

**Department of Corporate and Community Services
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Date: 7 December 2018

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TO: Members of the East Renfrewshire Licensing Forum and East Renfrewshire Licensing Board.

Dear Forum/Board Member

EAST RENFREWSHIRE LICENSING FORUM/LICENSING BOARD

Please find attached, for your attention, a copy of the undernoted item to be considered at the joint meeting of the East Renfrewshire Licensing Forum and East Renfrewshire Licensing Board to be held within the Council Chamber, East Renfrewshire Council Headquarters, Eastwood Park, Giffnock, on **Tuesday 11 December 2018 at 7.00 pm.**

Yours faithfully

Caroline Innes

C INNES
DEPUTY CHIEF EXECUTIVE

AGENDA

4. **Draft Licensing Policy Statement – Report by Clerk to the Board (copy attached).**

This document can be explained to you in other languages and can be provided in alternative formats such as large print and Braille. For further information, please contact Customer First on 0141 577 3001 or email customerservices@eastrenfrewshire.gov.uk

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RESPONSE TO EAST RENFREWSHIRE LICENSING FORUM

LICENSING POLICY REVIEW 2018

DEPUTE CLERK

I thank you for taking the time to respond to the consultation on the licensing policy review. Your comments are appreciated and have helped me in reviewing the policy.

I have drafted some amendments to the policy which are still subject to board approval. Our version of the draft which clearly shows potential amendments in red is made available in advance to the licensing forum for general discussion and comment.

I would answer the various points raised in your letter as follows: –

I recall a similar request regarding an interpretation section when we were reviewing the previous policy. At that time, the forum was advised that there are already some interpretation of terms included within the policy and the view taken was that, because many terms used are already defined by statute, it would not be appropriate add any more than is already within the policy. That position remains and, in line with many other licensing boards, and interpretation section has not been added.

Any references to Scottish executive (unless reference to a historical document) will be updated.

3.3 is in the early stages of the policy and the wording of that section becomes much clearer once the whole policy is read. I would therefore prefer to leave the reader to gain a better understanding by reading the document. Unless has any examples in mind?

The policy has been updated at various points to take account of legislative changes such as the introduction of the fit and proper test.

The forum asked for less flexibility to be built into the policy .The licensing policy is a starting point or basis for decisions to be made by the board. No policy can be absolutely rigid in its terms as it has to allow the board to consider each application on its own merits. The policy therefore cannot be too rigid or restrictive.

The forum asked for board **procedures** to be added to the policy. Licensing board procedures are regulated by the 2005 act and where the board has flexibility, it has written its own procedures

separately to the policy. These should already be available online but if not I will take steps to have them published somewhere.

The board follows statutory procedures for consultation. The comments from the forum regarding setting up a procedure for other community groups to request is noted. However, there is already public notification of applications through the medium of site notices and publication online. If there are other community groups which are interested in applications in their area then they can obtain the information from the online resources or, in some circumstances (such as the use of tell me Scotland) set up alerts. Further information on applications is always available directly from the board to anyone who may be interested.

Occasional licences. The forum requested that the policy be altered to remove the reference to 6 applications. There are plans within present legislation to restrict occasional licences but these are not yet in force. At present, it remains lawful to have as many occasional licences as you wish. The policy as it stands was an attempt to make those applicants who are perhaps not acting in the spirit of the legislation by requesting multiple licenses instead of applying for a full licence follow a more administratively burdensome process by having to attend a board meeting. However, unless there are other reasons to refuse the application, multiple applications are not capable of being refused just because there are a number of them. I would recommend the policy remaining as it is pending introduction of new statutory terms.

10.5 as events are primarily regulated by public entertainment licensing, my view is that these matters should be left to the public entertainment licence to deal with.

Extended hours applications. I am not aware of any exploitation of these provisions in East Renfrewshire, we do not see very many applications each year and they tend to only be granted occasionally. I don't therefore have any evidence of the need for change. What the forum may view as a loophole, a licence holder may see as their statutory right.

Objections and representations. I have taken on board the forum's comments regarding assistance with objections and representations and have therefore taken steps to amend the draft policy to include links to 3rd party resources such as those provided by alcohol focus which will assist anyone wishing to make an objection or representation.

Licensing hours were adjusted in the previous policy and the board has no evidence before it to justify any further amendments. I take it that the comments from the forum regarding the need to apply for an occasional or extended hours application is in reference to the funeral provision which may allow permitted hours to be brought forward from the normal 11 AM. These provisions affect a minority of premises and are only in connection with funerals. For this reason, it is not practical to deal with them by way of occasional licence or extended hours applications. There is no evidence of any problem with these licence provisions.

Likewise, the festive policy, although more universal in its nature, provides a limited extension to permitted hours of one-hour on selected dates from around mid December to New Year. A similar policy has existed for many years. Again, there is no evidence before the board of any problem with this policy which would indicate that the licensing objectives are not continuing to be promoted. No change is therefore contemplated.

With regard to localities, the board members have always preferred the use of community Council or ward areas and it is expected that this will continue.

The forum is thanked for pointing out the discrepancy with personal licence applications. This section has now been rewritten.

Reporting by the board to the forum. The forum's comments are noted and are worthy of further discussion to improve matters. The introduction of an annual functions report will provide further information.

Access for children is primarily regulated by the act and the terms of individual premises licences. East Renfrewshire has a local custom/condition/policy on the appropriateness of children and young persons being on premises after 10 PM. Generally speaking, the premises will require to be acceptable, i.e. not primarily adult orientated. There are already examples of what the board might expect of premises which allow children and young persons within the policy and otherwise suitability of premises is best left to the discretion of the board/LS or/clerk.

With regard to outdoor drinking areas, some boards make no reference at all to them. These vary from traditional "beer gardens" to continental cafe style tables and chairs on pavements associated with food premises to larger open-air areas associated with one-off events. It is important that the board is able to differentiate between different types of outdoor areas and has discretion to deal with them on an individual basis rather than have arbitrary rules which attempt to regulate all these areas. The board may have to review whether or not to continue with this section at all or to leave each application to be dealt with on a separate basis. As for the reintroduction of plastic, this was removed from the previous policy in order to allow the board to consider the appropriateness of such a condition on a case-by-case basis. There is no evidence to depart from that view. The board may also now take into account the public attitude of moving away from single use plastic and the environmental damage which can be caused by plastics against any potential advantage. There is no evidence of any harm or injury or nuisance in East Renfrewshire caused by the use of glass and therefore no need for a universal plastics only policy.

