policy with effect from 23 June 2025

Convener's Introduction:

"The Licensing Board decided on 23 June 2025 to no longer identify areas of overprovision in Edinburgh regarding the availability of alcohol in licensed premises. As a result, all applications, while continuing to be reviewed on a case by case basis, will no longer have to be considered in relation to areas of overprovision.

The Board will have careful regard to the impact on the licensing objectives and expects applicants to provide detailed submissions on how these will be promoted.

This decision came after an extensive period of review of the existing policy and consultation on options for an updated policy, which are detailed in the rest of this section."

Return to Contents

15. CAPACITY OF PREMISES

How capacities are set – Council's Building Standards involvement:–

- on sales – numbers of persons
- off sales – linear metres of display shelving

Details of what Board expects applicants to consider, when setting capacities

Control measures, for on sales premises

Details required by the Board, for layout plans

15.1 The Board has maximum occupancy limits set by building standards officers from the City of Edinburgh Council's Place Directorate for the purposes of assessing overprovision. In most circumstances the Board would expect this capacity to represent a practical occupancy capacity acceptable to applicants so as 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 or any of the other licensing objectives, the Board may consider setting a lower maximum occupancy limit than that recommended by officers.

15.2 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.

15.3 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.

15.4 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 requires 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, licenceholders will be expected to have additional arrangements in place to ensure that the capacity of the premises is not exceeded.

The Board encourages licenceholders for large scale capacities and events in premises to have regard to the guidance set out in "Technical Standards for Places of Entertainment", and to liaise with Council Public Safety officers in that regard.

The Board considers that the most appropriate means of assessing off-sales capacity is by means of reference to measurement of shelving space in linear metres. The Board continues to expect licence holders and applicants seeking licences providing off-sales to specify the capacity in the operating plan, in linear metres.

15.5 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.

Return to Contents

16. HOW PREMISES OPERATE

What the Board expects of premises managers

What management arrangements should be in place in premises?

Policy on “duty to trade”

Requirement for premises to operate in accordance with operating plan

Policy on transfer applications

16.1 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.

16.2 The premises manager must hold a personal licence, to ensure compliance with the mandatory conditions of premises licences, and the prohibition on the sale of alcohol at any time when there is no premises manager in respect of the premises. The Board will hold a hearing to consider a review application or proposal whenever such non-compliance comes to its attention.

16.3 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. The Board encourages licence holders to ensure so far as possible, that there are arrangements in place for safe homeward travel for staff, particularly late at night (after 11pm).

16.4 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.

16.5 The Board has considered the issue of whether a licence holder is under a duty to trade. It has also considered the terms of section 28 of the Act stating that a premises licence ceases to have effect where the premises cease to be used for the sale of alcohol. It is aware that on one interpretation this could be read as requiring an application for a new premises licence in the situation where premises have ceased to trade and are being actively marketed for sale.

The Board will take into account factors such as the continued payment of annual premises licence fees and any additional information provided by LSOs regarding the operation or otherwise of premises. The Board will also take account of factors such as the duration and reason for closure where these are known, with a view to then deciding whether or not to review the premises licence.

Where the premises are situated in a locality where the Board is assessing overprovision these factors will also be relevant.

16.6 Where it comes to the attention of the Board that the activities in any licensed premises are not in accordance with the operating plan, the premises licence holder should be asked to explain why not and, if appropriate, make an application to vary their premises licence. Failing this the Board may advise the premises licence holder that the Board intends to review or revoke the licence by means of a review proposal. Where the licence holder determines to abandon activities specified in the operating plan or otherwise changes the nature of the business conducted in premises, the Board considers that a variation of licence is essential to ensure compliance with the Mandatory Conditions.

The Board notes LSOs carry out inspections of premises from time to time to ensure compliance with operating plans, and will consider the terms of LSO reports when these are brought to the Board's attention.

16.7 The Board expects those involved in arranging the transfer of a premises licence to adhere to the timescales laid down by the Act. In particular, with regard to transfer applications made by a person other than the premises licence holder in terms of section 34 of the Act, the Board expects applicants to ensure that their applications are lodged within the 28 day period specified in terms of section 34(1), and continues to emphasise the importance of this timescale. Where the application is made on the basis of the business carried on in the licensed premises having transferred (in terms of section 34(3) (d)) the Board expects applicants to be able to demonstrate to the Board the basis upon which the business transfer has been effected. Where the statutory timescale within which a section 34 transfer application may be made has expired and the premises licence has ceased to have effect or ceased to be capable of transfer, the Board will consider taking steps to have the premises licence reviewed, with a view to revocation.

For the avoidance of doubt, where a licence is held by a company or partnership and the company or partnership is subsequently dissolved, this will not be considered of itself to provide a basis in terms of section 34 for transfer of the premises licence.

