

The Highland Licensing Board

Meeting – 27 August 2013

Agenda Item	3
Report No	HLB/106/13

Licensing Policy Statement 2013-16

Report by the Clerk to the Board

Summary

Following consideration of all responses received to the recent consultation on the Board's Consultation Draft Policy Statement 2013-16 the Board is invited to agree amendments and additions to the Consultation Draft Policy Statement 2013-16, and agree that a draft Final Policy Statement 2013-16 incorporating the agreed amendments and additions then be brought back to the Board for final approval before adoption.

1. Background

1.1 The consultation period on the Board's draft Policy Statement 2013-16 (**Appendix 1**) ended on 31 July 2013. A number of written responses to the consultation were received both from statutory consultees (The Highland Licensing Forum and NHS Highland), Police Scotland, various licensed trade associations, individual licensees and members of the public. These responses have been collated into one document which is attached (**Appendix 2**). The Board requires to consider these responses before agreeing the final terms of its Policy Statement 2013-16.

1.2 In agreeing those final terms, the Board must ensure that the policies adopted in the statement seek to promote the licensing objectives, namely:

1. preventing crime and disorder
2. securing public safety
3. preventing public nuisance
4. protecting and improving public health
5. protecting children from harm

2. Main Issues

2.1 Premises Licence Core Hours

2.1.1 On-sales: With one or two exceptions, existing on-sales hours (for premises other than Late Opening Premises) for Monday to Saturday - 1100 hours to 0100 hours the following day - were generally supported by respondents.

However, with regard to existing Sunday hours – 1200 hours to 2400 hours – while a small minority considered that on-sales should not be permitted at all on Sundays, several respondents made the point that there was no clear reason for Sunday hours to be different from the rest of the week.

- **The Board will have to consider therefore whether any alteration to existing Sunday hours – which apply to all on-sales premises whether general, food-led or late opening premises - should be changed or whether there is a licensing objective for their retention.**

2.1.2 Off-sales: Existing hours for on-sales (1000 hours to 2200 hours) are the maximum permitted by the Licensing (Scotland) Act 2005 section 65 and in the Consultation Draft, it was proposed that these existing hours be retained. A number of respondents advocated extension of off-sales hours. However, it is not open to the Board to do this. The Act states that the Board “must refuse” any application for off-sales before 1000 hours or after 2200 hours.

2.1.3 Food-led operations: No representations were received disagreeing with the hours proposed for restaurants and other food-led operations.

- **The Board is invited to consider adopting the hours for food-led operations as proposed in the Consultation Draft**

2.1.4 Late opening premises: One respondent queried why pubs (providing no significant entertainment) should not be permitted the same late hours as are proposed for premises providing significant entertainment (i.e. Thursday to Saturday to 0300 hours the following day). The reason the “significant entertainment” qualification is proposed, however, is to ensure that during such late hours, the sale of alcohol for consumption on the premises will be ancillary to the provision of significant entertainment. In other words, it must be the entertainment, and not the consumption of alcohol, which is the primary draw for customers. This is intended to ensure that by permitting such late hours, the Board creates no conflict with any of the licensing objectives.

- **The Board is invited to consider this representation, however, and in particular consider whether the respondent has made a case for allowing late opening (i.e. after 0100 hours) in pubs where the primary draw for customers is purely the consumption of alcohol or whether this would conflict with any of the licensing objectives.**

2.2 Extended hours applications

Representations received in response to Section 2.2 of the Consultation Draft which sets out the proposed policies in relation to extended hours applications related almost exclusively to the issue of whether early opening (i.e. before 1100 hours, or before 1200 hours on a Sunday) should be permitted on Scottish Premier League match days.

A number of respondents considered early opening should be allowed, arguing that it was better for supporters to be drinking in licensed premises, where an element of control was possible, than have them left with the only option of purchasing from off-sales.

The majority (including the Forum, NHS and Police Scotland), however, favoured the approach set out at Option 2. This approach is a presumption against such early opening being permitted, except at the football club premises themselves where early opening is sought to accommodate pre-match hospitality packages and the Board is satisfied that the consumption of alcohol is ancillary to the pre-match dining and entertainment provided. This is the approach which the Chairman of the Board has recently been adhering to when considering extended hours applications under her delegated powers.

- **The Board is invited to consider adopting the proposals in relation to extended hours applications set out at section 2.2 of the Consultation Draft.**
- **In respect of SPL match days, the Board is invited to consider whether Option 2 should be adopted, or whether there is a case for adopting Option 3 (i.e. permitting early opening at all premises on match days) which does not conflict with any of the licensing objectives.**

2.3 Festive hours

The majority of respondents (including the Forum, NHS and Police Scotland) were happy with the proposals at section 2.3 of the Consultation Draft in respect of extended opening hours during the festive period. A small minority considered that the three week period proposed was excessive and that the period should be restricted to a maximum of 2 weeks, ending 2 January (inclusive). Another small minority considered that permitting opening until 0400 hours at late opening premises (i.e. those providing significant entertainment) was excessive, placing additional demands on police and emergency services.-

As members are aware, however, the hours proposed (0400 hours for late opening premises and 0200 hours for other on-sales premises) were “tested” over the 2012-13 festive period and no adverse reports were subsequently received from the Police, other services, or the Council’s Licensing Standards Officers.

The proposals set out in the Consultation Draft indicate that while the proposed extended hours over the festive period would be fixed by the Board for all festive periods between 2013-16, the dates during which these extended hours would be available would be determined by the Board each year. In order to ensure that confirmation of the dates during which the festive hours will be available can be issued as early as possible each year, however, it is now recommended that the Board consider delegating the power to fix the dates each year to the Clerk, in consultation with the Chairman. If the Board is

mindful to delegate this power to the Clerk and Chairman, it would be helpful if the Board were to indicate also the approximate period they would wish the festive hours restricted to (eg, 2 weeks or 3 weeks) and to do so by reference to an end date (eg 2 or 3 January inclusive).

- **The Board is accordingly invited to consider adopting the proposals for festive hours as set out in section 2.3 of the Consultation Draft, but also to grant delegated power to the Clerk, in consultation with Chairman of the Board, to fix, annually, the dates during which these festive hours will be available.**
- **The Board is further invited, if granting delegated power as invited above, to indicate the approximate period they would wish the festive hours restricted to (eg 2 weeks or 3 weeks) and to do so by reference to an end date each year, such as 2 or 3 January inclusive.**

2.4 Occasional licences

Little comment was received in respect of the proposals in respect of occasional licences set out at section 2.4 of the Consultation Draft.

The Forum suggested that the festive period hours should be extended also to occasional licences. It should be noted, however, that this was already provided for in the proposals set out in section 2.4 of the Draft.

One respondent, who had suggested a ban on Sunday opening, considered the ban should include occasional licences on Sundays. Others who had proposed that premises licence core hours on Sundays should be changed from 1100 hours to 0100 hours in line with the rest of the week considered the same should apply to occasional licence policy hours.

- **The Board is invited to consider these representations and decide whether any changes to the proposals in respect of occasional licences in section 2.4 of the Consultation Draft should be made before adoption.**

2.5 Access to premises by children

The proposals in respect of the restrictions which the Board will place on access to premises by children are the Board's existing policy and practice. Two respondents sought relaxation of these restrictions on the basis that they create difficulties for tourists travelling with children. The restrictions, however, are broadly in line with those imposed by other licensing boards (as confirmed by Punch Taverns) and they are not unduly restrictive.

The Forum suggested a revision to change the wording from "The Board will impose..." to "The Board may impose ..." for the reasons stated in their comments set out at Appendix 2. It is recommended that the Board agree to this revision for the reasons put forward by the Forum.

The Forum also suggested that the Statement direct people to a sample age verification policy, and again it is recommended that this be agreed. Finally they suggested that the Statement highlight the premises licence mandatory condition requiring that premises admitting children under five have baby changing facilities accessible to both genders. Again, it is recommended that this be agreed and that the Board clarify whether it would wish to include the same condition as a local condition for occasional licences to be imposed where appropriate.

- **The Board is invited to consider the representations, to agree to the revisal and additions suggested by the Forum and to consider whether any further changes to the proposals in respect of access to premises by children in section 2.5 of the Consultation Draft should be made before adoption.**

2.6 Adult Entertainment

Members will note that many of the representations received in respect of the proposals on adult entertainment set out at section 2.6 of the Consultation Draft suggests the Board should simply refuse to permit adult entertainment in licensed premises on the basis that to permit such an activity runs contrary to the Board's equalities duties. Members will recall from previous debate, however, that while the Scottish Government have imposed equalities duties on licensing boards, they have not increased the statutory grounds on which boards may refuse to grant premises licences to include refusal on the grounds of equalities issues. A policy of refusing, on equalities grounds, licence applications which include adult entertainment as an activity would therefore be legally flawed and would fall if challenged in court.

The proposals on adult entertainment in the Consultation Draft therefore simply sought to replicate the Board's existing adult entertainment conditions with the aim of at least providing some degree of protection to performers and the public where adult entertainment is taking place. However, there remains doubt as to whether these conditions would be enforceable under the 2005 Act since they relate to the protection of performers and public rather than to the sale of alcohol. The decision of the Court of Session in Brightcrew Ltd – v – City of Glasgow Licensing Board remains, for the time being, the leading authority on this issue, and would suggest that these conditions do not meet the requirements of the Act.

Consequently, pending creation of a separate licensing regime for sexual entertainment venues (as is the subject of current consultation by Scottish Government), it is proposed that the Board at least retain a policy requiring some form of mechanism to ensure that the protective measures intended through the adult entertainment conditions are put in place at premises providing adult entertainment where considered necessary and appropriate. This could be achieved indirectly, as in the recent application in Inverness

which the Board dealt with, by ensuring that an operating code which includes the protective measures referred to in the Board's conditions, is included within the premises licence operating plan by consent with the applicant.

- **The Board is invited to consider the representations received in respect of the proposals for adult entertainment conditions contained in section 2.6 of the Consultation Draft.**
- **The Board is also invited to agree that the proposals in section 2.6 be amended to state that where considered necessary and appropriate the Board will expect applicants who include adult entertainment as an activity in their operating plans also to include in their operating plans a statement that they will operate only in accordance with an operating code which includes the protective measures for performers and the public, including children, set out in the adult entertainment local conditions formerly imposed by the Board, as set out at Appendix 9 of the Consultation Draft. If members are minded to agree to this, it is further recommended that Appendix 9 become “Protective Measures to be included in Operating Codes where Adult Entertainment is Provided”, instead of “Adult Entertainment Local Conditions”.**
- **The Board is further invited to consider the suggested changes and additions to these conditions/protective measures suggested by the Forum, Police Scotland, the Inverness, Highlands and Islands Licensed Trade Association and the Highland Violence Against Women Partnership as set out at section 6 of Appendix 2 and to agree whether any of these changes and additions should be made to the list of protective measures in Appendix 9 of the Consultation Draft.**

2.7 Home Deliveries

No representations were received in respect of the proposals relating to home deliveries set out at section 2.7 of the Consultation Draft.

- **The Board is invited to consider adopting the proposals in respect of home deliveries set out at section 2.7 of the Consultation Draft.**

2.8 Members' Clubs

The proposals set out in respect of members' clubs at section 2.8 of the Consultation Draft are statements reflecting mandatory legal requirements rather than Board policy. It was felt that a number of members' clubs were in need of reminder as to the statutory obligations and restrictions to which they are subject (and which justify the lower requirements and reduced annual fee they benefit from under the legislation).

A number of respondents, including the Forum, the Inverness, Highlands and Islands Licensed Trade Association (IHI LTA) and Inverness Pub Watch have, however, urged the Board to point out these statutory obligations and restrictions more forcefully and, to that end, the Forum and the IHI LTA have offered suggested revised wording.

The Forum also invite the Board to include additional statements as to the Board's expectations of clubs – encouraging clubs to limit, via their constitutions, the number of non-members who can be signed in by club member and encouraging clubs to ensure observance of their constitutions.

It is recommended that all of these suggestions be accepted by the Board.

- **The Board is invited to consider the representations received in respect of its proposals in relation to members' clubs contained in section 2.8 of the Consultation Draft and to consider amending and adding to these proposals in the manner suggested by the Forum, the IHI LTA and Inverness Pub Watch.**

2.9 Plastic Glasses

The Consultation Draft set out a range of options in respect of the Board's current policy on plastic/polycarbonate glasses, which is to impose a condition requiring all drinks to be served in plastic/polycarbonate glasses after 2100 hours at late opening premises (i.e. those open after 0100 hours).

The vast majority of respondents (including the Forum and Police Scotland, but not including NHS Highland) were in favour of Option 4, which would change current policy to apply the condition to late opening premises and other on-sales premises in each case only where considered appropriate on the basis of individual risk assessment at that premises.

The Board is referred in particular to the Police Scotland representation set out at section 8 of Appendix 2 as to how Option 4 would work in practice and the fact that it would facilitate and formalise a process already followed by Police Scotland, in conjunction with the Licensing Standards Officers.

- **The Board is invited to consider the representations received in respect of the Board's current policy on plastic glasses and the alternative options and to agree which of the options to adopt.**
- **If adopting Option 4, the Board is invited to leave open any decision on the time of night from which any plastic glasses requirement would commence, on the basis that this should be assessed on a case by case basis, where Police Scotland have sought review of a premises licence to include a plastic glasses requirement on the basis of risks identified at that particular premises.**

- **If adopting Option 4, the Board is also invited to agree that the Clerk to the Board notify all premises licence holders who currently have the plastic glasses condition imposed as a condition of their licence that applications to vary their licence to remove the condition will be considered, in each case following consultation with Police Scotland.**

2.10 Outdoor Drinking

Few representations were received in respect of the proposals set out at section 2.10 in relation to outdoor drinking areas.

The principal issues raised in those representations received, however, have related to the hours during which consumption of drinks in outdoor areas should be permitted and the fact that the Board's local condition requiring that the boundaries of any outside drinking area be agreed by the Licensing Standards Officer duplicates, in certain cases, the "pavement permit" process operated by the Council's TEC Services.

One respondent suggested that consumption of drinks should be permitted in all properly contained and designated smoking areas. However, it is up to individual applicants to identify, in their plans, the outdoor drinking areas they wish approval for. It is open to them to identify their designated smoking areas as outdoor drinking areas and this is not, therefore, a matter which requires to be covered by Board policy.

It should be noted that the Board's proposals do not specify a particular hour after which drinks may not be consumed in outdoor areas. Practice has been to determine this on a case by case basis, having regard to the nature of the locality in which the premises are situated.