Depute clerk of the board

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EAST RENFREWSHIRE LICENSING BOARD

The Licensing (Scotland) Act 2005

Statement of Licensing Policy

2018-2022

Clerk to the Licensing Board
East Renfrewshire Council
Eastwood Park
Rouken Glen Road
Giffnock
East Renfrewshire
G46 6UG

SECTION A - STATEMENT OF LICENSING POLICY

1. INTRODUCTION

1.1 This Statement of Licensing Policy has been prepared by East Renfrewshire Licensing Board in terms of Section 6 of the Licensing (Scotland) Act 2005 (“the Act”) to assist in the implementation and administration of the licensing of premises for the sale of alcohol within East Renfrewshire and to outline the way in which it intends exercising its functions under the 2005 Act. The Board is required to ensure that its policy promotes the licensing objectives.

These are set out in Section 4 of the Act and are:

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

Subject to the promotion of the licensing objectives the Board recognises and supports the contribution which licensed premises make to the economy of the area, to employment, tourism and the vitality of the area.

1.2 The Board will have regard to this policy when undertaking any of its functions. This includes officers of the Board when determining applications of a type delegated to them.

1.3 This Statement of Policy will have effect from xx December 2018 and will remain in effect until November 2022 subject to review. It will be subject to regular review and monitoring and further consultation during this period. If necessary, the Board will prepare and publish supplementary Statements of Licensing Policy. If you wish to make comment on the statement or wish

the contents to be reviewed, please contact the Licensing Section at the contact point stated on the front page.

- 1.4 The Act introduces a modernised statutory framework for liquor licensing which introduces more flexibility for the licensed trade balanced by extensive and, in appropriate cases, immediate enforcement powers for the Board. A number of changes have been made to the Act since it came into force in 2009 and the Act is always subject to further review.

2. PREPARATION OF STATEMENT

2.1 This Statement of Licensing Policy has been prepared having regard to:

- the Licensing Objectives;
- the Guidance for Licensing Boards and Local Authorities issued by the Scottish Executive;
- the terms of the Act with particular reference to Section 6, the terms of the Alcohol Etc., (Scotland) Act 2010, the Criminal Justice and Licensing (Scotland) Act 2010 and the Air Weapons and Licensing (Scotland) Act 2015.

2.2 In preparing the Statement, the Board consulted widely and took account of the views submitted in its adoption.

3. GENERAL PRINCIPLES

3.1 This Statement of Licensing Policy seeks:

- to promote the five licensing objectives; and
- to comply with the terms of the 2005 Act.

3.2 The Statement sets out a general approach to the way the Board will make licensing decisions but nothing in this Statement will:

- undermine the rights of any person to apply under the Act and to have that application considered on its individual merits; or
- override the right of any person to make representations on any applications or seek a review of a licence where permitted to do so under the Act.

3.3 It relates to how the Board will exercise its licensing functions under the Act, specifically as regards the regulation of the sale of alcohol and premises in which alcohol is sold all within the terms of the Act. Only material relevant to the Act and the Licensing Objectives will be taken into account by the Board when determining applications or considering reviews.

3.4 It should be recognised also that licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are no longer in the licensed premises and beyond the direct control of the individual, club or business holding the premises' licence. If, however, the nuisance or anti-social behaviour is caused by misuse of alcohol, then supply of alcohol could be a relevant factor in that misuse and the Board, when provided with appropriate information about the misuse, may consider using its powers appropriately in the circumstances. For example, if the anti-social behaviour is linked with unlawful or inappropriate sales of alcohol, relating to particular premises whether to someone under 18 years of age, to a drunken person or as part of an irresponsible drink promotion the Board would be entitled to consider a premises licence review proposal under Section 37 of the Act.

4. TYPES OF APPLICATIONS AND SCHEME OF DELEGATION

4.1 The Board is responsible for the consideration of applications for:

- premises licences;

- occasional licences;
- temporary licences;
- provisional licences;
- personal licences;
- variations of licences;
- review of licences;
- transfer of licences;
- extensions of licensing hours;
- the sale of alcohol by retail; and
- the supply of alcohol in members' clubs.

4.2 The Board will provide an efficient and cost effective service to all those who are involved in the licensing process. The Board recognises that any application should only be submitted to the Board when necessary and, where straightforward, should be decided by officers to create as little inconvenience to applicants as possible.

4.3 The Board has therefore agreed that only those applications and matters which by statute are required to be considered by the Board will be submitted to it and the other applications will be determined by the Clerk and Depute Clerks to the Board (unless referred to the Board for a decision).

4.4 Those applications and matters which require to be submitted to the Board are:

- a premises licence application;
- a premises licence variation where the variation applied for is not a minor variation;

an application for transfer of a premises licence where (i) the applicant has been convicted of a relevant offence or a foreign offence, (ii) the Chief constable has provided a notice stating that the Chief Constable considers it necessary that the application for transfer be refused, or (iii) information is provided by the Chief Constable in relation to the

- proposed licence holder (and other persons as set out in the Act);;

determining a personal licence application or a personal licence renewal application where a notice has been received from the chief

- constable recommending refusal;;

- conducting any hearing including issuing a written warning, revoking or
- suspending the licence, making a variation of a licence or, in respect of
- a personal licence, making an order revoking, suspending or endorsing
- a personal licence;
- making a closure order; and
- refusing an application for confirmation of a provisional premises licence.

4.5 All other matters are delegated to the Clerk and Depute Clerks to deal with, including without prejudice to the foregoing generality:

- granting an application for confirmation of provisional premises licence;

all applications for transfer of a premises licence where the transferee has not been convicted of a relevant offence or a foreign offence and no notice recommending refusal or other information has been

- provided by the chief constable;;
- all applications for variation of a premises licence where the variation is a minor variation, which means:

- ▶ any variation of the layout plan which does not result in any inconsistency with the operating plan;
- ▶ where, under the operating plan, children or young persons are allowed entry, any variation reflecting any restriction or proposed restriction of the terms on which they are allowed entry to the premises;
- ▶ any variation of the information contained in the licence relating to the premises manager including substitution of a new premises manager where the applicant has not been convicted of any relevant or foreign offence.

Or any other definition as defined in the Act from time to time.

all applications for personal licences or for the renewal of personal licences where the applicant has not been convicted of a relevant offence or a foreign offence no notice recommending refusal has been given by the chief constable and no information has been received from the chief constable or a Licensing Standards Officer which they consider relevant to the application (provided no personal licence held by the applicant has expired or been surrendered within the last three

- years);;
- all applications for occasional licences where there is no notice of objection or representation or no notice from the Chief Constable recommending refusal or where conditions are proposed and accepted by the applicant;
- grant of occasional extensions of licensed hours for a special event of local or national significance (following consultation with the Convener); and
- grant of extended hours applications within the Board's normal licensing hours policy and when there is no notice of objection or representation.

revocation of a personal licence where the personal licence holder has failed to complete, and provide evidence of, refresher training to the

- Board within the periods set out in the Act.