Return to Contents

17. HOURS OF TRADING

Policy on trading hours, for sale of alcohol

Factors the Board will consider, when deciding on appropriate licensed trading hours

Policy sets out indicative trading hours for different types of premises

Policy on seasonal variations, during:-

- Edinburgh Festival period
- Christmas/New Year period

Factors to be considered by licence holders, for the operation of premises around closing time

Policy on access by children and young persons to licensed premises

17.1 This section primarily relates to premises where alcohol is sold with or without any other licensable activity. Reference is made to Chapter 18 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.

17.2 In determining its approach to the hours of trading, the Board has given full consideration to what is stated in the guidance for Licensing Boards issued by Scottish Government. In particular, the Board has noted the guidance that in considering applications for licensed hours, Boards may wish to consider applications for up to 14 hours as being reasonable but local circumstances and views of local licensing forums should always be considered.

17.3 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 or where there is limited public transport options at the proposed closing time. The Board recognises that when considering appropriate licensed hours for applications then consideration will require to be given to the specific location of the applicant premises on a case by case basis.

17.4 The Board will consider a restriction on opening hours as one mechanism of combatting antisocial behaviour, if appropriate either with new applications in affected locations, or in requests for major variations to existing licences.

17.5 The Board recognises the value and necessity of a level playing field when determining hours of trading. In its experience the granting of extended hours in recognition of a particular style of trading merely leads to trade competitors adopting the same arguments in seeking similar hours and a process ensues which leads to the extended hours becoming the norm. The Board is anxious that this should not happen in Edinburgh.

The Board sought views during consultation on this policy as to whether the Board's previous approach to licensed hours citywide remained appropriate or should be reviewed.

Mixed responses were received to this aspect of the consultation with trade representatives generally in favour of the current position and some community and other consultees including Police Scotland favouring the application of different licensed hours across the city. After due consideration the Board remains of the view that the following periods of opening hours are reasonable, and balance the differing expectations of the trade and public. The Board is also aware that the hours set out below provide an available period of up to 16 trading hours but the Board would usually consider up to 14 hours as reasonable. Applications for the full 16 hours will be considered on a case by case basis.

The Board is satisfied that it should adhere to the current licensed hours, set out below, and is mindful of the public health licensing objective which underpins this policy and the Board's decision making. Accordingly the Board will continue to monitor the effectiveness of the current policy and would emphasise that whilst having regard to the indicative hours set out in its policy when considering applications, each application will be determined on its individual merits.

17.6 Opening hour - every day

- off sales premises: 10am
- all other premises: 9am (except Sundays when the opening hour will be 11am)

Terminal hour – every day

- off sales premises: 10pm
- licensed premises: 1am
- licensed premises offering restaurant facilities, and those offering entertainment: 3am (except adult entertainment –1am and casinos – 6am) and members' clubs
- premises licensed for casino operation: 6am

17.7 The Board recognises that during certain periods further extensions of the terminal hour would be appropriate. Accordingly, during the period of the Edinburgh Festival and Fringe as set from year to year, and during the Christmas and New Year period (set from year to year but with a fixed **02 January end date** in each year) a 2 hour extension to the usual terminal hour of the premises concerned is regarded as acceptable in the normal course of events.

However this will only apply where the operating plan for particular premises contains a statement of intention by the licenceholder to take advantage of extended trading in these periods. Where the operating plan for premises does not indicate an intention to take advantage of extended trading an application for those premises seeking extended hours for the period will have to be made and this will have to set out the specific days and hours when trading is intended. This period may include days when there are preliminary performances preceding the commencement of the full Fringe programmes.

17.8 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.

The Board will expect licence holders to be aware of the impact on local residential properties, and any police concerns over antisocial behaviour will be considered alongside applications for new or adjusted provision in particular areas of concern.

17.9 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 and young persons
- 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 – this is something the Board received detailed representations on as part of its consultation**
- 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.

17.10 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.

17.11 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 or a specific restriction on outdoor drinking and dining. The Board may impose different restrictions on hours for different licensable activities and for different days of the week.

17.12 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.

17.13 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

17.14 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.

17.15 Access by Children and Young Persons to Licensed Premises

As part of the Board's consultation process the Board sought views as to whether the Board should consider stating a terminal hour for children and young persons' access to licensed premises having regard to the licensing objective of protecting children and young persons from harm.

The Board has already set out clear expectations to premise licence holders of the ways in which the Board considers licence holders may demonstrate that their premises promote the protection of children and young persons from harm as further referred to below.

The Board regularly visits premises where applicants are seeking access or increased access for children and young persons to assess their suitability prior to considering applications on a case by case basis. Further details in this regard and the other suggested control measures agreed by the Board are set out at chapter 7 of this policy.

The Board has taken into account the responses to the consultation which, although generally favouring the Board's continuing approach to applications being determined on a case by case basis, also support the view that the Board should agree an indicative terminal hour for children and young persons' access to licensed premises.