- **The Board is invited to consider the representations received in respect of its proposals on outside drinking areas and to determine whether any changes should be made before adoption.**
- **In particular, the Board is invited to agree to continue the practice whereby the hours during which outside drinking is allowed in outside drinking areas are determined on a case by case basis having regard to the nature of the locality in which the premises are situated and other relevant factors.**
- **The Board is further invited to agree that no requirement to obtain LSO's approval of the boundaries of outside drinking areas be imposed where the outside drinking area requires a "pavement permit" from the Council's TEC Services, but that such a requirement may be imposed where the area proposed is not one which would require a "pavement permit" (eg, garden ground or other non-pavement ground within the curtilage of the premises).**

2.11 Capacity

No representations were received in respect of section 2.11 of the Consultation draft relating to how capacity is to be stated in operating plans for on and off sales. These proposals replicate the Board's existing practice.

- **The Board is invited to agree the proposed terms of section 2.11 without change.**

2.12 Personal Licences

No representations were received in respect of section 2.12 of the Consultation draft which simply sets out reminders to personal licence holders as to refresher training requirements and to changes in circumstances which they must bring to the Board's attention.

- **The Board is invited to agree the proposed terms of section 2.11 without change.**

2.13 Local conditions set out in Appendices 7, 8 and 9 to the Consultation Draft

With regard to most of the comments received proposing changes and/or additions to local conditions, the Board will require to take a decision on the main issues listed and discussed in this report at paragraphs 2.1 to 2.12 above before any agreement on these changes and additions to local conditions can be reached.

It is recognised, however, that some tidying up of the local conditions is required to remove any remaining vagueness or uncertainty, as highlighted in some of the consultation responses.

- **The Board is accordingly invited to agree that the Clerk submit final terms of local conditions to the Board for its approval when submitting the draft Final Policy Statement 2013-16, incorporating the Board's agreed position on the main issues at 2.1 to 2.12 above, to the Board for final adoption.**

2.14 Comments received on other issues

The Board is invited to consider the additional comments received on issues not raised in the Consultation Questionnaire and which are set out at the end of Appendix 2. These include questions relating to:

- Whether the Policy Statement should clarify expectations in relation to stewards, i.e. should volunteer stewards be trained or untrained and what exactly their remit is.
- Whether clarification should be included in the Occasional Licence section as to what the Board will consider to be a single event, as opposed to one in a series of events with a common theme (eg.

different events taking place over a village gala weekend or over a fundraising drive for a particular charity)

- Whether the Policy Statement should clarify the training standards required (and information as to where training can be obtained) where voluntary organisations apply for occasional licences.
- **These and the other issues raised in these comments are all issues which the Board is invited to consider and reach a final view on. It is recommended that the Board then agree that the Clerk should submit final terms in relation to these matters to the Board for its approval when submitting the draft Final Policy Statement 2013-16, incorporating the Board's agreed position on the main issues at 2.1 to 2.12 above, to the Board for final adoption.**

3. Equalities

- 3.1** Preliminary screening has not indicated a need for a full equalities impact assessment. Further screening will be carried out once the draft Final Policy Statement 2013-16 has been prepared for final approval and adoption by the Board.

Recommendation

The Board is invited to consider and agree its position in relation to each of the main issues raised in section 2 of this report and to instruct the Clerk to the Board to prepare a draft Final Policy Statement 2013-16, reflecting the Board's agreed position in relation to each of these agreed issues, for final consideration by the Board prior to the Board adopting its Policy Statement 2013-16.

Date: 15 August 2013

Author: Susan Blease

Appendices:

Appendix 1 – Consultation Draft Policy Statement

Appendix 2 – Consultation Responses

Appendix 3 – LSO's Report on extended hours on SPL match days (recirculated)

Appendix 4 – NHS review of literature on glassware (recirculated)

THE HIGHLAND LICENSING BOARD

CONSULTATION DRAFT REVISED POLICY STATEMENT 2013-16

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AND OTHER CONTROL MEASURES RECOMMENDED

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1. INTRODUCTION

1.1 Statutory Background

The Licensing (Scotland) Act 2005 (“the Act”) makes provision for regulating the sale of alcohol and licensed premises.

Section 6 of the Act requires every Licensing Board to publish, every three years, a statement of their policy in respect of the exercise of their functions under the Act. In preparing their licensing policy statements, Boards must seek to promote the licensing objectives as set out in Section 4 of the Act. These licensing objectives are:

1. preventing crime and disorder
2. securing public safety
3. preventing public nuisance
4. protecting and improving public health
5. protecting children from harm

Section 7 of the Act requires Boards also to include in their policy statements a statement as to the extent to which they consider there to be overprovision of (a) licensed premises or (b) licensed premises of a particular description in any locality within their areas.

1.2 The Board’s Area

The Board has responsibility for liquor licensing functions under the Act across the whole of The Highland Council area. This extends to 26,484 square kilometers – one third of the land area of Scotland.

The 2011 Census figures (published December 2012 rounded to the nearest thousand) indicate a population of 232,000 in the Board’s area (following a previous 2011 mid-year estimate of 222,370). This is the seventh highest population of the 32 licensing board areas in Scotland.

Population by settlement (main towns plus selected smaller settlements providing locally important services) is approximately as follows:

Settlement	Population	Settlement	Population
Inverness	67,960	Portree	2,220
Fort William	9,823	Ullapool	1,498
Nairn	9,203	Golspie	1,413
Thurso	7,337	Kingussie	1,360

Wick	6,770	Dornoch	1,310
Alness	5,313	Brora	1,210
Dingwall	5,076	Mallaig	792
Invergordon	3,969	Broadford	753
Tain	3,396	Fort Augustus	720
Conon Bridge and Maryburgh	2,791	Kyle of Lochalsh	645
Aviemore	2,734	Gairloch	641
Grantown-on-Spey	2,400	Lochinver	353
Muir of Ord	2,358	Kinlochbervie	182

Population by ward (based on 2011 mid-year estimate) is approximately as follows. *Numbers of off sales and on sales premises licences will be identified when consultation on overprovision statement proposals takes place.*

Ward	Population	Off sales licences	On sales licences
01 North West and Central Sutherland	5,568		
02 Thurso	7,218		
03 Wick	6,587		
04 Landward Caithness	11,355		
05 East Sutherland and Edderton	7,952		
06 Wester Ross, Strathpeffer and Lochalsh	11,372		
07 Cromarty Firth	11,748		
08 Tain and Easter Ross	8,860		
09 Dingwall and Seaforth	12,399		
10 Black Isle	9,639		

11 Eilean a' Cheo	10,114		
12 Caol and Mallaig	7,882		
13 Aird and Loch Ness	10,658		
14 Inverness West	8,204		
15 Inverness Central	13,654		
16 Inverness Ness-side	10,008		
17 Inverness Millburn	8,050		
18 Culloden and Ardersier	11,030		
19 Nairn	11,593		
20 Inverness South	14,092		
21 Badenoch and Strathspey	12,983		
22 Fort William and Ardnamurchan	11,404		

1.3 The Board's Responsibilities

The Board is responsible for various functions under the Act, including the grant of

- Premises Licences
- Personal Licences
- Occasional Licences
- Provisional Licences
- Temporary Licences
- Extensions to Licensed Hours
- Transfers of Premises Licences
- Variations to Premises Licences, and

The Board also has responsibility for conducting reviews of premises licence where a valid ground of review (breach of licence conditions or any other ground relevant to a licensing objective) has been alleged. The Act confers powers on the Board to impose sanctions where, following a review hearing, it is satisfied that the ground is established.

The Board may also impose sanctions in respect of personal licences where the licence holder has been convicted of a relevant or foreign offence or where, either in

the course of reviewing a premises licence or following receipt of a report from the Chief Constable, the Board finds that a personal licence holder has acted in a manner inconsistent with the licensing objectives. The Board is also responsible for giving notice to personal licence holders in advance of the five-yearly deadline for undertaking refresher training.

Authority to exercise functions in respect of the grant of certain licences has, in some circumstances, been delegated to the Clerk to the Board or to the Convener or Vice Convener or, in the absence of the Convener and Vice Convener, to individual members of the Board. The Board's Scheme of Delegation setting out the circumstances in which functions are delegated is appended to this Policy Statement. (**Appendix 1 – Scheme of Delegation**)

The Board also has responsibility for certain licensing functions under the Gambling Act 2005. The Board's statement of policy in respect of the exercise of its functions under that Act is contained in a separate document available at <http://www.highland.gov.uk/NR/rdonlyres/91E9BE64-A54B-4884-B3E7-9B23A5330A77/0/GAMBLINGACTPOLICYSTATEMENTFINALJUNE2007revsd10910.pdf>

1.4 Aim and Status of this Policy Statement

The aim of this Policy Statement is to promote consistency of decision-making and to give advance notice to applicants of the Board's likely approach to determining applications. Although there is a presumption that the Board will follow the terms of this Policy Statement in determining individual applications, it is open to applicants to seek the grant of applications which are contrary to the Board's Policy Statement. In such cases, applicants will be required to demonstrate to the Board good reason why the Board's Policy Statement should not be followed. In particular, they will require to satisfy the Board that the decision sought will not conflict with any of the licensing objectives.

1.5 Supplementary Policy Statements

This Policy Statement indicates general policy on a variety of issues but cannot cover every eventuality. Where issues arise which are not fully covered by this Statement, or where amendments to the Act or associated secondary legislation so require, the Board may issue further guidance and, subject to further consultation, may publish Supplementary Licensing Policy Statements under section 6 of the Act during the lifespan of this Policy Statement.

1.6 Other Regulatory Regimes

The Board aims to avoid duplication with other regulatory regimes and agencies. In particular, the Board may not impose conditions on licences which relate to matters (such as planning, buildings standards or food hygiene) which are regulated under other statutory powers.

1.7 Equalities

The Board aims at all times to act in accordance with the Public Sector Equalities Duties. The Board's Equality Strategy, which was agreed on 2 April 2013, can be accessed at

<http://www.highland.gov.uk/NR/rdonlyres/797578EC-9803-4063-9752-0738C2E57695/0/HLBEqualityStrategy.pdf>

This will be subject to continuous review.

The Board also expects licence holders to address equalities issues in all aspects of the operation of their premises.

1.8 Publication Scheme

The Freedom of Information (Scotland) 2002 provides for a duty to be placed on Public Authorities (of which the Board is one) to publish information on the basic structure of the Board and how it is administered and details of the type of information available to the public and how it can be extracted. The Board's publication scheme, setting out this information, can be accessed at

<http://www.highland.gov.uk/NR/rdonlyres/3FC23D54-4A7E-4CB1-8978-EA7ED5810E61/0/HIGHLANDLICENSINGBOARDPUBLICATIONSCHEME19Aug2010.pdf>

2. PROPOSED POLICIES

2.1 Premises Licence Core Hours

The following core hours will generally be the maximum hours permitted by the Board. Applicants seeking earlier opening hours or later terminal hours will require to satisfy the Board that these are justified (see section 2.2 below) and that they will not conflict with any of the licensing objectives.

Off-sales :

Monday to Sunday: 1000 hours to 2200 hours

General on-sales premises :

These are premises such as public houses, hotel bars and members' clubs which offer no significant entertainment facilities and where the consumption of alcohol is the principal activity.

Monday to Saturday: 1100 hours to 0100 hours the following day
Sunday: 1200 hours to 2400 hours

Food-led operations :

These are premises at which the sale of alcohol is ancillary to the provision of food and is only sold to persons taking table meals. On Mondays to Saturdays, early opening from **0900 hours** will be permitted provided that on any one day the terminal hour is such that the continuous period during which alcohol may be sold does not exceed 14 hours. Subject to appropriate adjustment where opening is sought after 0900 hours but before 1000 hours, or after 1000 hours but before 1100 hours, the permitted hours will accordingly be as follows :

**Monday to Saturday: 0900 hours to 2300 hours,
1000 hours to 2400 hours, or
1100 hours to 0100 hours the following day**
Sunday: 1200 hours to 2400 hours

Late opening premises :

These are premises, or parts of premises, which the Board is satisfied offer, from a certain point on certain evenings, significant entertainment facilities and where the provision of alcohol for consumption on the premises is ancillary to the significant entertainment provided. Nightclubs and discotheques may fall within this category. They may also include "hybrid" premises which operate as a general on-sales premises during the day but then offer significant entertainment from a certain point in the evening.

For the avoidance of doubt, applicants are advised that outwith the festive period (see section 2.3 below) the Board will not permit the sale of alcohol on any premises

for a continuous period in excess of 14 hours except where the Board is satisfied that significant entertainment beyond 0100 hours will be provided. Where the Board is so satisfied, late opening will be permitted as follows:

Monday to Wednesday: 1100 hours to 0100 hours the following day
Thursday to Saturday: 1100 hours to 0300 hours the following day
Sunday: 1200 hours to 2400 hours

On all nights for which the Board grants late opening (i.e. for a continuous period beginning on one day and ending after 0100 hours the following day) the Board will impose a condition requiring that the significant entertainment must be provided continuously from no later than 2200 hours until such time as alcohol ceases to be sold the following day. The sale of alcohol after 0100 hours on those nights will not be permitted unless the significant entertainment is being provided. Accordingly, where a premises does not provide significant entertainment on the nights for which late opening has been granted, it may operate only until 0100 hours on those nights. Other late opening conditions (see section 3 below) will also apply.

The Board will interpret the phrase “significant entertainment” strictly and will only grant late opening premises hours if the entertainment offered is adequately specified in the operating plan submitted with the application. The Board will require applicants to demonstrate that the entertainment proposed will not be merely ancillary to the consumption of alcohol. In particular, applicants must satisfy the Board that significant facilities within the premises will be dedicated to the provision of the entertainment. Examples would include provision of a significant dance floor area and/or a dedicated stage or performance area. Applicants should also provide evidence that forthcoming entertainment will be pre-advertised.

Where these tests are met, the Board considers that entertainment such as live music, ceilidhs, dances, discos, dinner dances and parties where a disco or band is provided may amount to significant entertainment. Activities such as pool or darts competitions, karaoke evenings or quiz nights will not be accepted as significant entertainment.

Where significant entertainment is to be provided on only part of the premises, this must be clearly identified in the operating plan submitted with the application. Late opening (i.e. for a continuous period beginning on one day and ending after 0100 hours the following day) will be permitted only for the part of the premises in which the significant entertainment is to be provided.

2.2 Extended Hours Applications

Where the Board is satisfied that it is appropriate to do so in connection with a special event or occasion to be catered for on the premises or a special event of local or national significance, the Board may extend the licensed hours in respect of the premises by such period as is specified in the application or by such other period as the Board considers appropriate. The applicant will require first to satisfy the

Board that the proposed event is a special event or occasion and that the grant of extended hours will not conflict with any of the licensing objectives.

Over the festive period, applications for extended hours coinciding with the festive period hours stated below will generally be granted unless, in any particular case, the Board consider that there are material reasons to refuse the application. See section 2.3 for fuller details of the Board's policy on hours during the Festive Period.

The Board reminds applicants that the Act does not allow for a period of licensed hours which has been extended by application under section 68 to be further extended by further application under that section.

On granting an extended hours application, in respect of the period of extended hours, the Board may vary the conditions to which the premises licence is subject if it considers it necessary or expedient for the purposes of any of the licensing objectives. In particular, where hours are extended beyond 0100 hours, the Board will add Late Opening Mandatory Conditions and such Local Conditions as considered appropriate.