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Determination of the following are delegated to the Convener and one other Board Member, or in the absence of the Convener, two other Board Members:-

- grant of extended hours or occasional licences for hours which are outwith the Board's Licensing Policy Hours or where objections/representations have been received or conditions proposed and not accepted and which in the opinion of the Convener and one other member (or in the Convener's absence, two Board Members) may be determined without a hearing;
- authority to decide whether any application for a premises licence review is vexatious or frivolous and if so to reject it on behalf of the Board;
- grant of a personal licence where no recommendation has been received from the chief constable recommending refusal but either: a) notice has

been received from the chief constable confirming the existence of a relevant or foreign offence, or from the chief constable or a Licensing Standards Officer providing information relevant to the application; or (b) the applicant has previously held a personal licence which expired or was surrendered within the last three years;

authority to decide whether to extend the 28 day period following upon a decision to revoke a premises licence at a review hearing (on the ground that a person is not fit and proper), pending determination of an application for transfer or variation made within that period;

authority to decide whether to hold a hearing or to take no action in relation to a premises licence or personal licence, where no recommendation has been received from the chief constable after notification of a relevant conviction.

1.1 In relation to the grant of extended hours or occasional licences for hours outwith the Board's Licensing Policy Hours these are delegated to the Convener and one other Board member or in the absence of the Convener two other Board members.

1.2 The Board will receive regular reports regarding licences determined under delegated powers.

2. OPERATING PLANS

All applications for premises licences must be accompanied by an operating plan and a layout plan all complying with the Act and Regulations made under that Act. all complying with the Act and Regulations made under that Act, as well as a disabled access and facilities statement. The Board also asks applicants for premises licences to provide, with their applications, a note setting out how they propose to promote the licensing objectives.

Operating Plans must make clear how the premises are to be run, what

2.1 activities will be undertaken on the premises and at what time.

2.2 More specifically, an "operating plan" in relation to any premises is a document in the prescribed form containing:

- (a) a description of the activities to be carried on in the premises;
- (b) a statement of the times during which it is proposed that alcohol be sold in the premises;
- (c) a statement as to whether the alcohol is to be sold for consumption in the premises, off the premises, or both;
- (d) a statement of the times at which other activities, in addition to the sale of alcohol, are to be carried on in the premises;
- (e) where alcohol is to be sold for consumption in the premises, a statement as to whether children or young persons are to be allowed entry to the premises and, if they are allowed entry, a statement of the terms on which they are allowed entry including, in particular:
 - (i) the ages of children or young persons to be allowed entry;
 - (ii) the time at which they are to be allowed entry; and
 - (iii) the parts of the premises to which they are to be allowed entry;

Applicants should also note the Board's policy in paragraph 24

- (f) information as to the proposed capacity of the premises; (Square meters shall be the measurement for Off Sales)
- (g) prescribed information about the individual who is to be the premises manager; and
- (h) such other information in relation to the premises and the activities to be carried on as may be prescribed.

2.3 Where alcohol is to be sold both for consumption on and for consumption off any premises, the operating plan for the premises may state different times for:-

- (a) the sale of alcohol for consumption on the premises; and
- (b) the sale of alcohol for consumption off the premises.

2.4 In preparing and presenting the operating plan, applicants should be aware that the Board expects premises to be run in a way compliant with, and promoting, 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.

2.5 Although basic guidance may be sought from the Clerk and Licensing Standards Officers, it is for the applicant to make sure that the operating plan is in the correct form and covers all aspects of the operation of the premises. It is open to any applicant, objector or representor to seek independent legal advice.

3. BOARD MEETINGS

3.1 The proceedings of the Board shall be conducted in accordance with the provisions of paragraph 12 of Schedule 1 to the Act.

4. HEARINGS

4.1 Where a hearing is to take place, the Board will attempt to make the experience as informal as possible consistent with the carrying out of the Board's quasi-judicial function.

- 4.2 The normal procedure will be to hear any preliminary submissions. Then the Board will have the submission of the objector or representor in relation to an application or person seeking review of the premises licence. The applicant or his agent will then have an opportunity to address the hearing and Board members may ask questions of any of the parties. There will then be an opportunity for final submissions by all parties before the Board makes a decision.
- 4.3 The Board is entitled to adjourn to consider the application in private. If they do so, the Board will thereafter reconvene in public to resume consideration of, or make a decision on, the application, as appropriate.
- 4.4 Normally formal evidence will not be called for. It is noted, however, that under Section 133 of the Act, Scottish Ministers may make Regulations providing procedures to be followed at any hearing.

5. NOTIFICATIONS OF APPLICATIONS, OBJECTIONS AND REPRESENTATIONS

The Board will give notice of each premises licence application it receives to those persons referred to in Section 21 of the Act, namely:

- each person having a notifiable interest in neighbouring land;
- any community council within whose area the premises are situated;
- East Renfrewshire Council;
- Chief Constable of Police Scotland;
- Scottish Fire and Rescue Service; and
- NHS Greater Glasgow and Clyde Board.

Additionally the Board will list all applications received on East Renfrewshire Council's website, www.eastrenfrewshire.gov.uk and/or maybe listed on the Tell Me Scotland website.

6. CONSIDERATION OF PREMISES LICENCE APPLICATIONS

6.1 The grounds for refusal of a premises licence are set out in full at Section 23 of the Act. If the Board consider that none of these grounds apply it must grant the application and if it considers that one or more apply it must refuse the application.

6.2 When considering whether or not any application should be granted, the Board will take into account relevant matters including:-

- the nature of the premises, the style and type of use, the potential number and profile of the customers likely to attend the premises;
 - the proposed hours of operation;
- whether the applicant is a fit and proper person to hold the licence,
- having regard to the licensing objectives

6.3 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 own merits and appropriate advice will be sought by the Board.

6.4 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 any historical evidence, especially of the impact on local residents and will also look at the measures put into effect by the applicant to mitigate the adverse impact.

7. OCCASIONAL LICENCES

7.1 An occasional licence authorises the temporary sale or supply of alcohol which is not authorised by a premises licence.

7.2 It may be applied for by:

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

- a representative of any voluntary organisation;

to cover a period of a maximum of fourteen days.