Accordingly the Board, taking account of its previous approach to hours, and that each application will be considered on its individual merits, agrees that an indicative terminal hours for children and young persons' access to licensed premises will be as follows :-

Children –

- 11pm
- 1am when attending a private function on the premises and accompanied by an adult

Young Persons –

- 1am

The Board expects applicants and licence holders to ensure full details are set out in operating plans to indicate times when children and young persons will require to be accompanied by a responsible adult, the areas of the premises to which they will be permitted access and where not permitted, and to take due account of the licensing objectives and in particular the protection of children and young persons from harm (chapter 7 above)

Following consultation with young people on the licensing policy, the Board also encourages premises to provide information on their Children & Young People access at the entrance, alongside other signage such as the licensed hours and Challenge 25. This should specify if/when young people are allowed access unaccompanied for light refreshments/food.

Return to Contents

18. OFF-SALES

Requirement for applicants to consider licensing objectives

Display of alcohol in premises – mandatory conditions, layout plan requirements

Policy on licensing hours

Circumstances when CCTV system may be required in premises

18.1 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.

18.2 The Board is concerned to ensure that all possible steps are taken in this area to promote the licensing objectives. It will ensure that the regulations concerning display of alcohol for consumption off the premises are observed in the layout of premises. The Board will monitor developments in the area of test purchasing and will take appropriate action as part of its wider alcohol agenda.

18.3 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 10am 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 Chapter 17, 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 and young persons, 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. Reference is made also to Chapter 5 of this policy relating to public nuisance.

18.4 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, where this is considered to be necessary. Reference is made to Chapter 3 of this policy relating to the prevention of crime and disorder objective.

Return to Contents

19. OUTSIDE AREAS

Use of areas outside licensed premises:-

- policy on terminal hour for outdoor drinking
- use of tables and chairs – Council Tables and Chairs Permits
- Council Protocol on the use of public open space areas
- Licence holders to ensure clearly marked out layout plans
- Temporary/semi-permanent structures

19.1 The Board recognises the continuing use of 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 of capacity, 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.

The Board is of the view that 10pm is the appropriate terminal hour for the operation of outside areas. This is also the terminal hour for sales for consumption off licensed premises. In non-residential areas during festive and Festival periods the Board recognises that premises licence holders may wish to operate outside areas to a later time.

19.3 The Board will give consideration to a later terminal hour in appropriate circumstances, having regard to the locality of premises, their proximity to residential areas, and subject to the licence holder obtaining the necessary tables and chairs permit from the Council. The Board will consider a degree of flexibility for certain days of the week and times of year after careful consideration of the circumstances.

19.4 The 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. The commencement and terminal hours of operation granted by the Board will normally reflect the times set out in the permit issued by the Council.

19.5 Given that the regulatory authority for tables and chairs permits is the Council, the Board's ability to deal with complaints is limited. Where specific difficulties arise as a result of complaints with regards the use of tables and chairs, the board will consider referral of the complaint to the Council's Environmental Wardens for consideration of restriction or removal of the permit.

19.6 The Board may decide to visit premises which apply 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 licence holder in breach of a condition of a premises licence relating to the external area.

19.7 The Board encourages licence holders and applicants to ensure that layout plans attached to premises licences provide a clear delineation of outside areas intended for use with the premises, whether licensed for the sale of alcohol or not.

19.8 Temporary structures such as marquees and tents, which provide fully covered outdoor areas are considered to be ‘outdoor space’ for the purpose of consideration of hours of operation (including seasonal hours) and licensing objectives. Therefore, the policy guidance of 10pm terminal hour would apply, although applications for later terminal hours will be considered on an individual basis.

The application of seasonal hours which permit 2 hours of additional opening, do not automatically apply to outdoor drinking areas which would continue to fall under the 10pm policy guidance. However, requests for operation beyond 10pm can be considered by the Board on a case by case basis.

19.9 In considering the use of outdoor areas, the Board encourages consideration of chapter 5 of this policy relating to the public nuisance objective.

Return to Contents

20. USE OF SMOKING AREAS, DISPOSAL OF WASTE

Responsibilities of licence holder to control the use of smoking areas

Possible restrictions on use of outside smoking areas

Responsibilities of licence holder to dispose of waste, remove litter

20.1 The Board acknowledges that control of smoking is not a matter within the responsibilities of licensing boards. The LSOs will not routinely monitor the control of smoking in premises but will investigate any complaints of badly managed restriction on smoking or where this directly impacts on nearby residents experiencing nuisance, including noise.

20.2 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.

20.3 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 requiring effective monitoring of the smoking area and restricting patrons from taking drink into the smoking area. Where no effective solution is achieved the Board may consider restricting the hours of operation of the premises.

20.4 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. Where appropriate, a condition requiring licenceholder to provide litter bins in the vicinity of the premises may be imposed.

Return to Contents

21. PUBLIC ENTERTAINMENT

Confirming when Public Entertainment licences require to be obtained from Council:-

- Entertainments taking place in unlicensed areas
- Entertainments provided in premises where an Occasional Licence will be in place

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

The Board recognises that this exemption from Public Entertainment licensing does not apply to premises licensed by means of occasional licences. Organisers of events or persons otherwise seeking to licence temporary use of premises where public entertainment is to be provided, as per the Council's public entertainment resolution will be required to ensure that they obtain a public entertainment licence from the Council, and do so in sufficient time to permit the Board to consider applications for occasional licences.