Where the Board is satisfied that early opening (i.e. before 1100 hours Monday to Saturday or before 1200 hours on Sunday) is justified for a particular special event, competition or occasion, and where also satisfied that early opening will not conflict with any of the licensing objectives, the Board may grant extended hours to allow such early opening. Additional conditions (for example, a condition requiring the provision of food or a condition requiring additional stewarding) may be applied to any early opening granted where the Board consider such conditions necessary and expedient in the circumstances of the special event and having regard to the location of the premises.

Options for Scottish Premier League Match days:

In the case of Scottish Premier League football matches in Highland, evidence supplied by Police Scotland has indicated an increasing number of incidents and crowd control issues arising as a result of excessive pre-match drinking. In response to these concerns, the Board is currently considering whether it should introduce a new policy presuming against the grant of extended hours applications for early opening on these SPL match days. The following are three options for the position the Board might take on this issue following consultation.

Option 1: The Board will generally not entertain applications for early opening on SPL match days at any premises.

Option 2: The Board will generally not entertain applications for early opening on SPL match days. Exception may be made in the case of applications for football club premises themselves where early opening is sought to accommodate pre-match hospitality packages and the Board is satisfied that the consumption of alcohol will be ancillary to the pre-match dining and entertainment provided.

Option 3: The Board will consider SPL matches in Highland to be special events and will grant applications for early opening on SPL match days where satisfied that such early opening will not conflict with any of the licensing objectives. Additional conditions requiring the provision of food and additional stewarding will be applied.

2.3 Festive Period Hours

The Board will agree annually the specific dates over the Christmas and New Year period between which it will consider applications to extend on-sales licensed hours generally acceptable. These dates will normally cover a period of approximately three weeks over the festive period. The Board will aim each year to notify the dates for the next festive period to premises and to Police Scotland prior to end August.

During each festive period, applications to extend licensed hours to the following terminal hours will generally be granted unless, in any particular case, the Board consider that there are material reasons to refuse the application:

Late opening premises (as defined in section 2.1) : 0400 hours

Other on-sales premises : 0200 hours

The additional condition stated at section 2.2 above will apply together with such other Late Opening Conditions as the Board may consider necessary or expedient for the purposes of the licencing objectives.

Premises wishing to extend their licensed hours to these terminal hours over the festive period will require to lodge an application under section 68 of the Act requesting these hours on all or any of the dates annually agreed.

Premises which have, within the "Seasonal Variations" section of their operating plan, a statement to the effect that they will open for such extended hours as the Board may agree each festive period will not require to lodge applications for festive period terminal hours. Premises licences which include such statements in their operating plan will, however, be subject to a condition requiring the licence holder to submit to the Board and to Police Scotland, prior to 1 December each year, notice of the dates within the festive period on which it is intended that the premises open until the festive period terminal hour for that category of premises. The additional local condition stated at section 2.2 above will also apply on any nights on which the premises will be open until after 0100 hours. A large number of applications for extended hours are received for the festive period. These cannot be determined until they have been referred by the Board to Police Scotland and to the Licensing Standards Officer who have up to 10 days in which to respond. Licence holders are therefore advised to lodge their festive hours applications by 1 December each year.

Applications received after 1 December may not be processed on time.

2.4 Occasional licences

Who may apply?

The Board may grant occasional licences for premises other than licensed premises where application is made by the holder of a premises licence or personal licence or by a representative of a voluntary organisation. In assessing whether an organisation is a voluntary organisation, the Board will have regard to the tests recommended by the Scottish Council for Voluntary Organisations. Information on these tests is available on the Board's website and is attached at **Appendix 2**.

Voluntary organisations are reminded that the occasional licence limit provided in the Act restricts the number of occasional licences they may be granted in any 12 month period. No more than 4 licences for a period of 4 days or more and no more than 12 licences for a period of less than 4 days are permitted. In addition, the total number of days for which occasional licences may be granted must not exceed 56 in any 12-month period.

Application requirements

The Board requires that a separate occasional licence application is made for each separate occasion. For example, if a premises were to be used for a quiz night on a Friday evening, a birthday party on the following Saturday evening and a live band on the Sunday evening, three separate occasional licences will be required. This reflects the fact that the nature of the events is different, raising different considerations and requiring different conditions. Where, however, similar events are taking place over a number of days/nights, the Board may treat these as one event and grant a single occasional licence to cover the whole period of the events. Examples would include golf tournaments, regattas and music festivals. The Board may not, however, grant an occasional licence for a period of more than 14 days.

The Board encourages applicants to lodge applications for occasional licences at least 28 days before the event for which the licence is required so that the requisite notice (21 days) can be given to the Chief Constable and Licensing Standards Officer. The Board cannot guarantee that applications lodged fewer than 28 days before the event will be granted in time. While the Board has power to grant an occasional licence with less than 21 days' notice if satisfied that the application requires to be dealt with quickly, the Board is likely to exercise this power only for unforeseen events such as funerals.

Hours

The Board's policy is that occasional licences should normally be subject to the same opening/closing times as set out in the Board's core policy hours for general on-sales premises. These are:

Monday to Saturday: 1100 hours to 0100 hours the following day
Sunday: 1200 hours to 2400 hours

Over the festive period, however, the policy hours for on-sales premises (other than Late Opening Premises) set out in the Board's festive period hours policy will be treated also as the policy hours for occasional licences on the dates identified each year by the Board. See section 2.3 above for further details.

Outwith the dates identified each year by the Board as the dates between which the festive period hours policy will apply, the Board will grant occasional licences for hours beyond its core policy hours only on cause shown in the case of exceptional special events and only where the applicant satisfies the Board that this will not conflict with any of the licensing objectives.

Conditions

See section 3 below for details of the Mandatory and Local Conditions which the Board will apply to occasional licences.

In respect of applications by voluntary organisations, in addition to imposing Mandatory and Local conditions, the Board encourages voluntary organisations to ensure that at least one member present at the event to which the occasional licence relates is trained at least to a standard prescribed in the Licensing (Training of Staff) (Scotland) Regulations 2007.

2.5 Access to Premises by Children

The Board will impose the following requirements in relation to access to licensed premises by children.

Children under the age of 16 must be excluded from any room where there is a bar counter after 2200 hours except during private functions or for the purpose of viewing live entertainment or where the child is in the room for the purpose of taking a meal. This will not apply to any child who is in the bar solely for the purpose of passing to or from some other part of the premises being a part to or from which there is no other convenient means of access or egress.

Secondly, the Board will require that whilst in any room with a bar counter all children must be in the company of, or supervised by, an appropriate responsible adult. This will not apply to children of the licence holder or children who are resident on the premises.

Lastly, the Board will stipulate that children must not sit or remain at the bar counter at any time.

2.6 Adult Entertainment

The Board will impose the following requirements in relation to adult entertainment in licenced premises.

The licence holder will require to have in place a code of conduct for behaviour of staff and customers, a copy of which will be available to staff and customers. The code will deal with matters such as information for performers, 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.

The licence holder will require to maintain a register of performers engaged to perform in the licensed premises. The register will show the name, age and current address of the performer. The licence holder will require photographic proof of identity. Foreign nationals must be asked to exhibit their passport and the licence holder should take appropriate steps to ensure that there are no restrictions on the performer's entitlement to work in the United Kingdom.

Performers should only perform in open public areas of the licensed premises, which should at all times be appropriately stewarded and covered by CCTV cameras which will be of a standard to be approved by the Chief Constable.

No dance entertainment should take place in private booths and performers' genitalia should be covered at all times. There should be no touching between performers and patrons at any time during the performance, the only contact allowed being the hand-to-hand payment of money at the conclusion of the performance.

Performers remaining in the public area before, following or between performances should be suitably clothed at all times with no exposure of breasts or genitalia. Any advertising of performances outwith the licensed premises, whether by way of newspaper advertisement or any other public notices within or without the premises may only depict performers suitably clothed as aforesaid. Performances involving the removal of clothes should not be visible from outwith the premises.

The licensed premises shall have stewards in all public areas in addition to at least one steward positioned at each entrance to and/or exit from the premises. All public dance areas, entrances and exits should be monitored constantly while the premises are open to the public with the use of CCTV.

Where in terms of the operating plan, children and young persons are permitted on the premises, children and young persons will not be permitted on the premises for the period from one hour before any adult entertainment commences, until thirty minutes after it ceases.

2.7 Home Deliveries

Premises which intend to provide home deliveries of alcohol are reminded that they must include home deliveries as a specific activity on their operating plan. The Board will also encourage submission of details of how the deliveries will operate. These details should include the hours of delivery, the steps which will be taken to verify the age of the person ordering, payment arrangements and arrangements to protect the safety of those delivering alcohol.

It is also the Board's expectation that any person engaged to make home deliveries of alcohol will have received training of at least 2 hours' duration from a personal licence holder or qualified trainer covering the matters specified in the Licensing (Training of Staff) (Scotland) Regulations 2007.

Licence holders are reminded that where alcohol is being delivered from a vehicle (other than to a trader for the purposes of that person's trade), a day book requires to be kept on the premises from which the alcohol is despatched and a delivery book or invoice requires to be carried by the person delivering the alcohol. The quantity, description and price of the alcohol and the name and address of the person to whom it is to be delivered require to be entered in both the day book and the delivery book or invoice. A failure to adhere to these requirements is a criminal offence. Delivery other than as specified in the details entered in the day book and delivery book or invoice is also an offence.

The Board also reminds licence holders and premises managers that the Act prohibits the delivery of alcohol to any premises other than licensed premises between the hours of midnight and 0600 hours.

2.8 Clubs

The Board reminds clubs that if they wish to allow general admission to non-members of the club without being invited, signed in and accompanied by a member of the club, they will require to lodge an application for a major variation of their licence. They will also be required to appoint a premises manager, to have the sale of alcohol authorised by a premises manager or personal licence holder and will no longer be able to benefit from the reduced annual fee for clubs.

Clubs are further reminded that where non-members are to be supplied with alcohol at any function on the club premises at a time when they are not the guest of a member and are accompanied by that member, alcohol may only be sold to those non-members if an occasional licence has first been obtained.

Clubs are asked to note that these statements reflect mandatory legal requirements (The Licensing (Clubs) (Scotland) Regulations 2007 and Section 125 of the Act) rather than Board policy.

2.9 Plastic Glasses

In response to concerns raised by the police in relation to glassing attacks, the Board has for a number of years had a policy of requiring (by local condition) that at any premises entitled to trade after 0100 am (Late Opening Premises), on nights on which the premises will be open until after 0100 hours the following day, all drinks served after 2100 hours must be served in plastic or polycarbonate glasses.

Representations have been received from some parties, however, inviting the Board to consider removing this policy when revising its existing Policy Statement. Further representations from other parties have invited the Board to consider extending the policy to other types of on sales premises as well as to Late Opening Premises.

The following are options for the position the Board might take on this issue following consultation:

Option 1: Retain the existing policy of requiring only Late Opening Premises to serve drinks in plastic or polycarbonate glasses from 2100 hours (or amend start time to 2200 hours).

Option 2: Retain the existing policy in relation to all Late Opening Premises and extend it to specify other types of on-sales premises (public houses, hotel bars, members' clubs or restaurants) to which it will apply (whether from 2100 hours or 2200 hours).

Option 3: Retain the existing policy in relation to all Late Opening Premises and apply it also to other individual on-sales premises (whether from 2100 hours or 2200 hours) but only where considered appropriate on the basis of individual risk assessment at that premises.

Option 4: Apply the policy and the condition to Late Opening and other on-sales premises in each case only where considered appropriate on the basis of individual risk assessment at that premises.

Option 5: Remove the policy entirely.

2.10 Outdoor Drinking

Depending on the location of the premises, the Board may impose a condition restricting the hours during which drinks may be consumed in any outdoor drinking area identified in the operating plan.

The Board may also require that all tables, chairs, parasols and other moveable furniture must be removed from any outdoor drinking area which is situated on a public footway within 30 minutes of the conclusion of the permitted hours applicable to that outdoor drinking area. In addition, tables used in any such outdoor drinking area must be regularly cleared of all used glassware and crockery.

The Board will also require that the boundary of any outdoor drinking area situated on a public footway must be effectively demarcated to the satisfaction of the Licensing Standards Officer to separate it from the general pedestrian area.

Licence holders are reminded that planning permission for change of use may be required for new outdoor drinking areas (in addition to variation of the premises licence). Roads Authority consent (a "pavement permit") may also be required under Section 59 of the Roads (Scotland) Act 1984 if the proposed outdoor drinking area is situated on a public footway. Additional conditions may apply to any planning permission and/or pavement permit granted. Guidance on The Highland Council's technical requirements in relation to occupation of a pavement as "street café" can be accessed at

<http://www.highland.gov.uk/yourenvironment/roadsandtransport/roads/Applicationformsforroadoccupation.htm>

2.11 Capacity

The Act requires applicants to include, in their Operating Plan, information on the proposed capacity of the premises.

For premises in which alcohol is to be sold for consumption on the premises, applicants should state the maximum number of customers which can be accommodated in the premises at any one time. This will be verified by the Board by reference to Building Standards Regulations. Applicants should therefore consult with the Highland Council's Building Standards Service if they are in doubt as to the capacity of their premises.

For premises in which alcohol is to be sold for consumption off the premises, applicants should state the amount of space on the premises given over to the display of alcohol for sale. The Board requires this figure to be expressed as the number of linear metres and area (square metres) of shelving given over to display.

For premises in which alcohol is to be sold for consumption both on and off the premises, details of both the maximum number of customers for on sales purposes

and the amount of space (if any) given over to display of alcohol for off sales purposes must be detailed.

For on sales premises, applicants will also require to satisfy the Board that they will have sufficient measures in place to monitor the number of persons on the premises to ensure that maximum capacity is not exceeded.

2.12 Personal Licences

The Board has no specific policies in relation to personal licences.

Personal licence holders are reminded, however, that they are required by law to undertake prescribed training every five years and to provide the Board, within three months of the expiry of each five year period, with evidence that they have undertaken this training. The Board will issue notice of this requirement to each personal licence holder by no later than three months prior to expiry of the relevant five year period. Should a licence holder fail timeously to exhibit to the Board satisfactory evidence that they have undertaken prescribed training the Board is required by law to revoke the licence.

Personal licence holders are further reminded that they are also required by law to notify the Board if they are convicted of a relevant or foreign offence. Notice must be given by **no later than one month after the date of conviction**. Failure to do so, without reasonable excuse, is itself a criminal offence. Further information on what constitutes a relevant offence (for the purposes of the Act) can be found on the Board's website and is attached at **Appendix 3**.

There is a further statutory requirement that personal licence holders notify the Board of any change in the licence holder's name or address. Again, notice must be given by **no later than one month after the date of the change** and failure to give such notice, without reasonable excuse, is a criminal offence.

2.13 Overprovision

Overprovision is currently subject to a separate evidence gathering process and overprovision statement proposals will therefore go out to consultation separately from the main Consultation Draft Policy Statement.