7.3 The grant of an occasional licence is subject to the mandatory conditions laid out in Schedule 4 to the Act.

7.4 There are restrictions on the number of applications a voluntary organisation can make, in any period of twelve months. Guidance on the number of occasional licenses allowed, is available from the Board or the Licensing Standards Officer. Whereas the Board accepts that there is no limit, at present, on the number of occasional licences a premises or personal licence holder may apply for, the Board is concerned that multiple back to back applications are made instead of an application for a premises or provisional premises licence, as doing so may have an impact on the licensing objectives. Therefore, any more than six back to back applications (together or individually) will be referred to the Board for a decision.

Event organisers are encouraged to provide as much notice of their event as possible to the Board. The Board will consult with the Licensing Standards Officer on all applications and will notify the Chief Constable. Applications will generally require to be lodged a minimum of twenty eight days before the proposed event, but shorter time periods will be considered on request. For major events, at least 60 days notice should be given but 28 days is a minimum period. where an application is to allow premises to trade on a regular basis prior to a premises

licence application having been determined, the application may be referred to the Licensing Board for consideration.

11.5 Event organisers are encouraged to provide as much notice of their event as possible to the Board and to the Chief Constable. Information relating to the event will require to be detailed on the application form and the applicant may be asked to provide supporting documentation. The Board will consult with the Chief Constable and the Licensing Standards Officer on all applications in connection with events.

The Board will normally require at least 28 days notice and if applications are lodged later than this date then no assurances can be given that they will be processed in time. Accordingly applicants lodge them at their own risk. In exceptional cases having regard to the circumstances of the application, the Board, if satisfied that there is a reason to process the application more

1.1 quickly, may reduce the period of notification to a period of not less than 24 hours

1.2 The Board will consider on a case by case basis whether it is necessary to

impose conditions to give effect to the licensing objectives.

2. EXTENDED HOURS APPLICATION

- 2.1 Extended hours applications allow for an occasional extension of licensed hours and operate only for a period of up to one month. If the Board receives a number of applications to extend licensed hours, it will expect

the applicant to consider whether an application should be made to vary the premises licence by adjustment of the operating plan.

- 2.2 The Board may make a determination under Section 67 of the Act to extend licensed hours to enable premises to remain open longer for the festive period or certain special occasions. If a determination is made, 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 possible. The Clerk or Depute Clerk, in consultation with the convenor will determine the definition of the festive period and what days and hours the extended hours shall apply.

3. EXCLUDED PREMISES

- 3.1 In terms of Section 123 of the Act, excluded premises includes:

- premises used as a garage; and
- premises used as a garage which form part of larger premises.

No premises licence or occasional licence can be obtained for excluded premises.

- 3.2 Premises are used as a garage if used for one or more of the following:-

- the sale by retail of petrol or fuel for diesel engined road vehicles (DERV);
- the sale of motor vehicles; or
- The maintenance of motor vehicles.

- 3.3 There is an exception to this exclusion but only if persons resident in the locality of the garage are or are likely to become reliant to a significant extent on the garage as a principal source of:

- petrol or DERV; or
- groceries.

If that is the case the garage is not excluded premises and may therefore be the subject of a premises or occasional licence.

- 3.4 The Board will expect an applicant making an application to provide evidence of local residents' reliance on the service together with an impact assessment in relation to the anticipated impact taking into account the licensing objectives.

13 MEMBERS CLUBS

- 13.A.1 Members' clubs have been included in the premises licensing system. The Scottish Government acknowledges that it would be reasonable to reflect their special characteristics.
- 13.A.2 In order to benefit from the exemptions available members' clubs will require to meet the criteria prescribed in the Licensing (Clubs) (Scotland) Regulations 2007.
- 13.A.3 When members' clubs apply to the licensing board they will be asked to certify whether or not they comply with the criteria referred to at paragraph 1 3.A.2 in order to benefit from the exemptions. If they do the members' clubs will have to submit to the board a copy of their written constitution and rules. They will be subject to inspections by Licensing Standards Officers, who will check clubs for compliance.
- 13.A.4 Members' clubs will be subject to the same provisions regarding access by children as other licensed premises. They will require to specify in their operating plans whether or not it is proposed that children and young persons are to be allowed entry to the premises and, if so, to specify the

terms, to include the times, the ages of such children and the parts of the premises to which they would be permitted access. Appropriate conditions relating to access by children may be attached by the licensing board.

14. OBJECTIONS AND REPRESENTATIONS

- 14.1 The following information should in no way be seen as overriding the right of any person to make an objection to an application or to seek a review of a premises licence.

Any person may submit an objection or representation to the Board in relation to a premises licence. The objection must relate to one or more of the licensing objectives, or other relevant ground of refusal under the Act. Information to assist people wishing to make an objection or representation is provided in resources developed by Alcohol Focus Scotland, "Alcohol Licensing in Your Community: How You Can Get Involved". This is available at

<https://www.alcoholfocusscotland.org.uk/media/133477/Communitylicensing-toolkit.pdf>

14.1

15. A proforma to assist anyone wishing to make an objection or representation is
 16. available at <http://www.renfrewshire.gov.uk/media/2003/notice-of-objection-of-representation-17-proforma/pdf/cs-ae-ProformaObjectionorRepresentation.pdf>

- 17.1 Although anyone is entitled to object to an application for a premises licence or seek a review of a premises licence, the Board may reject an objection or an application for review where it is considered to be "frivolous" or "vexatious".

"Frivolous" and "vexatious" are the words used in the Act. In determining this, the Board is entitled to recover any expenses incurred by the Board in considering the objection or application for review.

- 17.2 Objections will be considered on their merits and the ordinary meanings of "vexatious" and "frivolous" will be adopted.

18. LICENSING HOURS

- 18.1 While each application is assessed on its own merits, the following section sets out the Licensing Board's policy on licensing hours. For applications for licensed premises at times outwith the Board's policy, applicants will require to demonstrate to the Board that the additional requested hours

are appropriate in the circumstances to those particular premises.

18.2 **Off-Sale**

For applications relating to premises licences and to occasional licences, the licensed hours for the sale of alcohol for consumption off the premises (off sale hours) are 10am until 10pm every day. The Licensing Board has no discretion to permit licensed hours outwith these times. In determining applications and licensed hours within these times, the Board will, in considering the merits, have particular regard to the effect (if any) which the proposed off-sale hours would have on the occurrence of anti-social behaviour. However, it is open to the Board to further restrict licensed hours for off-sales where it considers that the hours proposed would be inconsistent with the Licensing Objectives.