The Board will have regard to the Council's continuing protocols and policies on the use of outdoor areas for the use of outdoor areas where public entertainment is provided, and encourages event organisers to liaise with the Council in organising events.

Return to Contents

22. ADULT ENTERTAINMENT

The Board is aware of continuing work by the Council on its policy for the licensing of sexual entertainment venues, in terms of section 45A of the Civic Government (Scotland) Act 1982.

This Board recognises this part of the policy will be largely superseded by Council policy, and will accordingly require to be reviewed in 2024.

22.1 The Board continues to encourage improved standards in licensed premises offering adult entertainment. The Board notes ongoing work by the Council to introduce its policy for Sexual Entertainment Venue (SEV) licensing via its Regulatory Committee, and that there will be a further update in the first half of 2024.

Meanwhile the Board encourages those premises licence holders who offer adult dance entertainment to have regard to the terms of the Board's Guidance on Dance Entertainment as attached at Appendix 3. Licence holders are encouraged to comply with the terms of this guidance.

The LSOs will monitor the operation of this guidance. The Guidance will remain in effect until the implementation of the Council's new SEVs policy and regime.

22.2 The Board will expect licence applicants and licence holders offering adult entertainment to show evidence of having given consideration to the promotion of all the licensing objectives, in particular those relating to the protection of children and young persons, the prevention of crime and disorder and the prevention of public nuisance.

22.3 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 and young persons are likely to congregate.

22.4 All applications involving adult entertainment will be considered on their own merits.

22.5 The 1982 Act having been amended, licensed premises which provide adult entertainment which falls within the definition of "sexual entertainment" as set out in section 45A of the 1982 Act will require to obtain a separate SEV licence from the Council.

Return to Contents

23. TAKE-AWAYS / HOME DELIVERIES

Confirming that where take-aways are to be offered by premises later than licensed hours, a separate Late Hours Catering licence will be required from the Council.

Board policy on take-away operations within licensed hours – supports Council policy.

Board's policy on Home Deliveries which include online purchases of alcohol

23.1 Premises which supply hot food and hot drink for consumption off the premises (takeaways) and which are open after 11pm can attract large groups of customers and act as a focus of noise and disturbance. The Board considers that having regard to the terms of section 42 of the Civic Government (Scotland) Act 1982 ("the 1982 Act"), premises selling alcohol require an additional late hours catering licence to permit the facility of take-away food and refreshment between the hours of 11pm and 5am. The 1982 Act refers to a late hours catering licence not being required in respect of the use as such of (alcohol) licensed premises. The Board considers that where takeaway food is being provided beyond licensed hours, a late hours catering licence should be obtained from the Council, since the Board's role and the licence issued by it is limited to the sale of alcohol from the premises.

23.2 In September 2016 the Council's Regulatory Committee adopted a new policy on hours of operation for Late Hours Catering premises. In view of the Board's position as above for the previous Council policy on late hours catering, the Board has adopted a similar approach to the new policy. The details of the Council policy are attached as appendix 5 to the Board's statement of licensing policy.

The Board acknowledges the significance of this policy and will expect applicants to accept that similar hours of operation should apply to take-away operations falling within its area of licensing responsibility. This will both ensure a level playing field within the city and promote the licensing objectives, particularly preventing public nuisance and preventing crime and disorder.

23.3 Home Deliveries which include online purchases of alcohol.
The Board has acknowledged concerns raised during consultation as regards the increased levels of online sales of alcohol and has updated its policy to take account of this.

In particular the Board encourages applicants for premises licences which will include online sales to provide the Board with details of how the deliveries will operate and in particular :--

1) the hours, of delivery;
2) the steps which will be taken to verify the age of the person ordering and accepting delivery of the alcohol ; and
3) the use of age verification policies such as Challenge 25 or a similar verification scheme for all deliveries

Return to Contents

24. MEMBERS' CLUBS

Setting out Board policy on premises run by, and solely for the benefit of, club members.

Confirming specific licensing conditions attached to premises licences for members clubs, controlling the signing in of non-members, etc.

24.1 Members' clubs will require to meet the criteria prescribed in Licensing (Clubs) (Scotland) Regulations 2007. The Board expects that members' clubs will take positive steps to address discrimination on the grounds of age, sex, race, disability, gender identity, sexual orientation, marital status, religion or belief.

24.2 When members' clubs apply to the Licensing Board they will be asked to certify whether or not they comply with the criteria referred to in the Regulations 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 LSOs, who will check clubs for compliance.

24.3 Members' clubs are subject to the same provisions regarding access by children and young persons as other licensed premises. They 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 young persons and the parts of the premises to which they would be permitted access.

Appropriate conditions relating to access by children and young persons may be attached by the Licensing Board.