3 LICENCE CONDITIONS AND OTHER RECOMMENDED CONTROL MEASURES

3.1 Mandatory Conditions

In the interest of promoting the licensing objectives, the Act and associated secondary legislation stipulate certain Mandatory Conditions which the Board must impose on Premises Licences, Occasional Licences and licences for Late Opening Premises, i.e. premises open for a continuous period beginning on one day and ending after 0100 hours on the following day. These Mandatory Conditions are appended to this Policy Statement.

- **Appendix 4 – Premises Licence Mandatory Conditions**
- **Appendix 5 – Occasional Licence Mandatory Conditions**
- **Appendix 6 – Late Opening Mandatory Conditions**

3.2 Local Conditions

The Board may also attach such further conditions as it considers necessary or expedient for the purposes of the licensing objectives. To that end, the Board has agreed core lists of further conditions known as “Local Conditions”, which largely reflect the Board’s policies as set out at section 2 above.

In determining which of the Local Conditions are to apply to a particular licence, the Board will have regard to the recommendations of the Licensing Standards Officers as to which of the Local Conditions are appropriate. The lists of Local Conditions (some or all of which the Board is likely to impose), and details of the particular licensing objectives to which they are considered relevant, are appended to this Statement.

- **Appendix 7 – Premises Licence Local Conditions**
- **Appendix 8 – Occasional Licence Local Conditions**
- **Appendix 9 – Adult Entertainment Conditions**

3.3 Special Conditions

From time to time, Licensing Standards Officers may recommend that in the specific circumstances of a particular premises or licence, additional conditions are necessary and expedient for the purposes of the licensing objectives. The Board will have regard to any such recommendation in determining whether to apply such additional conditions. These additional conditions are known as “Special Conditions”. Examples of Special Conditions which the Board has previously imposed, and the circumstances in which they were considered necessary, are appended to this Statement.

- **Appendix 10 – Examples of Special Conditions**

3.4 Other Recommended Control Measures

In seeking to promote each of the licensing objectives, the Board and the Licensing Standards Officers encourage licence holders to have in place other control measures which may not have been required by conditions imposed on the licence but which are likely to assist in preventing crime and disorder, securing public safety, preventing public nuisance, protecting and improving public health and protecting children from harm. Advice and recommendations on appropriate measures can be sought by licence holders from the Licensing Standards Officers. The following are examples of such further control measures.

In the interest of preventing crime and disorder:

- Ongoing training of staff in addition to statutory requirements
- Installation of a CCTV system of a standard acceptable to the police, including at display areas and till points
- Suitable external lighting
- Employment of door stewards at times of peak demand (in addition to statutory requirements)
- Membership of Pubwatch or similar scheme
- Display of notices setting out management's policy on illegal substances
- Participation in in-house responsible purchase schemes for under-age sales
- Locating off-sales displays where they can be monitored by staff
- Keeping an alcohol refusals/incidents log

In the interest of securing public safety, as above, together with:

- Carrying out risk assessments
- Regular testing of procedures and equipment
- Ensuring a Personal Licence Holder and a sufficient number of staff are on the premises during times of peak demand or during special events or events of local or national significance
- First aid training for staff

In the interest of preventing public nuisance:

- Management of people entering and leaving the premises, including arrangements to prevent patrons taking glassware or bottles off the premises
- Installation of sound-proofing and sound limiting devices
- Locating smoking areas in suitable areas, providing ashtrays or litter bins and having measures in place to keep those areas tidy
- Control of operating hours for different parts of the premises
- Restricting use of outside drinking areas at night
- Ensuring litter left outside the premises is cleared regularly
- Supporting local schemes which encourage safe dispersal of patrons at closing time (eg taxi marshalling)

In the interest of protecting and improving public health:

- Making available information promoting moderate drinking, awareness of units of alcohol and recommended guidelines
- Displaying anti-drink driving materials and promoting awareness of schemes such as designated driver schemes
- Having a policy to deal with patrons who have consumed excessive alcohol
- Ensuring staff awareness of offences such as sale of alcohol to a drunk person
- Maintaining toilet facilities in a high standard of cleanliness, including provision of hot water, soap and hand-drying facilities

In the interest of protecting children from harm:

- Having child protection policies in place, particularly where unaccompanied children or young persons may be present
 - Monitoring and recording of Challenge 25 compliance
 - Staff training in spotting counterfeit or forged identity documents
 - Keeping plug caps on electrical sockets in areas to which children have access
 - Ensuring open fires or electrical or gas fires in areas to which children have access have secure fire guards
 - Locating play areas in suitable areas and prohibiting glassware or glass bottles being taken into those areas
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APPENDIX 1 – SCHEME OF DELEGATION

THE HIGHLAND LICENSING BOARD SCHEME OF DELEGATION APPROVED AT A MEETING ON 7 AUGUST 2012

It was resolved that the Clerk be authorised to exercise on behalf of the Board the following functions:

1. Premises Licence

- a) The granting of a minor variation, that is
 - i) any variation of the layout plan provided there is no inconsistency with the operating plan;
 - ii) any variation restricting the terms on which children or young persons are allowed entry;
 - iii) any variation of information relating to the Premises Manager (including the substitution of a new Premises Manager);
 - iv) any other variation as may be prescribed by the Government.
- b) The substitution of a new Premises Manager.
- c) The transfer of a Premises Licence where the applicant has not been convicted of a relevant or foreign offence.
- d) Confirming a provisional Premises Licence.
- e) Updating changes to name and address of Premises Licence Holder or Premises Manager.
- f) A variation under s 54(6)
- g) Certification under s 55(a)
- h) Rejecting a Premises Licence review application in terms of s 36 after consultation with the Convener whom failing the Vice Convener
- i) Granting a Temporary Premises Licence in terms of s 47 after consultation with the Convener whom failing the Vice Convener, subject to such variation (if any) of the existing conditions to which the principal premises licence is subject as is considered appropriate.

2. Occasional Licences

- a) Granting for an event where the hours applied for are within policy and there is no notice of objection or representation, subject to such local conditions and/or special conditions as are considered appropriate.

- b) If the hours of the event applied for are outwith policy or there is a notice of objection or representation, then the application will be referred to Convener of the Board whom failing the Vice Convener whom failing any member of the Board, provided that in the period between the election of Highland Councillors and members of the Board producing evidence of compliance with the prescribed requirements as to training, there will be no requirement to refer the application as detailed in this sub-paragraph.

3. *Extended Hours*

- a) Granting where the hours applied for are within policy and there is no notice of objection from the Chief Constable.
- b) If the hours applied for are outwith policy or there is a notice of objection from the Chief Constable, then the application will be referred to the Convener whom failing the Vice Convener whom failing any member of the Board, provided that in the period between the election of Highland Councillors and members of the Board producing evidence of compliance with the prescribed requirements as to training, there will be no requirement to refer the application as detailed in this sub-paragraph.

4. *Personal Licences*

- a) Granting a personal licence application or renewal where the applicant has not been convicted of a relevant or foreign offence.
- b) Updating changes in the licence holder's name and address.
- c) Issuing a replacement licence in terms of S.92.

In all cases where a Clerk considers it appropriate the decision may be referred to the Board.

5. *Competency of applications*

- a) Prior to a hearing where there is the issue of the competency of any application the Clerk shall determine the matter.

In this scheme

"Act" means the Licensing (Scotland) Act 2005

"Convener" means the Convener appointed in terms of Schedule 1 Paragraph 6 of the Act.

"Clerk" means the person appointed under Schedule 1 Paragraph 8 of the Act or any member of staff provided under that paragraph.

"Vice Convener" means any member appointed by the Board to that office.

APPENDIX 2 – SCVO DEFINITION OF VOLUNTARY ORGANISATIONS

The following text is extracted from guidance produced by the Scottish Council for Voluntary Organisations:

“Defining Voluntary Organisations

What is a voluntary organisation?

SCVO defines voluntary organisations as non-profit driven, non-statutory, autonomous and run by individuals who do not get paid for running the organisation. Some voluntary organisations are recognised by the Inland Revenue as charities.

There are no agreed hard and fast rules for distinguishing the boundary line between voluntary and other organisations. However, the following exclusions are based on the notion that the voluntary sector represents a unique value system. Even within the set of organisations that hold to this value system, there are particular exclusions made for pragmatic reasons.

Exclusions

There are two key tests that we have used to distinguish voluntary organisations from other organisations:

1. Does the organisation represent a for-profit driven rather than public benefit motivation?
2. Does the organisation aim to satisfy an exclusive and private objective (or conviction) rather than a shared benefit?

The first test excludes the following:

- Private sector organisations - A key feature of voluntary organisations is that they are ultimately directed by individuals who do not make their living from their involvement in running the organisation. This naturally excludes most private sector businesses.
- Financial institutions - such as large building societies and friendly societies (eg Standard Life). These organisations are mutuals, but their overriding aim is to generate profit, rather than address a social need.

The second test excludes the following:

- Political parties and groups campaigning on a method of governance rather than to address a particular social need. It can be argued that at the grand level of things, political groups set up

to address social need in its widest sense and are thus voluntary associations. However, public opinion has long determined that political activity is not seen as a public, rather than private, objective, and as such political parties are conventionally considered distinct to the voluntary sector. Nevertheless, certain civic participation groups and pressure groups campaigning on a specific social need, on behalf of excluded groups are included.

- Note that there are a significant number of Scottish charities set up as quangos or quasi non-governmental organisations. These organisations are essentially controlled by the public sector and set up by statute. Consequently, they also cannot be regarded as voluntary sector.
- Academic sector, such as universities and colleges are also excluded. It is argued that these organisations are predominantly funded by the public sector (UK Almanac 2002 – see bibliography).
- Faith based organisations, such as churches which are charitable, have a primarily religious motivation. Some faith-based organisations also set up projects that are separately constituted to address specific social needs, and these are included as voluntary sector. However, religious activity in isolation is not regarded as voluntary sector as it is an exclusive and private objective, similar to political motivation.
- Organisations officially recognised as trade unions are excluded from our definition on pragmatic grounds. The main trade unions have their own voice as a sector and are often politically motivated. However, some smaller unions of individuals, such as professional associations or business support groups are included in this voluntary sector definition.
- Private independent schools – some private schools are financially exclusive. Even if they redirect all their profit back into the school, they are arguably not driven for public benefit. Those schools which are clearly not aimed at public benefit are excluded from our voluntary sector definition.

Other terms used to describe the sector

The 'social economy' is a term increasingly used in relation to the voluntary sector. The phrase social economy is used to describe the economic dimension of voluntary sector activity. But while it can lead to a policy focus on some specific parts of the sector, it is not limited to those organisations

that most closely emulate private sector operations known as social enterprises.

The 'Third Sector' is another term used to refer to the voluntary sector. A perspective based on work carried out by the CBS Network (2002) defines the Third Sector as all constituted organisations, plus the family economy, as set apart from the statutory and private sectors, and as such voluntary organisations are predominant within it.

Regulated voluntary sector

The 'regulated voluntary sector' is a subset of the voluntary sector, that comprises voluntary sector charities, housing associations and credit unions. Each of these type of organisation is subject to regulation and their presence is thus recorded by the UK Inland Revenue, Communities Scotland or the UK Financial Services Authority respectively. This makes it possible to carry out a more detailed statistical analysis of this part of the sector. All statistics in this almanac specifically relate to the regulated voluntary sector, unless otherwise indicated."

CONSULTATION DRAFT

APPENDIX 3 – LIST OF RELEVANT OFFENCES

Relevant offences for the purposes of the Act are the offences specified in the Licensing (Relevant Offences) (Scotland) Regulations 2007/513 (Scottish SI).

They include all of the offences listed in paragraphs 1 – 50 below together with:

- Any offence which was provided for in an enactment which is no longer in force and which was similar in nature to any of the offences listed in paragraphs 1 – 50 below,
- Any offence in respect of aiding and abetting, inciting, counselling or procuring any of the offences listed in paragraphs 1 - 50 below, and
- Any other offence in respect of which a sentence of imprisonment was imposed.

1.

Any offence inferring personal violence.

2.

Any offence which is a “sexual offence” within the meaning of [subsection \(10\) of section 210A](#) of the [Criminal Procedure \(Scotland\) Act 1995 \(c.46\)](#), as read with [subsection \(11\)](#) of that section.

3.

An offence under [article 38](#) of the [Pharmacy Order 2010](#).

4.

An offence under the [Betting, Gaming and Lotteries Act 1963 \(c.2\)](#).

5.

An offence under the [Firearms Act 1968 \(c.27\)](#).

6.

An offence under [section 1](#) of the [Trade Descriptions Act 1968 \(c.29\)](#) (false trade description of goods) in circumstances where the goods in question are or include alcohol.

7.

An offence under [section 13](#) of the [Theatres Act 1968 \(c.54\)](#) (performance of play in unlicensed premises).

8.

An offence under [section 7\(2\)](#) of the [Gaming Act 1968 \(c.65\)](#) (allowing child to take part in gaming on premises licensed for the sale of alcohol).

9.

An offence under any of the following provisions of the [Misuse of Drugs Act 1971 \(c.38\)](#)–

- (a) [section 4\(2\)](#) (production of a controlled drug);
- (b) [section 4\(3\)](#) (supply of a controlled drug);
- (c) [section 5\(2\)](#) (possession of a controlled drug);

- (d) [section 5\(3\)](#) (possession of a controlled drug with intent to supply);
- (e) [section 8](#) (permitting activities to take place on premises);
- (f) [section 23\(4\)](#) (offence in connection with powers to search and obtain evidence).

10.

An offence under the [Immigration Act 1971 \(c.77\)](#).

11.

An offence under the [Poisons Act 1972 \(c.66\)](#).

12.

An offence under the [Health and Safety at Work etc. Act 1974 \(c.37\)](#).

13.

An offence under the [Lotteries and Amusements Act 1976 \(c.32\)](#).

14.

An offence under the [Licensing \(Scotland\) Act 1976 \(c.66\)](#).

15.

An offence under either of the following provisions of the [Customs and Excise Management Act 1979 \(c.2\)](#)—

- (a) [section 170](#) (disregarding [subsection \(1\)\(a\)](#)) (fraudulent evasion of duty etc.);
- (b) [section 170B](#) (taking preparatory steps for evasion of duty).

16.

An offence under the [Alcoholic Liquor Duties Act 1979 \(c.4\)](#).

17.

An offence under either of the following provisions of the [Tobacco Products Duty Act 1979 \(c.7\)](#)—

- (a) [section 8G](#) (possession and sale of unmarked tobacco);
- (b) [section 8H](#) (use of premises for sale of unmarked tobacco).

18.

An offence under [Part II](#) of the [Forgery and Counterfeiting Act 1981 \(c.45\)](#).

19.