18.3 **On-Sale**

Licensed hours for on-sale premises in particular can have an impact not only within the individual premises, but also within the locality in which the premises are situated. Taking into account the five licensing objectives, the presumption against 24 hour drinking, the statutory guidance for licensing boards and local authorities issued by the Scottish Executive, and mandatory conditions specified by the regulations applicable to those premises opening after 1.00am, the Licensing Board considers the following policy to be appropriate.

Applicants should be aware of the Board's views and the hours which will generally be allowed. For on sales premises it is the Board's view that the previously adopted policy on hours of operation has served East Renfrewshire well. Accordingly, the Board re-affirms the hours which have operated in East Renfrewshire over a number of years, updated to reflect the terms of the Licensing (Scotland) Act 2005.

Commencement Hours: Monday – Sunday

9.30am: premises, for the purpose only of funeral
purveys/receptions (or in the case of Registered Clubs
only where club activities are taking place)
and otherwise

11.00am: all premises

Terminal hours: Sunday — Thursday

12 Midnight all licensed premises (including registered clubs).

Friday & Saturday

1.00am all licensed premises (including registered clubs).

18.4 The Board has an existing practice of permitting longer licensed hours over the festive period and that will continue to be the case. The festive period for the purposes of this aspect of the policy will be determined by the Board on an annual basis.

19. OVERPROVISION OF LICENSED PREMISES

19.1 Under Section 7 of the Act the Board is required to produce a statement as to the extent that the Board considers there to be overprovision of licensed premises or licensed premises of a particular description in any locality within the Board's area.

19.2 In determining locality, the statutory Guidance for Licensing Boards indicates that the process by which the selection exercise is carried out is largely a matter for the Board and will no doubt involve the use of its local knowledge. The Guidance also recommends that the information which

the Chief Constable is capable of providing is a reasonable starting point. He or She would be able to:-

- Identify 'hot spot' areas within the Board's area where it can be demonstrated that crime, disorder and nuisance are caused by customers of a concentrated number of licensed premises;
- Suggest other areas in which the number of licensed premises or premises of a particular description is moving closely towards overprovision and;
- Provide the Board with the geographical boundaries of these areas

19.3 The East Renfrewshire Licensing Board has consulted with key Stakeholders in connection with overprovision within East Renfrewshire and having taken all of the information into account has concluded the following:-

- The Board has previously decided to divide East Renfrewshire into 10 areas based on Community Council boundaries as these are broadly recognised as distinct communities by local residents. The 10 areas are:
 - a. Uplawmoor
 - b. Neilston
 - c. Barrhead
 - d. Newton Mearns
 - e. Thornliebank
 - f. Giffnock
 - g. Clarkston

- h. Netherlee & Stamperland
 - i. Busby
 - j. Waterfoot & Eaglesham
- Having taken into account the information received during the consultation process, the Licensing Board has concluded that there is presently no need for any of the areas to be deemed as overprovided.

The Board does not consider food based establishments, hotels or specialists outlets problematic.

- Although the Board is not declaring overprovision in any area of East Renfrewshire, it will pay particular attention to new premises licence applications for premises where “vertical drinking” is the only or main activity (i.e. typical or traditional pub type premises) or off sales only premises with the possible use of the overprovision ground of refusal. However, mainly food based premises or speciality premises where drinking alcohol is incidental to the main activity will still be a welcome addition to the local community and local economy of East Renfrewshire.
- The Licensing Board is aware of the potential for alcohol to be harmful within the community and whereas it does not find a causal link to harm which would allow an area to be declared overprovided, the Board will continue to monitor the situation always having regard to the Scottish Government Guidance for Licensing Boards when considering overprovision.

20. PERSONAL LICENCES

20.1 The Board invites applications for personal licences from individuals living or working in the area of East Renfrewshire. Although the Board will accept applications from other areas, applicants are encouraged to apply to the Licensing Board in the area where they live.

20.2 Any individual may seek a personal licence. The Board will grant a personal licence if it is satisfied that the applicant:

- Does not clearly hold a personal licence
- 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 or foreign offence and the application has not resulted in a notice recommending refusal from the chief constable or other information being provided by the chief constable

- or a Licensing Standards Officer which they consider relevant

- 20.3 Otherwise, the Board will consider whether the application should be refused under the Act. In making a decision the Board will have regard to the seriousness and age of the conviction along with any other circumstances it considers to be relevant.

The holder of a personal licence issued by the Board must undertake further training prior to the 5th anniversary of the issue of the licence and each subsequent period of 5 years during which the licence has effect. The licenceholder must produce evidence that the required training has been completed, to the Board no later than 3 months after the expiry of each 5 year period. Failure to undertake the training as required or to notify the Board will result in the licence being revoked.

To comply with paragraph 17.4 above all licenceholders are required to return their original personal licence to the Board along with a copy of any certificate issued as evidence of completion of the required training. The licence will be updated and returned.

All licenceholders are advised that they have a duty to notify the Board of any change in name or address within one month of that change taking place. Any changes should be notified in writing to the Board and be accompanied by the original licence.

21. LOCAL LICENSING FORUM

21.1 The formulation of this policy involved consultation with the East Renfrewshire Licensing Forum which will keep under review the operation of the Act in East Renfrewshire and will advise and make recommendations to the Board as appropriate. The Board will have regard to any advice given or recommendation made to it.

21.2 In order to ensure proper communication with the East Renfrewshire Licensing Forum, the Board may from time-to-time provide reports to the Forum to enable it to have an appreciation of, and due regard to, the detail of such matters during their deliberations.

SECTION B – PROMOTION OF THE LICENSING OBJECTIVES

22. INTRODUCTION

22.1 The Board will continually promote the licensing objectives and calls on licence holders and other stakeholders to be mindful of these when providing their services. The Board recognises that there are some types of alcohol misuse issues which are not connected to consumption of alcohol in licensed premises.

22.2 The licensing objectives are:

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

22.3 The following paragraphs set out the Board's general policy in respect of the objectives. The Board may when necessary impose a range of conditions which will be appropriate to a particular licence. The purpose of such conditions will be to promote the licensing objectives.

22.4 In each section relating to the objectives, the Board has defined its intended outcome. Each section lists the influencing factors on the achievement of that objective but, because of the wide variety of premises and activities to which this policy applies, the lists provided are not exhaustive. Applicants will know their own premises best and will be expected to address all aspects relevant to the individual style and characteristics of their premises and the licensable activities for which they are seeking authorisation.

22.5 In each sub-section, a list of possible control measures is provided. This is intended to be of assistance to applicants, but again is not intended to be

an exhaustive list. Many control measures achieve more than one objective but have not necessarily been listed under each objective.