24.4 The Board has decided that premises licences granted to member's clubs will be subject to additional conditions:-

- The club shall, in conducting the business of the club carried on in the premises, take all reasonable steps to ensure compliance at all times with the terms of the club's written constitution and rules as exhibited to the Board. Any alteration to this written constitution and rules made by the club from time to time shall be notified to the Board within one month of any alteration taking effect.
- No member of the club may invite more than 10 other persons on to the premises to be supplied with alcohol at any one time.
- Where a person referred to in Regulation 2(2)(d)(iii) of the Licensing (Clubs) (Scotland) Regulation 2007 is admitted to the premises, there is to be entered in a book kept for the purpose:- the date of admission; the name and address of the person; and the name and address of their club

Return to Contents

25. REVIEW OF PREMISES LICENCES

Board can be asked by anyone to review a premises licence, or it may initiate the review of a premises licence.

Sets out the options available to the Board in dealing with a premises licence review.

Procedure for review applications:-

- Whether application sets out matters relevant to grounds for review
- Whether application is vexatious or frivolous, and how Board deals with that
- LSO reports

25.1 A licence may be reviewed on the application of any person on the grounds specified in section 36 of the Act. The Board will not commence a review hearing in terms of section 38 of the Act until it is satisfied that grounds have been establish which necessitate proceeding with a hearing. The Board may continue consideration of a review application at an initial stage, in order to allow investigations or other appropriate steps to be carried out. 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. Where there are issues identified in the course of a review hearing which highlight concerns about personal licence holders, the Board will also give consideration to holding separate hearings on their licences.

25.2 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. This preliminary decision will be delegated to the Convener for consideration in terms of the scheme of delegation provided at Appendix 1

25.3 Where grounds have been established which merit a review hearing, the Board will expect to receive a report from the Council's LSOs (other than when the review application is LSO-led) on the terms of the review, and any other matters relevant to the affected premises. The Board encourages premises licence holders to work with the Council's LSOs and, where appropriate, Police Scotland when there are concerns about the operation of premises, identified during the review hearing.

25.4 With regard to premises licence review proposals, the Board may make a review proposal in respect of particular premises within its area. It will do so when circumstances are brought to its attention suggesting conduct which is inconsistent with the licensing objectives. The Board will continue to make use of the premises licence review procedures for dealing with non-payment of annual premises licence fees.

25.5 In respect of the requirement to make a review proposal, triggered by a premises licence holder's conviction for a relevant offence, the Board will have regard to the nature of the offence and the relevance or otherwise to the operation of affected premises within the Board's area, in deciding the course of action to be taken in relation to the premises licences. The Board reserves the option to issue a nominal written warning where the conviction is considered to be of minimal relevance.

Return to Contents

26. PERSONAL LICENCES

Personal licence application procedures:-

- Criteria to be met for applications being made.
- Board to provide notice of applications to Police and LSOs

Policy on:-

- Refresher training requirement
- Renewal procedures

26.1 Any individual may seek a personal licence whether or not they have current employment or business interests associated with the use of the licence.

26.2 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

26.3 The Board will give notice of any personal licence application to the Chief Constable and Licensing Standards Officers, 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.

The Board will also consider the fit and proper status of applicants, where this has been highlighted by statutory consultees. 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.

26.4 The Board expects that personal licence holders will ensure that they comply with the requirements of mandatory refresher training every five years, beginning with the expiry of the five year period from their licence being issued. The Board expects personal licence holders to provide an appropriate certificate confirming that they have completed the mandatory training together with their existing personal licence, in order that an amended version of their licence can be issued to them. Where a personal licence holder fails to comply with these requirements, the Board will revoke their licence in terms of section 87(3) of the Act.

The Board encourages personal licence holders to have regard to the approach set out in the guidance provided by Scottish Government as regards personal licence holders both renewing their licence and providing evidence of the mandatory five year refresher training at the same time, and to ensure they comply with necessary timelines.

Return to Contents

APPENDIX 1

DELEGATION OF LICENSING FUNCTIONS

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

	Subject Matter	Licensing Board	Convener or Member of the Board	Clerk of the Board and Deputes
1	Determination of the Board's policy for the purposes of the licensing policy statement or supplementary licensing policy statement	✓		
2	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	✓		
3	Determination of a premises licence application	✓		
4	Determination of a premises licence variation application other than a minor variation	✓		
5	Determination of a premises licence variation application where the variation sought is minor (section 30(2))		✓	✓
6	Determination of an application for the transfer of a premises licence where the applicant has been convicted of a relevant offence or foreign offence and notice received under section 33(6)(b)	✓		
7	Determination of an application for the transfer of a premises licence where notice received under section 33(6)(a)		✓	✓