An offence under any of the following provisions of the [Civic Government \(Scotland\) Act 1982 \(c.45\)](#)—

- (a) [section 7](#) (offences), so far as relating to public entertainment licences under [section 41](#);
- (b) [section 21\(1\)](#), [\(4\)](#), [\(5\)](#) or [\(6\)](#) (offences in relation to taxis and private hire cars);
- (c) [section 27D](#) (provision of information to holder of knife dealer's licence);
- (d) [section 27F](#) (powers of constables and authorised officers);
- (e) [section 27G](#) (power to inspect documents);

- (f) [section 50](#) (drunkenness);
- (g) [section 57](#) (being in or on buildings etc. with intent to commit theft);
- (h) [Part V](#) (public processions).

20.

An offence under the [Cinemas Act 1985 \(c.13\)](#).

21.

An offence under [Part I](#) of the [Food and Environment Protection Act 1985 \(c.48\)](#).

22.

An offence under either of the following provisions of [Schedule 2B](#) to the [Gas Act 1986 \(c.44\)](#)—

- (a) [paragraph 10](#) (injury to gas fittings and interference with meters);
- (b) [paragraph 11](#) (restoration of supply without consent).

23.

An offence under the [Company Directors Disqualification Act 1986 \(c.46\)](#).

24.

An offence under the [Public Order Act 1986 \(c.64\)](#).

25.

An offence under the [Crossbows Act 1987 \(c.32\)](#).

26.

An offence under the [Firearms \(Amendment\) Act 1988 \(c.45\)](#).

27.

An offence under any of the following provisions of the [Copyright, Designs and Patents Act 1988 \(c.48\)](#)—

- (a) [section 107\(1\)\(d\)\(iii\)](#) (public exhibition in the course of a business of article infringing copyright);
- (b) [section 107\(3\)](#) (infringement of copyright by public performance of work etc.);
- (c) [section 198\(2\)](#) (broadcast etc. of recording of performance made without sufficient consent);
- (d) [section 297\(1\)](#) (fraudulent reception of transmission);

28.

An offence under any of the following provisions of the [Road Traffic Act 1988 \(c.52\)](#)—

- (a) [section 3A](#) (causing death by careless driving while under the influence of drink or drugs);
- (b) [section 4](#) (driving etc. a vehicle when under the influence of drink or drugs);
- (c) [section 5](#) (driving etc. a vehicle with alcohol concentration above prescribed limit);
- (d) [section 178](#) (taking motor vehicle without authority, etc.).

29.

An offence under either of the following provisions of the [Electricity Act 1989 \(c.29\)](#)–

- (a) [paragraph 3 of Schedule 6](#) (restoration of supply without consent);
- (b) [paragraph 8 of Schedule 6](#) (provision as to power of entry);
- (c) [paragraph 11 of Schedule 7](#) (interference with meters).

30.

An offence under either of the following provisions of the [Food Safety Act 1990 \(c.16\)](#) in circumstances where the food in question is or includes alcohol–

- (a) [section 14](#) (selling food or drink not of the nature, substance or quality demanded);
- (b) [section 15](#) (falsely describing or presenting food or drink).

31.

An offence under the [National Lottery Etc. Act 1993 \(c.39\)](#).

32.

An offence under [section 92\(1\) or \(2\)](#) of the [Trade Marks Act 1994 \(c.26\)](#) (unauthorised use of trade mark, etc. in relation to goods) in circumstances where the goods in question are or include alcohol.

33.

An offence under any of the following provisions of the [Criminal Law \(Consolidation\) \(Scotland\) Act 1995 \(c.39\)](#)–

- (a) [section 19](#) (alcohol on vehicles);
- (b) [section 20](#) (sporting events: control);
- (c) [section 44](#) (false statements and declarations);
- (d) [section 47](#) (prohibition of the carrying of offensive weapons);
- (e) [section 49](#) (offence of having in public place article with blade or point);
- (f) [section 49A](#) (offence of having article with blade or point (or offensive weapon) on school premises).

34.

An offence under [section 3](#) of the [Private Security Industry Act 2001 \(c.12\)](#) (conduct prohibited without a licence).

35.

An offence under the [Proceeds of Crime Act 2002 \(c.29\)](#).

36.

An offence under the [Building \(Scotland\) Act 2003 \(asp 8\)](#).

37.

An offence under the [Antisocial Behaviour etc. \(Scotland\) Act 2004 \(asp 8\)](#).

38.

An offence under the [Breastfeeding etc. \(Scotland\) Act 2005 \(asp 1\)](#).

39.

An offence under the [Fire \(Scotland\) Act 2005 \(asp 5\)](#).

40.

An offence under either of the following provisions of the [Smoking, Health and Social Care \(Scotland\) Act 2005 \(asp 13\)](#)–

- (a) [section 1](#) (offence of permitting others to smoke in no-smoking premises);
- (b) [section 2](#) (offence of smoking in no-smoking premises).

41.

An offence under the [Licensing \(Scotland\) Act 2005 \(asp 16\)](#).

42.

An offence under the [Prevention of Terrorism Act 2005 \(c.2\)](#).

43.

An offence under [section 46](#) of the [Gambling Act 2005 \(c.19\)](#) (invitation to gamble).

44.

An offence under the [Terrorism Act 2006 \(c.11\)](#).

45.

The offences at common law of–

- (a) theft;
- (b) theft by housebreaking;
- (c) fraud;
- (d) uttering;
- (e) fraud and uttering;
- (f) extortion;
- (g) abduction;
- (h) reset; and
- (i) conspiracy to defraud.

46.

The offences at common law of–

- (a) wilful fireraising;
- (b) culpable and reckless fireraising;
- (c) culpable and reckless conduct; and
- (d) bestiality.

47.

The offences at common law of–

- (a) perjury;
- (b) subornation of perjury;
- (c) attempting to pervert the course of justice;
- (d) attempting to defeat the ends of justice;
- (e) prevarication on oath;
- (f) contempt of court; and

(g) prison breaking.

48.

The offences at common law of–

- (a) breach of the peace; and
- (b) mobbing and rioting.

49.

An offence under [regulation 6](#) of the [Business Protection from Misleading Marketing Regulations 2008](#) (offence of misleading advertising) in circumstances where the advertising in question relates to alcohol or to goods that include alcohol.

50.

An offence under [regulation 8, 9, 10, 11 or 12](#) of the [Consumer Protection from Unfair Trading Regulations 2008](#) (offences relating to unfair commercial practices) in circumstances where the commercial practice in question is directly connected with the promotion, sale or supply of alcohol or of a product that includes alcohol.

CONSULTATION DRAFT

APPENDIX 4 – PREMISES LICENCE MANDATORY CONDITIONS

The following mandatory conditions will be applied to all premises licences pursuant to section 27(1) and schedule 3 of the Licensing (Scotland) Act 2005, as amended by the Alcohol etc. (Scotland) Act 2010

Interpretation

1. Premises means, in relation to any premises licence, the premises specified in the licence.

Compliance with the Operating Plan

2. (1) Alcohol is to be sold on premises only in accordance with the operating plan contained in the licence.
(2) Nothing in sub-paragraph (1) is to be read as preventing or restricting the doing of anything referred to in section 63(2).
3. Any other activity to be carried on in the premises is to be carried on only in accordance with the operating plan contained in the licence.

The premises manager

4. (1) Alcohol is not to be sold on the premises at any time when—
 - (a) there is no premises manager in respect of the premises
 - (b) the premises manager does not hold a personal licence
 - (c) the personal licence held by the premises manager is suspended, or
 - (d) the licensing qualification held by the premises manager is not the appropriate licensing qualification in relation to the premises.
(2) In sub-paragraph (1), “appropriate licensing qualification” in relation to any licensed premises means any licensing qualification prescribed as such in relation to licensed premises of that description in regulations under section 91(2)(d).
(3) Nothing in sub-paragraph (1) or paragraph 5 is to be read as requiring the premises manager to be present on the premises at the time any sale of alcohol is made.

Authorisation of sales of alcohol

5. Every sale of alcohol made on the premises must be authorised (whether generally or specifically) by:-
 - (a) the premises manager, or
 - (b) another person who holds a personal licence.

Training of Staff

6. (1) No person (other than a person who holds a personal licence) is to work in the premises in the capacity mentioned in sub-paragraph (2) unless that person has complied with such requirements as to the training of staff as may be prescribed for the purposes of this paragraph.
- (2) That is a capacity (whether paid or unpaid) which involves the person—
- (a) making the sales of alcohol, or
 - (b) where alcohol is sold on the premises for consumption on the premises, serving such alcohol to any person.
- (2A) At any time when a person (other than a person who holds a personal licence) is working in the premises in a capacity mentioned in sub-paragraph (2), there must be kept on the premises a training record which relates to that person and is in the form set out in the Schedule to the Licensing (Mandatory Conditions No. 2) (Scotland) Regulations 2007.
- (2B) A record kept on the premises under sub-paragraph (2A) must be produced to a Licensing Standards Officer on request.
- (3) Regulations under sub-paragraph (1) prescribing training requirements may, in particular:—
- (a) provide for the accreditation by the Scottish Ministers of —
 - (i) courses of training, and
 - (ii) persons providing such courses,for the purposes of the regulations,
 - (b) prescribe different training requirements in relation to different descriptions of persons,
 - (c) require that any person providing training or any particular description of training in accordance with the regulations hold a personal licence or such other qualification as may be prescribed in the regulations, and
 - (d) require training to be undergone again at such intervals as may be prescribed in the regulations.

Pricing of Alcohol

- 6B. (1) A package containing two or more alcoholic products (whether of the same or different kinds) may only be sold on the premises at a price equal to or greater than the sum of the prices at which each alcoholic product is for sale on the premises.
- (2) Sub-paragraph (1) applies—

- (a) only where each of the alcoholic products is for sale on the premises separately, and
 - (b) regardless of whether or not the package also contains any item which is not an alcoholic product.
- (3) In this paragraph, 'alcoholic product' means a product containing alcohol and includes the container in which alcohol is for sale.
7. Where the price at which any alcohol sold on the premises for consumption on the premises is varied-
- (a) the variation (referred to in this paragraph as "the earlier price variation") may be brought into effect only at the beginning of a period of licensed hours, and
 - (b) no further variation of the price at which that or any other alcohol is sold on the premises for consumption on the premises may be brought into effect before the expiry of the period of 72 hours beginning with the coming into effect of the earlier price variation.
- 7A. Where the price at which any alcohol sold on the premises for consumption off the premises is varied-
- (a) the variation (referred to in this paragraph as 'the earlier price variation') may be brought into effect only at the beginning of a period of licensed hours, and
 - (b) no further variation in the price at which that alcohol is sold on the premises may be brought into effect before the expiry of the period of 72 hours beginning with the coming into effect of the earlier price variation.

Irresponsible drinks promotions

8. (1) An irresponsible drinks promotion must not be carried on in or in connection with the premises.
- (2) Subject to sub-paragraph (3), a drinks promotion is irresponsible if it-
- (a) relates specifically to an alcoholic drink likely to appeal largely to persons under the age of 18,
 - (b) involves the supply of an alcoholic drink free of charge or at a reduced price on the purchase of one or more drinks (whether or not alcoholic drinks),
 - (c) involves the supply free of charge or at a reduced price of one of more extra measures of an alcoholic drink on the purchase of one or more measures of the drink,
 - (d) involves the supply of unlimited amounts of alcohol for a fixed charge (including any charge for entry to the premises),

- (e) encourages, or seeks to encourage, a person to buy or consume a larger measure of alcohol than the person had otherwise intended to buy or consume,
 - (f) is based on the strength of any alcohol,
 - (g) rewards or encourages, or seeks to reward or encourage, drinking alcohol quickly, or,
 - (h) offers alcohol as a reward or prize, unless the alcohol is in a sealed container and consumed off the premises.
- (3) Paragraphs (c) to (e) of sub-paragraph (2) apply only to a drinks promotion carried on in relation to alcohol sold for consumption on the premises.
- (4) The Scottish Ministers may by regulations modify sub-paragraph (2) or (3) so as to—
- (a) add further descriptions of drinks promotions,
 - (b) modify any of the descriptions of drinks promotions for the time being listed in it, or
 - (c) extend or restrict the application of any of those descriptions of drinks promotions.
- (5) In this paragraph, “drinks promotion” means, in relation to any premises, any activity which promotes, or seeks to promote, the buying or consumption of any alcohol on the premises.

Provision of non-alcoholic drinks

- 9.** (1) The conditions specified in this paragraph apply only to the extent that the premises licence authorises the sale of alcohol for consumption on the premises.
- (2) Tap water fit for drinking must be supplied free of charge on request.
- (3) Other non-alcoholic drinks must be available for purchase at a reasonable price.

Requirement for Age Verification Policy

- 9A.** (1) There must be an age verification policy in relation to the sale of alcohol on the premises.
- (2) An ‘age verification policy’ is a policy that steps are to be taken to establish the age of a person attempting to buy alcohol on the premises (‘the customer’) if it appears to the person selling the alcohol that the customer may be less than 25 years of age (or such older age as may be specified in the policy).

- (3) The condition specified in this paragraph does not apply in relation to any sale of alcohol which takes place on the premises merely by virtue of being treated, by section 139, as taking place on the premises.

Payment of annual or recurring fees

10. (1) The condition specified in sub-paragraph (2) applies only in relation to a premises licence in respect of which an annual or other recurring fee is to be paid by virtue of regulations under section 136(1).
- (2) The fee must be paid as required by the regulations.

Notices – admission of persons under 18

11. (1) The condition specified in this paragraph applies only in the case of premises on which alcohol is sold for consumption on the premises.
- (2) There is to be displayed so that it is reasonably visible to customers entering the premises a sign of at least A4 size which –
- (a) states that persons under the age of 18 are not permitted; or
- (b) states that such persons are permitted on the premises or on such parts of the premises as are specified on the sign.

Baby changing facilities

12. (1) The condition specified in this paragraph applies only in the case of premises -
- (a) which are not–
- (i) a vehicle;
- (ii) a vessel;
- (iii) a moveable structure; or
- (iv) used wholly or mainly for the purposes referred to in section 125(1);
- (b) on which alcohol is sold for consumption on the premises; and
- (c) to which children under the age of 5 are to be admitted.
- (2) There are to be on the premises facilities for baby changing which are to be accessible to persons of either gender.

Display, or promotion of the sale, of alcohol for consumption off the premises

13. (1) Alcohol which is for sale only for consumption off the premises may be displayed only in one or both of the following-
- (a) a single area of the premises agreed between the Licensing Board and the holder of the licence; or
- (b) a single area of the premises which is inaccessible to the public.