23. THE PREVENTION OF CRIME AND DISORDER

23.1 The Board, in carrying out its functions, will have regard to the likely impact of licensed activities and related crime and disorder when considering the location, operation and management of all licence applications, reviews and variations.

23.2 The Board supports a strategy aimed at making East Renfrewshire a safe place to live and visit. The Board is committed to improving the quality of life for the people of East Renfrewshire by ensuring that licensed premises are managed in such a way as not to contribute to crime and disorder. Applicants are expected to consider how they will promote the prevention of crime and disorder. The applicants should also be able to demonstrate that all those factors which impact on crime and disorder have been considered. These include:-

- underage drinking;
- drunkenness on the premises;
- public drunkenness;
- illegal possession and/or use of Drugs;
- violent behaviour;
- anti-Social Behaviour; and
- litter

23.3 Applicants are encouraged to discuss crime prevention procedures in their premises with the Council and Police Scotland. Factors may include underage drinking, drunkenness on premises, public drunkenness, drugs, violent behaviour and antisocial behaviour.

23.4 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:-

- having a written crime prevention strategy;
- effective and responsible management of premises;
- training given to staff to include preventing crime and disorder and conflict management;
- training and effective supervision of staff;
- written policies on mandatory proof of age scheme;

provision of effective CCTV in and around the premises provision of effective CCTV in and around the premises which complies with current legislative requirements, is fully maintained and an employee trained in its operation always available on the premises, with the CCTV footage being retained for a minimum period of 28 days;

- security policies and regular toilet checks;
- employment, when necessary, of Security Industry Authority licensed door staff;
- active membership of Pubwatch or Radiolink type schemes or similar schemes;
- provision of litter bins and lighting outside premises;
- provision of plastic or toughened drinking vessels;
- justification for size of measure; and
- choice of size of wine glass.

23.5 Licence holders are called upon to take positive action to discourage drinking and driving . Licence holders are, therefore, encouraged to play an active part in preventing drink driving by:-

- displaying anti-drink driving materials;
- supplying reasonably priced non-alcoholic drinks; and
- promoting awareness of campaigns such as designated drivers scheme.

23.6 Sectarianism (23.6, 23.7 and 23.8 may need to be removed as they may not be Brightcrew compliant)

The Licensing Board is aware that the issue of sectarianism is of public concern and debate in Scotland.

For the purposes of this policy the Board defines Sectarianism as follows:-

Sectarianism is an open display of bigotry, discrimination, prejudice or hatred arising from attaching importance to perceived differences between subdivisions within a group, such as between different denominations of a religion or the factions of a political movement. This may also include issues arising from ethnicity and class-divisions.

The Board is of the opinion that sectarian conduct in premises can lead to incidents resulting in intimidation and violent behaviour, which in turn may pose a threat to public safety and thus be contrary to the fundamental principles set out in section 1 of this policy.

A licensee should not behave in such a manner that appears to promote or tolerate the acceptance of sectarian behaviour, either by members of the public or staff. Actions which amount to the above can cause offence and have the result that members of the public will feel excluded from the premises by way of their beliefs.

The identification of sectarian items or entertainment on premises will be at the discretion of the Licensing Standards Officer and police.

If a situation arises where the licensee disputes the decision of the Licensing Standards Officer, the licensee can request to have the Board examine the items or the nature of the entertainment and render a decision.

23.7 Illegal Substances

The Board are aware that use of illegal substances is a problem being faced in the Licensed Trade. The Board would advise all licensees to give consideration to possible methods to actively deter such activity in and around their premises.

23.8 Litter and Waste Management

In the interests of the environment and hygiene of licensed premises within East Renfrewshire the licensee should have sufficient waste management initiatives in place to ensure that the inside and outer perimeter of the premises is free of litter and debris, including cigarette ends and general debris.

23.9 Dispersal

The Board suggests that licensees should ensure that their staff have sufficient training in place and consider measures to ensure dispersal of customers in an orderly fashion and to ensure order is maintained and nuisance avoided during dispersal.

21 **SECURING PUBLIC SAFETY**

21.1 The Board recognises that the term “licensed premises” will cover a wide range of premises and activities, each with its own safety risks or issues. The premises must be constructed or adapted and operated in such a manner as to safeguard occupants from those risks or issues. The Board is committed to ensuring that the safety of any person visiting or working in or in the vicinity of licensed premises is not compromised.

21.2 Issues may involve:-

- occupancy capacity of the premises;
- age, design and layout including means of escape;
- nature of activities such as music and dancing;
- hours of operation;
- customer profile (e.g. age, disability); and
- use of special effects such as lasers, pyrotechnics and, smoke machines.

21.3 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 licensable activities:-

- suitable and sufficient risk assessments;
- effective and responsible management of premises;
- sufficient number of staff;
- appropriate instruction, training and supervision of staff;
- having an effective glass management policy either involving the removal of all glassware regularly or by providing toughened or plastic drinking vessels.
- having a written policy on how to deal with customers and any other person in the premises who may become incapacitated or vulnerable due to drink or drugs;
- having first aid facilities;
- informing Police Scotland of any special events taking place in the premises or issues relating to public safety;
- having a written accident recording system;
- displaying local transport information to facilitate safe journeys home for customers;
- adoption of best practice guidance;
- provision of effective CCTV coverage;
- implementation of crowd management systems; and
- proof of regular testing and certification where appropriate of procedures, appliances and safety systems.

22. THE PREVENTION OF PUBLIC NUISANCE

22.1 Licensed premises have a significant potential to impact adversely on communities, through public nuisances that arise from their operation. The Board wishes to maintain and protect the amenity of residents and local businesses from the potential consequences of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.

- 22.2 Although interpretation is ultimately a matter for the Courts, the Board intends to interpret “public nuisance” widely and understands it to include such issues as noise, light, odour, litter and anti-social behaviour where these impact on those living, working or otherwise engaged in normal activity in an area or locality.
- 22.3 “Anti-social behaviour” is defined in the Anti-social Behaviour, etc. (Scotland) Act 2004 as behaviour where a person acts in a manner that causes or is likely to cause alarm or distress or pursues a course of conduct that causes or is likely to cause alarm or distress to at least one person who is not from the same household as the person engaging in the behaviour; conduct includes speech.
- 22.4 The Board expects that licence holders 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.
- 22.5 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 licence holders to be aware of their responsibilities and of the possibility of statutory street litter control notices in the case of non compliance.
- 22.6 In addition, when applicants propose to provide outside seating, tables or other facilities in any outdoor area, whether covered or not, regard should be had to the need to ensure that the use of such areas will not cause disturbance or nuisance to the occupiers of other premises in the vicinity.
- 22.7 When addressing the issue of preventing public nuisance, the following factors are relevant and should be considered:-

- 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 after 11pm.
- 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 the 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 is fully maintained and an

- employee trained in its operation always available on the premises..
- The occupant capacity of the premises.
- The availability of public transport and taxis.
- The wind down time between the end of the licensable activities and the closure of the premises.
- The last admission time.