8	**Determination of a personal licence application or a personal licence renewal application where the Board has received a notice from the Chief Constable under section 73(3)(b)**	✓		
9	**Determination of a personal licence application or a personal licence renewal application where the conditions of section 74 are met and the Board has received a notice from the Chief Constable under section 73(3)(a)**		✓	✓
10	**Making a premises licence review proposal (section 37 or section 44)**	✓		
11	**Conducting a hearing under the Licensing (Scotland) Act 2005 and taking any of the following steps following hearing: issuing a written warning to a premises licence holder; revoking or suspending a premises licence; making a variation of the premises licence; revoking, suspending or endorsing a personal licence**	✓		
12	**Making a closure order (section 97)**	✓		
13	**Application for provisional premises licence (section 45)**	✓		
14	**Refusing an application for confirmation of a provisional premises licence**	✓		
15	**Granting an application for confirmation of a provisional premises licence**		✓	✓
16	**Application for temporary premises licence (section 47)**		✓	✓

	Occasional Licences – see also Chapter 11 above			
17	Determination of requests for shortened notice period for occasional licences (section 57(5))		✓	✓
18	Determination on referral of contentious or complex applications for occasional licence to the Board (including where appropriate, applications for "pop up" bars)		✓ (Convener only)	
19	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)		✓	
20	Granting an occasional licence application where there is no notice of objection nor representations in relation to the application or no notice from the Chief Constable recommending refusal of the application (section 56)		✓	✓
	Extended Hours – see also Chapter 11 above			
21	Determination extending licensed hours (section 67)	✓		
22	Determination of an application for extended hours where there is notice of objection from the Chief Constable or report from the LSOs (section 70)		✓	✓
23	Determination of requests for shortened notice period for extended hours applications (section 69(5))		✓	✓
24	Determination of an application for extended hours where there is notice of objection from the Chief Constable or report from the LSOs, for major events		✓ Convener only	

	which may be considered contentious or complex			
25	**Determination of whether applications for review of premises licence are vexatious or frivolous**		✓ **Convener only**	

Return to Contents

APPENDIX 2

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

This guidance was adopted by the Board in order to promote the licensing objectives in licensed premises where any form of adult dance entertainment is provided. As set out in Chapter 22 above, the Board recognises the ongoing work of the Council's Regulatory Committee in agreeing the terms of its policy on sexual entertainment venue (SEV) licensing, in terms of section 45A of the 1982 Act. For the meantime the guidance sets out what the Board expects the operating plans of premises offering dance entertainment to indicate: that due regard has been taken to the terms of this guidance.

This guidance will require to be revisited, once the Council's SEV policy has been agreed and published, which is expected to be in the first half of 2024.

1. **Code of Conduct**
The licence holder 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 licence holder 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 licence holder 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 licence holder 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.

3. **Changing Facilities**
The licence holder 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 1.86m² 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.

4. **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. There shall be no private booths. Dancers' genitalia should be covered with clothing 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. Any advertising of performances outwith the licensed premises whether by way of newspaper advertisements or notices at the premises may only depict dancers clothed as aforesaid. Performances involving the removal of clothes should not be visible from outwith the premises.

5. **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. Licence holders 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 and made available to the Licensing Standards Officers when required.

6. **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 licence holders 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 Scottish 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.

l. 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 licence holder 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
Licence holders should seek their own professional advice if they are in any doubt as to whether their premises comply with the requirements of the guidance. 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 this guidance.

Return to Contents

APPENDIX 3

CONSULTATION ON PREPARATION OF DRAFT STATEMENT OF LICENSING POLICY

In consulting on the terms of this statement of licensing policy, the Board required to have regard to the 2005 Act and Guidance and consult with:

- the Licensing Forum
- 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
    - such other persons as the Board thinks appropriate, and
    - the relevant health board for the Board area.

In developing the statement, the Board consulted widely and gave due consideration to the views of those who responded.

An initial consultation was carried between 30 September and 20 December 2022. The Board then held evidence sessions throughout 2023 with representatives from the licensed trade, community groups, statutory consultees, young persons and the Licensing Forum. A further consultation was carried out between 2 October and 12 November 2023. Details of the various consultation responses have been published on the City of Edinburgh Council's website, for Board meetings held on 10 February 2023 and 27 November 2023.

Return to Contents

APPENDIX 4

LATE HOURS CATERING – COUNCIL POLICY ON HOURS OF OPERATION

Details of the Council's Late Hours Catering policy, for take-away premises, etc are set out on the Council's website (link below)

CITY OF EDINBURGH COUNCIL – LATE HOURS CATERING POLICY

Council Late Hours Catering Policy - link

Petrol Stations, Supermarkets and Retail Shops
Provided the premises are not being used primarily as a fast food takeaway premises and there are no environmental issues to address there will normally be a recommendation to grant the licence from 11pm to 5am.

Takeaway premises
All premises are categorised by location and in order to prevent crowd migration from clubs to takeaway premises, no Late Hours Catering licences will be granted with a closing hour beyond 3am.

City Centre
Where a premises is located within Ward 11 (Edinburgh city centre) the licence will not generally be granted beyond:

- 2am (Sundays to Thursdays)
- 3am (Fridays and Saturdays)

Hours may be restricted in areas which are significantly residential or where previous complaints or compliance issues have been identified.