- (1A) Sub-paragraphs (1B) to (1D) apply where the premises, in so far as they are used for the sale of alcohol, are so used only or primarily for the sale of alcohol for consumption off the premises.
- (1B) Any drinks promotion on the premises may take place only in any one or more of the following –
- (a) an area referred to in sub-paragraph (1)(a) and (b),
 - (b) a room on the premises which is used for offering the tasting of any alcohol sold on the premises (for consumption off the premises) and the resulting tasting is separate from those areas.
- (1C) A drinks promotion in connection with the premises may not take place in the vicinity of the premises.
- (1D) For the purposes of sub-paragraph (1C), the ‘vicinity’ means the area extending 200 metres from the boundary of the premises (as shown on the layout plan).
- (2) In an area agreed in terms of sub-paragraph (1)(a), a product other than alcohol may be displayed only if it is-
- (a) a non-alcoholic drink,
 - (b) packaged with, and may be purchased only along with, alcohol,
 - (c) a branded non-alcoholic product, or
 - (d) a newspaper, magazine or other publication.
- (2A) Sub-paragraph (2) is without prejudice to sub-paragraph (1B).
- (3) This paragraph does not apply in respect of premises-
- (a) whose main function is to provide a visitor attraction, and
 - (b) where
 - (i) the premises form part of a larger site which is used principally for the production of alcoholic drinks, or
 - (ii) the visitor attraction is used principally to provide information about and promote the history and attributes of a particular alcoholic drink or a particular category of alcoholic drink.
- (4) In this paragraph-
- ‘branded non-alcoholic product’ means a product which does not consist of or contain alcohol and which –
 - (a) bears a name or image of, or
 - (b) is an image of,

- an alcoholic product (namely, a product consisting of or containing alcohol)
 - 'drinks promotion' means any activity which promotes, or seeks to promote, the buying of any alcohol sold on the premises for consumption off the premises but does not include the display of any product which is –
 - (a) a branded non-alcoholic product for sale on the premises,
- or
- (b) a newspaper, magazine or other publication –
 - (i) for sale on the premises, or
 - (ii) if not for sale on the premises, which does not relate only or primarily to alcohol.

CONSULTATION DRAFT

APPENDIX 5 – OCCASIONAL LICENCE MANDATORY CONDITIONS

The following mandatory conditions will apply to all occasional licences pursuant to section 60(1) and schedule 4 of the Licensing (Scotland) Act 2005, as amended by the Alcohol etc. (Scotland) Act 2010

Interpretation

1. “The premises” means, in relation to any occasional licence, the premises specified in the licence.

Compliance with the Operating Plan

2. (1) Alcohol may be sold on the premises only in accordance with the terms of the licence.

(2) Nothing in sub-paragraph (1) is to be read as preventing or restricting the doing of anything referred to in section 63(2).
3. Any other activity to be carried on in the premises may be carried on only in accordance with the description of the activity contained in the licence.

Authorisation of sales of alcohol

4. (1) The condition specified in sub-paragraph (2) applies only to an occasional licence issued to the holder of a premises licence or personal licence.

(2) Every sale of alcohol made on the premises to which the licence relates must be authorised (whether generally or specifically) by the holder of a personal licence.

Voluntary Organisations

5. (1) The condition specified in sub-paragraph (2) applies only to an occasional licence issued to a representative of a voluntary organisation.

(2) Alcohol may be sold on the premises only at an event taking place on the premises in connection with the voluntary organisation’s activities.

Pricing of Alcohol

- 5B. (1) A package containing two or more alcoholic products (whether of the same or different kinds) may only be sold on the premises at a price equal to or greater than the sum of the prices at which each alcoholic product is for sale.

(2) Sub-paragraph (1) applies-
 - (a) only where each of the alcoholic products is for sale on the premises separately, and

- (b) regardless of whether or not the package also contains any item which is not an alcoholic product.
- (3) In this paragraph 'alcoholic product' means a product containing alcohol and includes the container in which alcohol is for sale'.
- 6. Where the price at which any alcohol sold for consumption on the premises is varied -
 - (a) the variation (referred to in this paragraph as "the earlier price variation") may be brought into effect only at the beginning of a period of licensed hours, and
 - (b) no further variation of the price at which that or any other alcohol is sold for consumption on the premises may be brought into effect before the expiry of the period of 72 hours beginning with the coming into effect of the earlier price variation.
- 6A. Where the price at which any alcohol sold on the premises for consumption off the premises is varied –
 - (a) the variation (referred to in this paragraph as 'the earlier price variation') may be brought into effect only at the beginning of a period of licensed hours, and
 - (b) no further variation in the price at which that alcohol is sold on the premises may be brought into effect before the expiry of the period of 72 hours beginning with the coming into effect of the earlier price variation'.

Irresponsible drinks promotions

- 7. (1) An irresponsible drinks promotion must not be carried on in or in connection with the premises.
- (2) Subject to sub-paragraph (3), a drinks promotion is irresponsible if it -
 - (a) relates specifically to an alcoholic drink likely to appeal largely to persons under the age of 18,
 - (b) involves the supply of an alcoholic drink free of charge or at a reduced price on the purchase of one or more drinks (whether or not alcoholic drinks).
 - (c) involves the supply free of charge or at a reduced price of one or more extra measures of an alcoholic drink on the purchase of one or more measures of the drink,
 - (d) involves the supply of unlimited amounts of alcohol for a fixed charge (including any charge for entry to the premises),

- (e) encourages, or seeks to encourage, a person to buy or consume a larger measure of alcohol than the person had otherwise intended to buy or consume,
 - (f) is based on the strength of any alcohol,
 - (g) rewards or encourages, or seeks to reward or encourage, drinking alcohol quickly, or
 - (h) offers alcohol as a reward or prize, unless the alcohol is in a sealed container and consumed off the premises.
- (3) Paragraphs (b) to (d) of sub-paragraph (2) apply only to a drinks promotion carried on in relation to alcohol sold for consumption on the premises.
- (4) The Scottish Ministers may by regulations modify sub-paragraph (2) or (3) so as to -
- (a) add further descriptions of drinks promotions,
 - (b) modify any of the descriptions of drinks promotions for the time being listed in it, or
 - (c) extend or restrict the application of any of those descriptions of drinks promotions.
- (5) In this paragraph, “drinks promotion” means, in relation to any premises, any activity which promotes, or seeks to promote, the buying or consumption of any alcohol on the premises.

Provision of non-alcoholic drinks

8. (1) The conditions specified in this paragraph apply only to the extent that the occasional licence authorises the sale of alcohol for consumption on the premises.
- (2) Tap water fit for drinking must be provided free of charge on request.
- (3) Other non-alcoholic drinks must be available for purchase at a reasonable price.

Requirement for Age Verification Policy

9. (1) There must be an age verification policy in relation to the sale of alcohol on the premises.
- (2) An ‘age verification policy’ is a policy that steps are to be taken to establish the age of a person attempting to buy alcohol on the premises (‘the customer’) if

it appears to the person selling the alcohol that the customer may be less than 25 years of age (or such older age as may be specified in the policy).

(3) The condition specified in this paragraph does not apply in relation to any sale of alcohol which takes place on the premises merely by virtue of being treated, by section 139, as taking place on the premises.

CONSULTATION DRAFT

APPENDIX 6 – LATE OPENING MANDATORY CONDITIONS

The following mandatory conditions apply to late opening premises (premises which will on any occasion be open for a continuous period beginning on one day and ending after 0100 hours the following day) pursuant to the Licensing Conditions (Late Opening Premises) (Scotland) Regulations 2007.

1. A person trained to the satisfaction of the Licensing Board in administering First Aid¹ must be present on the premises from 0100 hours (on any day when the premises are open at 0100 hours) until whichever is the earlier of:-
 - (a) the time at which the premises next close; and
 - (b) 0500 hours
2. A designated person who is the holder of a personal licence must be present on the premises from 0100 hours (on any day when the premises are open at 0100 hours) until whichever is the earlier of:-
 - (a) the time at which the premises next close; and
 - (b) 0500 hours or such other time as the Licensing Board may specify.
3. There must be written policies in existence concerning:-
 - (a) the evacuation of the premises; and
 - (b) the prevention of the misuse of drugs on the premises
4. A CCTV system must be installed on the premises to the satisfaction of the appropriate Chief Constable and must be kept in good working order.
5. There must be persons responsible for checking on the safety and wellbeing of persons using any toilet facilities on the premises.
6. A person who holds a licence granted under Section 8 of the Private Security Industry Act 2001 must be positioned at every entrance to the premises from 0100 hours (on any day when the premises are open at 0100 hours) until whichever is the earlier of:-
 - (a) the time at which the premises next close; and
 - (b) 0500 hours or such other time as the Licensing Board may specify.

¹ Until such time as the amendment to the Health and Safety (First Aid) Regulations 1981 is brought in to remove the requirement for HSE approval of first aid training and qualifications (which it is anticipated will take place with effect from 6 October 2013), the minimum level of first aid training which the Board will generally accept as satisfactory for the purposes of this mandatory condition is Emergency First Aid at Work (EFAW) training approved by the HSE. Guidance on the training which the Board will accept as satisfactory for Late Opening Premises applications lodged after that amendment takes effect will be prepared to coincide with the date on which the amendment comes into effect.

APPENDIX 7 – PREMISES LICENCE LOCAL CONDITIONS

Any of the following local conditions may be applied to premises licences for the purposes of one or more of the licensing objectives. These objectives are:

1. Preventing crime and disorder
2. Securing public safety
3. Preventing public nuisance
4. Protecting and improving public health
5. Protecting children from harm

	Condition	Licensing Objective
a.	Children under the age of 16 are excluded from any room where there is a bar counter after 2200 hours except during private functions or for the purpose of viewing live entertainment or where the child is in the room for the purpose of taking a meal. This condition does not apply to any child who is in the bar solely for the purpose of passing to or from some other part of the premises being a part to or from which there is no other convenient means of access or egress.	5
b.	Whilst in any room with a bar counter all children must be in the company of, or supervised by an appropriate responsible adult. This condition does not apply to children of the licence holder or children who are resident on the premises.	5
c.	Notwithstanding conditions (a) and (b) children must not sit or remain at the bar counter at any time.	5
d.	After 2100 hours alcoholic and non alcoholic drinks shall be sold or served in plastic or polycarbonate glasses. <i>See section 2.9 above for the options as to the circumstances in which the Board may consider applying this local condition. Consultees views on those options are invited. The condition currently applies only to premises opening after 0100.</i>	1, 2, 3 & 4
e.	After 2200 hours alcoholic or non-alcoholic drinks shall not be consumed in an outdoor drinking area.	3
f.	Premises opening for the sale of alcohol for consumption on the premises prior to 1100 hours shall have available a selection of hot and cold food and shall advertise this within the premises.	4
g.	Premises open for the sale of alcohol after 0100 hours shall have available a selection of hot and cold foods and shall advertise this within the premises.	4

h.	Dartboards and any pool table will be situated in a location to be approved by the Licensing Standards Officer.	2 & 5
i.	Any music or live performance will cease at 0245 hours (<i>or any other such time as specified by the board</i>)	3
j.	After 2100 hours (or any other such time as may be specified by the Licensing Board), the premises licence holder shall ensure that there is adequate stewarding at all relevant entrances and egresses to the premises and within the premises.	1, 2 & 3
k.	Within 30 minutes of the conclusion of permitted hours for any outside area governed by a Pavement Permit, all tables and chairs, parasols and other moveable furniture will be removed.	1,2 & 3
l.	The boundaries of any outside area covered by a Pavement Permit will be effectively demarcated to the satisfaction of the Licensing Standards Officer to separate it from general pedestrian access	2, & 3
m.	The licence holder shall ensure that all outdoor tables covered by a Pavement Permit are regularly cleared of all used glassware and crockery.	2
n.	The licence holder shall ensure the provision of an effective means of recording the capacity during the premises hours of operation.	2
o.	On any day for which the terminal hour specified in this licence is later than 0100 hours the following day, alcohol may be sold on the premises after 0100 hours only while entertainment as detailed in the operating plan is being provided and has been provided continuously from no later than 2200 hours.	4
p.	On any day for which the terminal hour specified in this licence is later than 0100 hours the following day, alcohol may be sold and consumed on the premises after 0100 hours only in that part of the premises identified in the operating plan as the part of the premises in which significant entertainment is to be provided.	4.
q.	The licence holder shall submit to the Board and to Police Scotland, prior to 1 December each year, notice of the dates within the festive period on which it is intended that the premises remain open until the festive period terminal hour stated for that category of premises in the Board's Policy Statement. The Premises may remain open until the festive period terminal hour only on those dates for which notice has	1 & 2

	<p>been given by the licence holder to the Board and to Police Scotland in accordance with this condition.</p> <p><i>(Applies only to premises which have a statement in their operating plan to the effect that they will open during the festive period for the hours agreed by the Board under their Festive Period policy.)</i></p>	
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CONSULTATION DRAFT

APPENDIX 8 – OCCASIONAL LICENCE LOCAL CONDITIONS

Any of the following local conditions may be applied to occasional licences for the purposes of one or more of the licensing objectives. These objectives are:

1. Preventing crime and disorder
2. Securing public safety
3. Preventing public nuisance
4. Protecting and improving public health
5. Protecting children from harm

	Condition	Licensing Objective
a.	A notice must be displayed so as to be reasonably visible which states that persons under the age of 18 are not permitted on the premises.	5
b.	The Licence Holder must be familiar with the legal requirements of selling alcohol under the Occasional Licence and shall ensure that all persons selling or serving alcohol are aware of their duties and responsibilities.	1, 2 & 5
c.	The Occasional Licence must be prominently displayed on the premises .	1
d.	The (Occasional) Licence Holder or, in his/her absence, a nominated Personal Licence Holder must be present in person within the premises during the period covered by the Occasional Licence. <i>(Applies to Personal Licence Holder and Premises Licence Holder applications only).</i>	1 & 2
e.	Only guests/ticket holders attending the function shall be allowed to be present on the premises during the permitted hours. The Licence Holder shall undertake such checks as are necessary to ensure compliance with this condition and shall provide sufficient staff for this.	2
f.	A designated member of a Voluntary Group granted an Occasional Licence must be present on the premises during the period the licence has effect.	1 & 2
g.	The Licence Holder must provide <i>[insert number]</i> Stewards. If these Stewards are working in a voluntary capacity they do not require to hold an SIA Licence.	1 & 2
h.	Stewards must be clearly identified by badges, armbands or a recognisable uniform.	1 & 2
i.	All Stewards must remain in the premises until all patrons have left the premises.	1, 2 & 3

j.	The Licence Holder must provide <i>[insert number]</i> Stewards who hold a Licence granted under Section 8 of the Private Security Industry Act 2001.	1 & 2
k.	The Licence Holder shall ensure that immediately following the end of the period covered by the Occasional Licence, all litter within the immediate environs of the premises is collected and placed in a refuse bin.	2 & 3
l.	All alcoholic and non-alcoholic drinks shall only be sold and served in cans, plastic or polycarbonate containers.	1 & 2
m.	The number of persons permitted entry to the premises shall not exceed the approval capacity limit for the premises.	2
n.	No person is to be permitted to leave the premises with alcohol in an open container.	1 & 2
o.	Any music or live performance must cease by 0245 hours or such other time as may be specified by the Licensing Board.	3
p.	Whilst on the premises referred to in this Occasional Licence, all children must be in the care of a responsible adult.	5
q.	Whilst on the premises referred to in this Occasional Licence, all persons under 18 years of age must be in the care of a responsible adult.	5