22.8 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 licensable activities:-

- Effective and responsible management of premises.
- Appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance.
- Control of operating hours for all or parts of the premises — for instance, garden areas, bottle disposal and deliveries.
- 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 the 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 which complies with current legislative

requirements is fully maintained and an employee trained in its operation always available on the premises, with the CCTV footage

- being retained for a minimum period of 28 days;.
- Effective ventilation systems to prevent nuisance from odour.

- Active membership of Pub Watch, radio link type schemes or similar schemes.
- Keeping doors and windows closed during noisy periods.
- Avoiding loud speakers and live music next to party walls to residential properties

23. PROTECTING AND IMPROVING PUBLIC HEALTH

23.1 Licence holders can help promote this objective in many ways. They can use materials such as posters, beer mats which promote moderate consumption of alcohol along with awareness of units of alcohol and the recommended guidelines for consumption of alcohol by men and women. A wine list, for example, might state how many units of alcohol per glass or bottle together with a reminder of the guidelines. The Board is concerned about the link between the consumption of alcohol and public health. The Board wishes to see premises thriving in East Renfrewshire but this cannot be at the expense of patrons' health and wellbeing. The Board will have regard to the views of, and take advice from the relevant bodies responsible for and interested in the protection and promotion of public health in East Renfrewshire.

23.2 Licence applicants, door stewards 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 an established practice within the premises to ensure that a standard approach is taken where a patron's demeanour demonstrates an excessive consumption of alcohol. There should also be a clear understanding of the offences committed in connection with agent purchasing the service of alcohol to children or persons who appear drunk and allowing drunkenness on the premises.

23.3 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 licensable activities:-

- displaying anti-drunkenness materials along with information on units of alcohol in the context of recommended guidelines;
- having a workplace alcohol policy in order to raise awareness, minimise harm and ensure that staff are able to access help (without fear of a job loss) when a problem arises; and
- ensuring customers are aware of choice in relation to alcohol measures particularly wine e.g. small, medium or large glasses should be available.

24 PROTECTING CHILDREN FROM HARM

241 The Board wishes to see family friendly premises thriving in East Renfrewshire. Where applicants wish to operate such premises, the Board expects them to appreciate that this places additional responsibilities upon them at the same time recognising that parents and other adults accompanying children also have responsibilities.

24.2 The Act defines children as persons under the age of 16 and young persons as those aged 16 and 17 . The Board encourages applications that make venues family friendly and safe for children and young persons. The Board, however, will have particular regard to this objective when:-

- there have been convictions of staff or licence holders for serving alcohol to underage persons or where premises are in an area where there is a history or other evidence of underage drinking;
- there is a serious element of gambling within the premises;
- entertainment of an adult nature is provided;
- the operating plan shows that the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the service provided (referred to as vertical drinking establishments);

- licence holders or staff have criminal convictions for offences against children or have otherwise been found unsuitable to work with children.

24.3 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 licensable activities:-

- effective and responsible management of premises;
- appropriate instruction, training and supervision of staff;
- adoption of best practice, including a written policy on prevention of sales of alcohol to children and young persons;
- limitation on the hours when children and/or young persons may be present, in all or parts of the premises;
- limitations or exclusions by age;
- written policy on mandatory proof of age scheme, ;
- measures to ensure children or young persons do not purchase, acquire or consume alcohol (other than as allowed by law);
- measures to ensure children or young persons are not exposed to incidences of strong and offensive language, violence or disorder;
- use of fixed fire guards on open fires and prohibition of mobile heaters when young children are in the premises;
- availability of high chairs and suitable drinking vessels for young children;
- ensuring staff involved with the delivery of alcohol along with takeaway food have appropriate training and that the appropriate procedures are adhered to by staff.

24.4 When preparing the operating plan, applicants must set out the terms on which children and young persons are to be allowed entry including the ages of children and young persons to be allowed entry, times and parts of the premises to which children and young persons will have access.

The Board will have regard to these terms and if the Board consider it to be necessary will arrange a visit to the applicant premises to inform their determination of the application.

24.2 Where children and young persons are permitted entry to the premises, the Licensing Board may place a limit on the hours when children and young persons may be present on the premises. Generally this limit will be for on sales, children 15 years and under must vacate by 10 pm. 16 years and above may stay until the appropriate terminal hour but each application will be considered on its merits and the Licensing Board will take into account the measures each applicant proposes taking in order to protect children from harm.

In the event that it is intended that children under the age of 16 years are to be permitted entry to licensed premises after 10 pm in connection with a special event, the applicant shall make an appropriate written request to the Clerk of the Licensing Board for approval of the premises as suitable for children and young persons to remain on the premises until the terminal hour.. The Licensing Board or the Licensing Standards Office will in that event carry out an assessment of the premises in relation to their suitability for the presence of children and report on this to the Clerk/Depute Clerk of the Licensing Board who will have delegated authority to approve or refuse the request. Once premises are assessed as suitable, they need only be assessed on an annual basis thereafter.

Any children permitted access to licensed premises must be accompanied at all times by a person aged 18 years or over (excluding premises licences authorising the sale of alcohol for consumption off the premises only or otherwise authorised by the Board).

25. RELATIONSHIP WITH OTHER STRATEGIES

25.1 The Board will endeavour to secure proper integration with local crime prevention, community safety, health, planning, regeneration, transport, tourism, race equality and cultural strategies.

25.2 There are a number of wider issues which require to be given due consideration when dealing with applications. The Board will receive, when

appropriate, reports on the needs of tourism or regeneration in relation to East Renfrewshire, from the Council's Director of Environment to make sure that these are reflected in the Board's consideration.

25.3 The Board recognises that licensing applications are not, and should not be seen as, a re-run of the planning application process and that there is a clear separation of the planning and licensing regimes.

25.4 In addition, the Board will not attach conditions to a premises licence unless these are considered necessary for the promotion of the licensing objectives. Conditions will generally be considered unnecessary where these would relate to matters already covered by other legislation.

26. AVOIDING DUPLICATION

26.1 The Board will, so far as possible, avoid duplication with other regulatory regimes such as health and safety at work, fire safety, building standards and planning.