Premises situated on arterial and main bus routes but out with City Centre Ward 11
Where premises are situated on arterial routes giving access and egress from the city the licence will not generally be granted beyond:

- 1am (Sundays to Thursdays)
- 2am (Fridays and Saturdays)

This may be restricted in areas which are significantly residential or where previous complaints or compliance issues have been identified.

Beyond City Centre
Where premises are located beyond the City Centre (Ward 11) the licence will not generally be granted beyond:-

- 12pm (Sundays to Thursdays)
- 1am (Fridays to Saturdays)

Tenement style property
Where premises are located in tenement style property, the licence will not generally be granted Beyond 12 Midnight.
In this regard consideration will be given to additional hours provided the applicant can evidence the consent of neighbours having been obtained in respect of the hours applied for.
Tenement style property is defined as property when residential accommodation is located above the applicant premises (e.g. a takeaway shop located below flats).

Residential Streets
When premises are located in residential locations or situated in areas where there is a history of complaints the licence will not generally be granted beyond:
12 midnight (Fridays and Saturdays only)
Residential streets areas are defined areas where there are no other businesses operating.

Premises falling into more than one category
Where premises fall within more than one of the categories the category that allows the least

number of trading hours would apply. In these circumstances it would open to an applicant to make an application to be considered as an exception to the policy.
Return to Contents

APPENDIX 5
Definitions: - In this statement the following words shall have the meaning set out:-

"Act" means the Licensing (Scotland) Act 2005 as amended from time to time
"Audible nuisance" describes noise intrusion from Licensed Premises that is heard in residential property that is amplified vocals, amplified live music, karaoke, amplified spoken word, TV and jukebox. LSOs are required to witness and assess noise intrusion in residential property, using internal guidance on assessing audible nuisance, to enable action to be taken
"Board" means the City of Edinburgh Licensing Board constituted in terms of section 5 and schedule 1 of the Act
"Chief Constable" means the Chief Constable of Police Scotland
"Council" means the City of Edinburgh Council constituted in terms of the Local Government etc. (Scotland) Act 1994 and subsequent legislation
"Forum" means the City of Edinburgh Licensing Forum established by the Council in terms of section 10 and schedule 2 of the Act
"Guidance" means the Guidance for Licensing Boards issued by Scottish Government in terms of section 142 of the Act, published 13 January 2023
"Late Night Conditions" means the conditions of licence specified in the Licensing Conditions (Late Opening Premises) (Scotland) Regulations 2007
"LSOs" means the Licensing Standards Officers appointed by the Council in terms of section 13 of the Act, details in Appendix 7 below
"Mandatory Conditions" means the conditions of licence specified in schedule 3 (premises licences) and schedule 4 (occasional licences) to the Act and in Regulations all as amended from time to time
"Rules" means the rules and procedures set down and agreed by the Board from time to time, in terms of Schedule 1 to the Act
"Website" means the Board's website at Edinburgh's Licensing Board

Return to Contents

APPENDIX 6

LICENSING STANDARDS OFFICERS

LSOs are an integral part of the monitoring and compliance regime under the Act. The Council employs eight LSOs, and they carry out their roles with responsibility for designated geographical areas across the Board's area. Their role includes:

- providing information and guidance concerning the operation of the Act to licenceholders, members of the public and other interested persons
- 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
- supervising compliance with licence conditions, Board policies and other requirements under the Act by premises licenceholders and holders of occasional licences, recognising that enforcement of compliance should be an action of last resort.

The Council's LSO service receives complaints and enquiries on a 24/7 basis, and LSOs operate on a rota system in order to support the operation of the service. The tasks and duties they carry out include responding to noise complaints, providing consultation responses, carrying out compliance inspections and collaborative working between the LSOs and the Police, the licensed trade, local communities and others.

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. In the wider context, the Board will consider proportionate but firm action where necessary, in respect of 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.

LSO Contact details. The Council's Licensing Standards Officers may be contacted:

- by email : licensing.standards@edinburgh.gov.uk
- by telephone : 0131 469 3871 or 0131 529 3030

Return to Contents

APPENDIX 7
POOL CONDITIONS – OCCASIONAL LICENCES

(Board agreed amendment of existing conditions (in **bold**) and inclusion of additional conditions, listed at the foot of this list, following consultation response received from Police Scotland)

Management / Supervision

1. The applicant or another suitably trained person with managerial responsibility is present throughout the event and when alcohol is served. A contact phone number will be readily available at all times.
2. The applicant will ensure that their contact details including a contact phone number, or those of a personal licence holder if application is made in their name, will be readily available at all times for Police, Licensing Standards Officers or other Authorised Officers.

Inspection

3. The occasional licence and / or public entertainment licence if applicable is to be kept on the premises and made available for inspection when requested by a Licensing Standards Officer, Police Officer or other Authorised Officer, and any reasonable request by them is complied with.

Children & Young People

4. Children will be prevented from gaining immediate access to any bar area.
5. Children will not be permitted access to the premises after 23:00 hours **unless attending a private pre-booked function, when they may remain until 01:00 hours or the end of the function, whichever is earlier**. Young persons will not be permitted access to the premises after 01:00 hours.
6. Children permitted within the venue must be accompanied by a responsible adult at all times.
7. If not already provided, baby-changing facilities will be made available for children under the age of 5 years, in accordance Licensing Board's Policy concerning the Protecting Children from Harm objective.