APPENDIX 9 – ADULT ENTERTAINMENT LOCAL CONDITIONS

Any of the following local conditions may be applied to premises providing adult entertainment. They will be applied for the purposes of one or more of the licensing objectives. These objectives are:

1. Preventing crime and disorder
2. Securing public safety
3. Preventing public nuisance
4. Protecting and improving public health
5. Protecting children from harm

1.	The licence holder shall have in place a code of conduct for behaviour of staff and customers. A copy of which will be available to staff and customers. The code will deal with matters such as information for performers, 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	1,2 & 3
2.	The licence holder will maintain a register of performers engaged to perform in the licensed premises. The register will show the name, age and current address of the performer. The licence holder will require photographic proof of identity. 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 performer's entitlement to work in the United Kingdom.	1,2 & 3
3.	Performers should only perform in open public areas of the licensed premises, which should at all times be appropriately stewarded and covered by CCTV cameras which will be of a standard to be approved by the Chief Constable.	1,2,3 & 4
4.	No dance entertainment should take place in private booths and performers' genitalia should be covered at all times. There should be no touching between performers and patrons at any time during the performance, the only contact allowed being the hand-to-hand payment of money at the conclusion of the performance.	1,2,3 & 4
5.	Performers remaining in the public area before, following or between performances should be suitably clothed at all times with no exposure of breasts or genitalia. Any advertising or performances outwith the licensed premises, whether by way of newspaper advertisement or any other public notices within or without the premises may only depict performers suitably clothed as aforesaid.	1,2 & 3

	Performances involving the removal of clothes should not be visible from outwith the premises.	
6.	The licensed premises shall have stewards in all public areas in addition to at least one steward positioned at each entrance to and/or exit from the premises. All public dance areas, entrances and exits should be monitored constantly while the premises are open to the public with the use of CCTV.	1,2 & 3
7.	Where in terms of the operating plan, children and young persons are permitted on the premises, they will not be permitted on the premises for the period from one hour before the adult entertainment commences until thirty minutes after it ceases.	1,2,3 & 5

CONSULTATION DRAFT

APPENDIX 10 – EXAMPLES OF SPECIAL CONDITIONS

The following are examples of special conditions which the Board may apply, on the recommendation of the Licensing Standards Officers, to particular types of event or premises or premises in a particular type of location. The list is illustrative only and it is open to the Board to apply further special conditions where considered necessary or expedient for the purposes of any of the licensing objectives. These objectives are:

1. Preventing crime and disorder
2. Securing public safety
3. Preventing public nuisance
4. Protecting and improving public health
5. Protecting children from harm

Special Condition	Circumstances applied	Licensing objective
Any alcohol sold on the premises is to be consumed on the premises only by guests being accommodated there.	Category 1 applications for premises formerly classed as restricted Hotels under 1976 Act	1
Alcohol may only be sold or supplied on the premises to persons taking table meals for consumption by such a person as an accompaniment to a meal.	Food-led operation at which general on-sales are not considered appropriate. Also assists in assessing compliance with “Early Opening “policy..	4
Alcohol for consumption off the premises to which this licence refers may only be sold and despatched pursuant to an order originating off the premises.	Telephone sales for “Beer and Pizza” deliveries.	1
During the Hours of Operation of any under 18 event on the Premises, a Personal Licence Holder shall be present on the premises for the duration of the event.	Under 18s Disco	1, 2, 3, 4, 5
During the hours of operation of any under 18 event adequate stewarding by SIA registered personnel will be at all relevant entrances and egresses to the premises and within the premises.	Under 18s Disco	1, 2, 3, 4, 5
Any under 18 event will be run according to the rules and	Under 18s Disco	1, 2, 3, 4, 5

conventions of Blue Light Disco's and with the approval of Police Scotland.		
During the course of any under 18 event all drinks shall be sold or served in plastic or polycarbonate glasses.	Under 18s Disco	1, 2, 4, 5
The CCTV system installed on the Premises shall be used during the duration of any under 18 event.	Under 18s Disco	1, 2, 4, 5
All glass disposal operations shall cease between the hours of 11pm and 8am.	Premises in residential area	3
All Live vocals or amplified music will be so controlled after 11pm that it shall be inaudible in nearby residential property.	Premises in residential area	3
Live Entertainment shall conclude at 11.45pm (or such other time as the Board may require).	Premises in residential area	3
A Personal Licence Holder is required to be personally present on the Premises between 7pm and 10pm.	Off sales premises known where evidence has been presented of anti-social behaviour/attempts to purchase by children or young persons.	1, 3, 5
A CCTV system of a standard approved by the Chief Constable shall be installed and cover the point of sale.	Off sales premises known where evidence has been presented of anti-social behaviour/attempts to purchase by children or young persons.	1, 3, 5

COMMENTS RECEIVED ON ISSUES RAISED IN CONSULTATION QUESTIONNAIRE

NB – Comments received are narrated in full below. Not all respondents made it clear in their responses whether they were indicating a “Yes” or “No” answer to the question or, where they were asked to indicate a preferred option, exactly which of the options they favoured. Where this occurred, the comments themselves have been included below but, to avoid the possibility of misrepresenting respondents’ views, the response has not been counted in the “Yes” or “No” figures given below or counted against any particular Option. The numerical results at the start of each section below therefore reflect only the numbers of clear “Yes” or “No” responses and the numbers of clear selections of particular options.

CORE HOURS

1. Do you consider the premises licence core hours proposed at section 2.1 are reasonable having regard to the licensing objectives?

No. responding yes: 11

No. responding no: 8

Comments received on premises licence core hours:	Respondent:
Agrees with core hours proposed.	Highland Licensing Forum
Agrees with core hours proposed.	Police Scotland
Agrees with core hours proposed.	NHS Highland

Reduce the hours that supermarkets are allowed to sell drink.	Individual
The Highland economy is driven by tourism. Off sales should be allowed at any time at which an outlet is open. The UK should follow the much more relaxed European approach to licensing hours.	Individual
<p>Off sales hours:</p> <p>The 10 am start, and especially the 10 pm cut off, are very restrictive for those of us trying to provide good customer service.</p> <p>For example, our hotel guests frequently ask to purchase our own label malt whisky to take away with them. However, they normally do this at check-out, which is typically earlier than 10 am and therefore we have to refuse. These are not “carry-outs” for consumption shortly afterwards, but souvenirs/gifts to take home. An earlier time of 8 am or even 9 am would make sense. The 10 am start time seems arbitrary.</p> <p>Secondly, the 10 pm cut off is too early, and we find many people ask for service once it is too late. This isn’t restricted to those who simply wish to “carry on the party” after closing time, but often people who wish perhaps to end their night back at the cottage, campsite or other accommodation. Something we’d prefer to avoid is the situation where people do purchase a carry-out before the 10 pm deadline, but then remain on the premises. What can happen here is that people may try to consume carry-out whilst still on the premises. A later cut off time would help prevent this.</p> <p>My view is that this policy just restricts consumers’ choice. I don’t see that it encourages people to consume less alcohol than perhaps they would otherwise have done.</p>	Premises licence holder
<p>Inverness Pub watch would submit that core hours should be extended to cover Sundays 2400hrs to 0100hrs Monday to bring this into line with the rest of the week and other Scottish cities.</p> <p>Sunday mornings from 1200pm to 1100am. This will reduce confusion with tourists and visitors who can purchase alcohol from 1000am at off sales, this is not creating a level playing field. There is no reason why in this day, Sunday opening should not be as the rest of the week.</p>	Inverness Pub Watch
One of the licensing objectives is "protecting and improving public health". Since seven day licenses became	Scottish Christian

<p>available, Scotland's health measured in terms of liver disease has rocketed and left the rest of Europe behind. Current medical advice is to have two alcohol-free days per week. In the past, the absence of licences on the Lord's Day (Sunday) acted as forced abstinence and "drying out" periods for those who could not control their drinking. More consideration should be given to curbing licences to prevent alcohol sales (not consumption) on the Lord's Day.</p>	<p>Party</p>
<p>No alterations should be made to existing hours that have been proved acceptable and traded satisfactorily over past years.</p>	<p>Peci Ltd (Hush)</p>
<p>We feel it should be brought into line with every other day and allowing premises to be open from 11 am to 1 am on a Sunday. This would bring us into line with other cities in Scotland.</p>	<p>Premises manager</p>
<p>Consideration should be given to extending the core hours to Sunday midnight into 0100hrs Monday..... This brings Sundays into line with the rest of the week. There is no specific reason that Sunday night should be curtailed. I believe it happened in the past as part of the Sabbath day. Times have changed and we need to move forward with the rest of the country.</p>	<p>Premises licence holder</p>
<p>Sunday licensing should be eliminated. There is no need to have alcohol being sold on Sunday. If there was one alcohol free day (in terms of sales) the nation would benefit and so would drinkers who cannot control their intake themselves.</p>	<p>Individual</p>
<p>The local situation around Morar Hotel is quite unusual. This hotel is right in the middle of a quiet residential area in a quiet rural village setting and the bar area is near enough to adjacent housing for sound to carry easily.</p> <p>I must emphasise that most people locally would like the hotel to be a thriving hub for the community, but there is concern that it be run responsibly and with due consideration regarding noise from late evening into the early hours. No one would have any objection to late hours to celebrate special local events and for community days like Games day - in fact neighbouring residents are all for this.</p> <p>The concern is that if core hours were to be adhered to then it could potentially cause disturbance and nuisance on a routine basis.</p>	<p>Morar CC</p>

<p>This year the hotel is not actually opening to non-residents at all and so this concern is theoretical but the comments are based on residents' past experience and with an eye to possible future opening to the public. If the publican communicates well with locals and is sensitive to their wishes and needs then there is little need for concern.</p> <p>Unfortunately, however, with frequent changes of ownership there can of course be no guarantee that the establishment will be run this responsibly.</p> <p>Recorded music played in the bar does carry – particularly the bass – and could disturb residents who wanted to sleep, say, from 11pm onwards, or who were either working at home, preparing for a working day, needing a good night's sleep or perhaps elderly or suffering ill-health : there are many cases when routinely disturbed sleep patterns can cause or exacerbate ill-health.</p> <p>Nights with “significant entertainment” – in the past this has been principally live music– which are allowed to go on until 3am or 4am in festive periods. These again are probably desirable from time to time but it is hardly appropriate on a routine basis for the reasons already given.</p>	
<p>Premises Licence Core Hours</p> <p>The Association questions the Board's apparent intention of continuing to allow some operators more flexible trading hours later into the evening and early hours of the morning where they provide “significant entertainment.” This flexibility does not appear to be evidenced by the Board in its current policy with reference to the licensing objectives under the 2005 Act. Indeed the recent Brightcrew versus City of Glasgow Licensing Board case reinforced the opinion that premises licensed under the 2005 Act are licensed for the sale of alcohol and not because they provide “entertainment.”</p> <p>We note the Board has referred to these outlets as being “late opening” which is a reference to Section 27 of the 2005 Act, however we would point out that these conditions are imposed because the premises trade after 1 am, not because they provide “entertainment.”</p> <p>This discrimination by the Board continues to utilise provisions which used to exist under the Licensing</p>	<p>Scottish Beer & Pub Association</p>

<p>(Scotland) Act 1976 and which made a distinction between “public entertainment” licensed premises and other types of licensed premises. This distinction however does not exist in relation to the 2005 Act. We would ask that the Board consider giving additional trading hours to pubs that simply wish to provide a relaxed environment for the consumption of alcohol late in the evening without the provision of any “entertainment” in catering to customer demand, consistent with the licensing objectives. Pubs generally provide a safe well managed environment that is off value both to the community and to the Scottish economy.</p> <p>As a minimum we would suggest the Board needs to reference the reasons for this proposed “entertainment” provision specifically to the five licensing objectives. We do not believe the current draft does this adequately.</p> <p>Sunday Trading Hours</p> <p>In relation to trading hours for pubs on a Sunday we note the Board’s current policy of allowing these from 12 noon on Sundays.</p> <p>Having reviewed the current practice of the other forty Licensing Boards in Scotland, we note that most Boards now allow trading for pubs from 11 am on a Sunday, subject to the appropriate variation applications having been granted. We are not aware of any adverse response to this flexibility or indeed any inconsistency with the licensing objectives. Given that many of the Boards neighbouring the Highland Board offer these earlier hours we would ask that the Board also consider allowing additional trading to pubs on Sunday mornings given that it allows off-sales premises to trade from 10 am.</p>	
<p>These hours are adequate.</p>	<p>Raigmore CC</p>
<p>We note that the vast majority of licensing boards across Scotland now have policy hours commencing at 11am on a Sunday. We do not see that there is a need to have a separate commencement hour on a Sunday in comparison to the remainder of the week and there is no evidence that the licensing objectives are imperilled by having a commencement hour of 11am. We own premises across Scotland and are unaware of any detriment to the licensing objectives having arisen and we would propose that the policy hours be amended to 11am seven days a week.</p>	<p>Punch Taverns</p>

EXTENDED HOURS ON SCOTTISH PREMIER LEAGUE MATCH DAYS

2. In response to concerns raised by the police regarding pre-match drinking and alcohol-related incidents, the Board is considering whether to introduce a new policy creating a presumption against the grant of extended hours applications for early opening (i.e. before 1100 Monday to Saturday or before 1200 hours on Sunday) on Scottish Premier League match days. Three options for the position the Board might take on this issue are set out at section 2.2. Which of these options do you support and why?

Option 1: The Board will generally not entertain applications for early opening on SPL match days at any premises.

No. in favour of Option 1: 0

Option 2: The Board will generally not entertain applications for early opening on SPL match days. Exception may be made in the case of applications for football club premises themselves where early opening is sought to accommodate pre-match hospitality packages and the Board is satisfied that the consumption of alcohol will be ancillary to the pre-match dining and entertainment provided.

No. in favour of Option 2: 11

Option 3: The Board will consider SPL matches in Highland to be special events and will grant applications for early opening on SPL match days where satisfied that such early opening will not conflict with any of the licensing objectives. Additional conditions requiring the provision of food and additional stewarding will be applied.