27. CONDITIONS

27.1 The Act, in Schedule 6, provides mandatory conditions for premises licences. The Board has power to impose additional licence conditions. These conditions will not be inconsistent with or seek to strengthen or restrict mandatory conditions and will only be imposed when considered necessary for the promotion of the licensing objectives.

27.2 The Board may agree local conditions to be applied to particular premise type/activities on a case by case basis.

28. THE HUMAN RIGHTS ACT 1998

28.1 The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for bodies such as the Board to act in a way which is incompatible with a Convention Right. The Board will have particular regard to the following relevant provisions of the European Convention on Human Rights in respect of its licensing responsibilities:-

- Article 6: that in the determination of civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law;
- Article 8: that everyone has the right to respect for their home and private life; and
- Article 1 of the First Protocol: that every person is entitled to the peaceful enjoyment of their possessions including, for example, the possession of a premises licence.

29. EQUALITY

29.1 The Board values and celebrates the diversity that exists within East Renfrewshire and wants to ensure that everyone can fully participate in the social, cultural, political and economic life of East Renfrewshire.

29.2 The Board opposes all forms of unlawful discrimination including (but not limited to) discrimination on the grounds of race, ethnicity, gender, sexual orientation, age, religion and disability and recognises that discrimination creates barriers to achieving equality for all people.

30. DISABILITY

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

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

31. RACE EQUALITY

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

- eliminate unlawful discrimination; and
- promote equality of opportunity and good relations between persons of different racial groups.

32. GENDER EQUALITY

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

- eliminate unlawful discrimination and harassment; and
- promote equality of opportunity for women and men.

33. ENFORCEMENT , LICENSING STANDARDS OFFICERS AND SOURCES OF OTHER INFORMATION

33.1 The Board will follow best practice in enforcement including adoption of the best Regulation Principles and the Hampton Standards, namely, that its actions will be: proportional, accountable, consistent, transparent and targeted.

33.2 East Renfrewshire Council have agreed to appoint one Licensing Standards Officer (LSO) (i) to investigate allegations of unlicensed activities, (ii) to ensure that licence conditions are complied with and (iii) to provide information, guidance and a mediation service. It is a mandatory condition of the Act that the LSO is fully trained thus enabling them to carry out their functions efficiently. The LSO will be a member of the East Renfrewshire Licensing Forum.

34. The Act provides that Licensing Standards Officers' general functions include providing information and guidance; supervising compliance by licence
35. holders with licensing legislation and their licence conditions and providing
36. mediation. Premises covered by a premises licence are visited by Licensing
37. Standards Officers for their compliance with licensing legislation and licence
38. conditions. Where a premises licence has recently been issued, or where a variation (other than a minor variation) has been granted, Licensing Standards Officers will visit those premises as a priority to ensure compliance with the
39. above requirements

The Board recognises that, for members of the public who do not deal with the complexities of the licensing legislation on a daily basis, lodging objections or representations to a licence application (or an application for a review hearing) is likely to be a daunting experience. The Board also recognises that, for those people, the Licensing Standards Officer may be the first contact they have with the licensing authority. The role of Licensing Standards Officer is not to make applications, or objections, on behalf of members of the public, but they are available to offer appropriate support to all parties seeking to be involved in the Board's licensing processes. They will also be able to provide information as to application procedures and may be able to signpost members of the public to helpful resources, such as the Toolkit Resource published by Alcohol Focus Scotland

The Licensing Standards Officer may be contacted by email at XXXXXXXXXX and by telephone at 0141-xx-xxxx. Where issues are raised with the Licensing Standards Officer which do not relate wholly to licensing matters, the Licensing Standards Officer will be able to provide contact details for other Council Services who may be suitably placed to assist.

- 39.1 Initially, it is anticipated that resources will be targeted towards high-risk premises and activities that require greater attention whilst a lighter touch will be provided in respect of low-risk premises which are well operated.
- 39.2 The Board will liaise closely with its partners to assist licence holders to comply with the law and the five licensing objectives it seeks to promote. Proportionate but firm action will be taken against those who commit offences. In particular the Board anticipates co-operation with the police and to share information where appropriate in order to enhance the promotion of the five licensing objectives.
- 39.3 When a matter is submitted to the Board by the Licensing Standards Officer, it is expected, except in the most serious cases, that attempts will already have been made through advice, mediation and negotiation to address the matter. It is, therefore, envisaged that very few such cases will need to be submitted to the Board.

It should be appreciated, however, that, in appropriate cases, the Board will not hesitate to use its powers to suspend or revoke a licence, notwithstanding that this may have a detrimental impact on the business.

40. POLICY RELATIVE TO THE MANAGEMENT OF OUTSIDE DRINKING AREAS

Where applicants for a premises licence propose within their operating plan to provide an outside drinking area or areas, the Board will expect the applicant to have regard to the need to ensure that the use of such areas will not cause disturbance or nuisance to the occupiers of other premises in the locality. Generally, an outside drinking area will only be permitted to operate until a maximum of 10 pm but earlier may be more appropriate in tenemental properties or where domestic properties are within close proximity of the outside area.

Where an applicant intends to apply for an outside drinking area to be included within the licensed area of the premises, that area must be included within the layout plan for the premises and clearly indicated as such. The applicant must also be able to advise as to how the proposed licensed outdoor area will be delineated on the ground. The requirement for physical delineation on the ground may then be made a condition of the premises licence in respect of the outdoor drinking areas.

In the case of an outdoor area used exclusively in connection with events or functions The Board will also expect the applicant to be able to demonstrate their intention to put in place effective management controls, supervision and other measures to ensure that the use of such areas by patrons does not have an adverse impact on the locality.

In pursuance of the Licensing Objective of Preventing Public Nuisance, the Board will generally not permit amplified sound or music to be played within, or relayed to, outdoor drinking areas.

Where the proposed outdoor area is situated on an adopted public footway, applicants applying for outdoor areas should also obtain any other statutory consents required. Also such outdoor areas should only be used for the consumption of alcohol by those **seated** in the area – no external “vertical drinking” should take place on a public adopted footway.

The Board will generally not apply this requirement to

external areas which are not part of the public road or to

external mixed areas which are contained within “beer gardens” provided the extent of that facility does not cause public nuisance..

For the purposes of this Policy Statement, and for the avoidance of doubt, "outdoor drinking areas" are enclosed areas of private ground included within the licensed premises as per the approved operating plan and layout plan and which do not require consent in terms of section 59 of the Roads (Scotland) Act 1984. "Public footway" is the area for which consent is required from the roads authority in terms of that section.