Training

8. All staff employed in a position involving the sale or service of alcohol to undergo a minimum of two hours training prior to commencing duty (as defined in the Licensing (Training of Staff)(Scotland) Regulations 2007) with a record of this training being kept at the location and available for inspection by Police or Licensing Standards Officers.

Signage

9. A notice advising whether children and young persons are admitted, and the terms of admission is displayed at each point of entry.
10. Signage must be displayed at the entrance to each designated area listing the conditions of entry.
11. Appropriate signage must be clearly displayed, at every point of sale of alcohol, relative to age restrictions, alcohol provision and the relevant conditions of the licence. Signage should clearly identify:

- No under 18s served alcohol
- A Challenge 25 policy

- The closing time of individual bars
- Responsible drinking message
- Be clearly legible

Stewards

12. Appropriate stewarding to be provided to supervise admission, monitor occupant capacity and ensuring control of all patrons on the premises. All those persons engaged in such duties to be registered as door stewards with the Security Industry Authority, and authorisation must be clearly displayed.
13. Appropriate steps are taken to supervise admissions to the event and to objectively monitor the occupant capacity.
14. There is a written policy in respect of the management of dispersal.

Music and Vocals

15. All amplified music and vocals to be controlled to the satisfaction of the Director of Place.
16. All amplified music and vocals shall be controlled as to be inaudible in the nearest noise sensitive premises after 23.00 hours.
17. All amplified music and vocals shall be controlled as to be inaudible in the nearest noise sensitive premises.
18. Amplified music and vocals are not permitted.
19. Music and vocals performances are not permitted.

Outside areas

20. The licensed area complies with the area permitted by the relevant tables and chairs permit and it is clearly defined and enclosed by suitable barriers and controlled so that no drinks are allowed to be taken from it. All tables and chairs are removed from the street in accordance with the relevant Tables and Chairs Permit's approved hours of operation.
21. The use of the tables and chairs area shall cease at [TIME TO BE ADDED AS APPROPRIATE] hours each evening.
22. All street furniture including tables and chairs, barriers, etc. must be off the street and in storage by [TIME TO BE ADDED AS APPROPRIATE] hours.
23. At least one designated member of staff to be present within the area at all times to supervise admissions and to objectively monitor the occupant capacity, and to have an effective means of communication with the premises.
24. The designated area will be regularly serviced and must be kept clear of empty receptacles, unattended glassware and all refuse removed.
25. The licensed area is fully monitored and recorded by CCTV.
26. Glasses and glass bottles are not permitted in the licensed area. Drinks to be provided in non-glass containers. Cans open at 'point of sale' can be provided. The applicant must have in place plans to decant the cans into paper or plastic containers if necessary for public safety reasons.
27. Supply of alcohol will only be permitted to persons seated at tables and as an ancillary to a substantial meal.
28. No alcohol should be removed from the delineated licensed area or taken between two licensed areas with the exception of staff carrying out their duties.
29. Staff to be trained in conflict resolution in order to deal with drunks, under-age sales, beggars and problematic customers attempting to use tables, beg or steal from customers or alternatively appropriate SIA registered stewards to be employed.

Voluntary Organisations (No personal licence holder)

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

Events

31. A personal licence holder is present for supervision at all times when open for trade.
32. A site plan (specific to name of event) showing the proposed licensed area is provided to the City of Edinburgh Council Licensing Board and there are no changes to this prior to, or during, the event.
33. Appropriate steps must be taken to ensure that the number of patrons within the public area does not exceed the agreed capacity of the premises.
34. The Alcohol Management Plan, Drug Awareness Policy, Medical Plan, Event Plan and Stewarding Plan submitted **at least 28 days** prior to the event will be adhered to for the duration of the event.
35. Appropriate stewarding will be in place to provide adequate control of the premises and is to be in accordance with the Stewarding Plan submitted to the EPOG for the event. The said Stewarding Plan will be adhered to for the duration of the event.
36. Appropriate provision is to be made in order to care for persons refused entry to the event due to intoxication or being under the influence of other substances – such persons are not to be left unattended.
37. The applicant will comply with all reasonable / lawful requests made by authorised officers of the Council and/or Police Officers.
38. All reasonable requests, which do not have an operational impact, made by the Police or other council official should be complied with. All requests of an operational nature must be directed through the **Event Control Room**.
39. A daily written record to be maintained by security staff/ bar staff, to detail refusals and incidents and state circumstances.

Additional conditions

40. Police and council officials are permitted unrestricted access to the licensed area of the premises.
41. Patrons are not permitted to take drinks outwith the licensed area.
42. Alcohol not for immediate consumption will not be removed from the licensed area unless provided in a sealed container.
43. Alcohol sold as an off sale in connection with deliveries is only to be sold in conjunction with a food order.

Return to Contents