No. in favour of Option 3: 7

Comments received on extended hours on SPL match days:	Respondent:
Forum decision: Option 1 – No votes Option 2 – 9 Votes Option 3 – 3 Votes	Highland Licensing Forum

<p>In reaching a decision, Forum members considered public safety issues in the event of a requirement for a stadium to be evacuated and noted that Old Firm games in Glasgow kick off early, before pubs open, in an effort to prevent public disorder. The Forum noted that fewer supporters require to be turned away at the turnstiles when on-sales premises are closed prior to a game. They noted that food is provided with hospitality prior to a game and considered that for that reason the premises providing hospitality can be treated differently to other on-sales premises.</p> <p>Dissenting members commented that</p> <ul style="list-style-type: none"> ○ it would be better if the Police know where supporters are drinking rather than have supporters purchase alcohol from offsales premises and drink in public places, ○ it is difficult to consider on-sales premises in isolation as individuals who cannot purchase from onsales premises can purchase more alcohol for their money from offsales premises and ○ there is a problem with supporters from travelling teams consuming excessive amounts of alcohol during their bus journey to the Highlands. 	
<p>Option 2 supported.</p> <p>Option 2 presumes against the grant of extended hours applications for early opening on SPFL match days in Highland, with the proviso that exception may be made for football club premises accommodating hospitality packages. Police Scotland take the view that this is a reasonable compromise as the alcohol sold/consumed is ancillary to the hospitality in contrast to public houses where the sale/consumption of alcohol is the feature. Experience indicates that the levels of intoxication reached in the latter scenario exceeds that in the former.</p>	Police Scotland
<p>Option 2 supported.</p> <p>It is clear that alcohol consumption will be ancillary to the pre-match dining and entertainment.</p>	NHS Highland
<p>The economy requires stimulus, not constriction. There are adequate other controls in place to manage spectator behavior on match days.</p>	Individual
<p>Having read the report from Ch Insp Gough, I would make the following observations. The Inverness, Highlands and Islands LTA are in full agreement that the licensing objectives are paramount.</p>	Inverness, Highlands and Islands licensed Trade

<p>Licensees are now fully trained and are well aware of the consequences to both their Premises and Personal licences should they operate in any way that would jeopardise the licensing objectives. At all major games in Dingwall, each of the main licensed premises has engaged SIA stewards, has welcomed the continual checking of the premises by the Police (with the exception of British Transport Police who caused more trouble than all the supporters put together) and have done their best to ensure a truly Highland welcome into their premises where supporters from both sides are seen to enjoy each other's company – something that does not happen in the Central Belt. The problem with not allowing premises an extra hour on match days (except Sundays) is that the supporters will migrate to Tesco where they can purchase far greater amounts of alcohol which they will proceed to drink in the streets, parks or anywhere else they can find which is far more likely to cause problems in respect of public safety, public nuisance and the prevention of crime and disorder. The Association is mindful of other comments made by Police Scotland to the effect that part of the problem is that fans are alighting from supporter's busses under the influence of drink and topping up in local establishments. This can easily be stopped if the Police revert to what was done some years ago by putting two Officers on the A9 about Newtonmore to stop all supporters' buses. If there is the slightest trace of alcohol being consumed, the driver is charged, the bus turned and sent back south and the operator reported to the Traffic Commissioner. That has proved in the past to be very effective. Our Association note with interest that the question relates solely to SPL games – would the intention be different if Ross County were to play Rangers in a Cup game?</p>	<p>Association</p>
<p>Inverness Pub Watch would submit that if the core hours (as in question1) were changed, this question would not apply. However if core hours are not changed we would support Option 2.</p>	<p>Inverness Pub Watch</p>
<p>Considering applications from other licensed premises would mean that an element of control is possible within licensed premises rather than fans being left with the only option of purchasing cheap alcohol at supermarkets.</p>	<p>Portree and Braes Community Council</p>
<p>Given the small number of SPL matches in the Highland area, it would seem reasonable to allow early opening provided there is provision of food and additional stewarding.</p>	<p>Melvich CC</p>
<p>Option 2 is appropriate. Option 3 fails to adequately accommodate police concerns.</p>	<p>Scottish Christian Party</p>

<p>It is far better that all alcohol consumption is contained within controlled environment of licensed premises and not supermarket bought alcohol consumed in the streets.</p>	<p>Peci Ltd (Hush)</p>
<p>If the core hours were to change (to allow Sunday opening from 11 am to 1 am the following day) then this would not apply. However, as core hours stand we would support Option 2.</p>	<p>Premises manager</p>
<p>I believe this only applies to Dingwall as there is already early opening in Inverness. I feel 11 am on Saturdays and 12 noon on Sundays is adequate opening times for SPFL games.....with this view I take in to consideration public safety issues in relation to travelling supporters. The stadium should be exempt as the alcohol is ancillary to food in the hospitality suites and is well supervised.</p>	<p>Premises licence holder</p>
<p>Option 3 does not follow police recommendations to uphold law and order, secure public safety and prevent public nuisance.</p>	<p>Individual</p>
<p>Options for Scottish Premier League Match Days</p> <p>We note the comment: <i>“In the case of Scottish Premier League football matches in Highland, evidence supplied by Police Scotland has indicated an increasing number of incidents and crowd control issues arising as a result of excessive pre-match drinking.”</i></p> <p>Having reviewed the information submitted to the Board and available on the Council website we do not believe that sufficient comprehensive evidence has been produced to demonstrate that there are an “increasing number of incidents” requiring a change by the Board of its policy in this regard. Indeed we would suggest that much of the publicly available evidence appears to be anecdotal (in the case of the Licensing Standards Officer’s report) or designed to justify a change of policy which has not been adequately or robustly enough evidenced with detailed statistics. Unfortunately, public safety and order issues are experienced around many public events including football matches which in turn require higher levels of policing. This in itself we would submit should not justify changes in licensing policy, especially when that change of policy will still allow the sale of alcohol from off-sales outlets from even earlier hours than in pubs.</p>	<p>Scottish Beer & Pub Association</p>

<p>As a minimum we would ask that the Board produces more evidence to justify its suggested change of policy, but we would not support additional restrictions from the current position which does allow the Board to use its knowledge and discretion to grant extended hours applications and impose appropriate conditions in order to meet the licensing objectives. We therefore support Option 3 as indicated in the Board’s consultation.</p>	
<p>Supports option 2 or 3.</p>	<p>Raigmore CC</p>
<p>Supports option 3.</p> <p>We believe that it is important for the Board to recognise the benefits of allowing premises special dispensation for catering for customers who wish to enjoy the responsible consumption of alcohol on match days. We would support a move to allow such extensions where it can be demonstrated by the applicant that the additional hours will be managed responsibly and sensibly so as not to undermine the licensing objectives, perhaps by agreeing to certain conditions. We believe that a blanket ban on extensions in these circumstances fetters the discretion of the Board to take each application on its own merits whilst robbing the opportunity for responsible operators to manage such occasions well due to the actions of other less responsible operators.</p>	<p>Punch Taverns</p>

FESTIVE PERIOD HOURS

3. Do you consider the festive period hours proposed at section 2.3 are reasonable having regard to the licensing objectives?

No. responding yes: 15

No. responding no: 3

Comments received on festive period hours:	Respondent:
Agrees with proposed festive period hours.	Highland Licensing Forum
Agrees with proposed festive period hours.	Police Scotland
Agrees with proposed festive period hours.	NHS Highland
Pub Watch are satisfied with the present arrangements.	Inverness Pub Watch
Three weeks seems excessive given there is only a week between Christmas and New Year. Suggest period should be 2 weeks, up to and including 2 January.	Melvich CC
4 a.m. is too long. Night time business is too often false economy for the tax-payer, although lucrative for individual businesses. The cost of basic services in terms of policing, emergency services, transport, etc., is too demanding upon infrastructure, especially in the cold and dark nights of the winter. There is no need for clubs to be open till 3 a.m., far less 4 a.m., after which time the tax-payer picks up the bill in financial, social and human costs. The night time economy is sending the wrong message to society. It is time to reverse its baneful effects on society and to roll back the night time economy to essential services. We would support 2 a.m., and at the most 3 a.m., but not 4 a.m.	Scottish Christian Party

<p>Would recommend the festive licensing is extended to occasionals too, bearing in mind that local conditions will apply.</p> <p><i>Licensing Board Clerk's note: Provision for this is already contained in the Consultation draft at section 2.4</i></p>	Premises licence holder
<p>4 am is too late for any establishment. The earlier the better, as the longer such establishments are open into the night, the more demands are made on emergency services, transport and so on.</p>	Individual
<p>The same thinking applies here. People need to enjoy celebration over the festive period but repeated 4am closing would soon become oppressive for those in the vicinity. Again I would mention the licensing objectives relating to disturbance, nuisance and health.</p>	Morar CC
<p>Agreed. Stewarding of venues will ensure no problems.</p>	Raigmore CC
<p>We support the proposals to allow additional extensions during the festive season for late opening premises to 4am. We also support the proposal to allow premises to vary their operating plan to refer to the festive period under "seasonal variations" thereby avoiding the need for individual extended hours applications. We note that this is a policy adopted by many other boards across Scotland and our experience is that this works well.</p>	Punch Taverns

OCCASIONAL LICENCE HOURS

4. Do you consider the core hours proposed for occasional licences at section 2.4 are reasonable having regard to the licensing objectives?

No. responding yes: 15

No. responding no: 4

Comments received on occasional licence core hours:	Respondent:
<p>Yes, though the Forum would suggest that the festive policy hours mentioned at 3 above extend to occasional licences too. <u>Licensing Board Clerk's note:</u> Provision for this is already contained in the Consultation draft at section 2.4</p>	Highland Licensing Forum
<p>Agrees with proposed occasional licence hours.</p>	Police Scotland
<p>Agrees with proposed occasional licence hours with recommendation that in the case of large festivals (eg music) a requirement be included for a "cool out" space to encourage people to be safe before they travel home.</p>	NHS Highland
<p>As in question 1 we would wish the occasional licence hours to be changed from 2400hrs to 0100hrs on the Sunday night to fall in line with core hours being proposed by Pub Watch</p>	Inverness Pub Watch
<p>See our comment on Question 1 about curbing licences to prevent alcohol sales (not consumption) on the Lord's Day.</p>	Scottish Christian Party
<p>Again, there is no need to have licences granted for the Sunday.</p>	Individual
<p>Occasional licence hours on Sundays should be 11 am to 1 am, as proposed in answer to Q1.</p>	Premises manager

<p>Although the proposed hours will generally be acceptable there may be a case for certain events e.g. weddings where a later time than 1 am may be appropriate.</p>	<p>Raigmore CC</p>
<p>We believe that hours available under occasional licences should be broadly equivalent to policy hours for on sales premises. However, we welcome acknowledgement that each application must be treated on its merits and would remind the board to be open to applications which may relate to special local and community events which may commence prior to 11am.</p>	<p>Punch Taverns</p>

ACCESS TO PREMISES BY CHILDREN

5. In relation to access to premises by children (i.e. persons under the age of 16), do you consider that the requirements proposed by the Board at section 2.5 are adequate and necessary for the protection of children?

No. responding yes: 16

No. responding no: 2

Comments received on requirements proposed for access by children:	Respondent:
<p>Yes, the Forum agrees. The Forum would suggest that in relation to the requirements to exclude children from rooms where there is a bar counter, instead of saying at paragraph 2.5, “The Board <i>will</i> impose the following requirements,” the policy should state “The Board <i>may</i> impose the following requirements”. The reason is that some hotels have bar counters but essentially the room with the bar counter also serves as the residents’ lounge. Blanket imposition of this policy would mean that teenagers of 14 and 15 could be excluded from the residents’ lounge at 10 pm which is not what the Forum would consider the Board intends.</p> <p>The Forum would suggest that the Board take the opportunity in the policy to detail the requirements for an age verification policy, which is a mandatory condition, and that the Licensing Policy Statement direct people to a sample age verification policy. Failure to have appropriate age verification measures in place has been the subject of a number of Highland Board hearings in recent months. The Forum would also suggest that the Policy Statement should detail the requirement that premises admitting children under five have baby changing facilities accessible to both genders and that the Board clarify its position in relation to baby changing facilities when occasional licences are in place.</p>	<p>Highland Licensing Forum</p>
<p>Agrees with proposed requirements.</p>	<p>Police Scotland</p>
<p>Agrees with proposed requirements.</p>	<p>NHS Highland</p>

<p>I have 5 children. Licensing laws and restrictions have been the bane of my life. In Europe there is zero hassle. In the Highlands, it is horrible, simply horrible. Please take a chill pill and relax the crazy restrictions.</p>	<p>Individual</p>
<p>For some 25 year or more, we have featured live music regularly. In all that time, we have chosen to do it in the part of the premises where we specifically exclude under 18's. We do this because invariably the performance creates a livelier atmosphere, which is one of the primary reasons we spend thousands every year doing it. For that reason, I am of the opinion that this at times makes it less suitable for children, especially younger ones. It does of course depend on the type of music on offer.</p> <p>To have different rules depending on whether there is live music makes no sense to me. I also think the time of 10 pm is somewhat arbitrary. Given a lot of our trade is from tourists, many of whom travel with children, I really struggle to understand and explain this policy.</p>	<p>Premises licence holder</p>
<p>These are appropriate.</p>	<p>Scottish Christian Party</p>
<p>The access requirements proposed are broadly in line with those of other licensing boards and we welcome the exceptions allowing children to remain in premises after 10pm where attending a function, taking a meal or viewing live entertainment.</p>	<p>Punch Taverns</p>

ADULT ENTERTAINMENT

6. In relation to adult entertainment, do you consider that the requirements proposed by the Board at section 2.6 are adequate and necessary for the purpose of any of the licensing objectives?

No. responding yes: 10

No. responding no: 9

Comments received on requirements proposed for adult entertainment:

Respondent:

The Forum was unanimous in deciding that the measures are not adequate in relation to the objective of “protecting children from harm”. All Forum members were concerned that children could be on premises 30 minutes to an hour before or after adult entertainment takes place and felt that children and young persons should be excluded from premises on any day that adult entertainment takes place. The Forum is aware that special consideration may require to be given where children are resident in hotels on days when adult entertainment is taking place.

Highland Licensing Forum

For all other licensing objectives, the majority view of the Forum was that the measures proposed by the Board are adequate. Two members of the Forum, Elisabeth Smart, Public Health Consultant and Sarah Henderson of the HADP asked that their dissent be recorded, stating that adult entertainment objectifies people, is degrading and should not be permitted at all on licensed premises. Furthermore, as lap dancing was perceived as an activity which exploits women, the view was expressed by the dissenting members that the Board’s decision to grant an application which enabled lap dancing on licensed premises did not sit well with the Board’s stated commitment to promoting equality of opportunity as expressed in its Equality Strategy.

Additional conditions proposed as follows:

- Local police should be made aware of forthcoming events
- Licence Holder to be present for the duration of each event

Police Scotland

<p>Disagrees that the proposed requirements are adequate.</p> <p>Activities such as pornography, prostitution, stripping, lap dancing, pole dancing and table dancing are forms of commercial sexual exploitation. These activities have been shown to be harmful for the individual women involved and have a negative impact on the position of all women through the objectification of women's bodies. This happens irrespective of whether individual women claim success or empowerment from the activity. It is essential to separate sexual activity from exploitative sexual activity.</p> <p>Therefore, it is vital that Adult Entertainment, in any form, within any licensing application is carefully considered and tested against the Fundamental Principles. We believe that Adult Entertainment is Commercial Sexual Exploitation and runs contrary to the legal obligations outlined by the Equality Act in relation to Gender.</p> <p>NOTE : Adult entertainment is usually associated with women, however, men can also be affected and experience exploitative sexual activity.</p>	NHS Highland
<p>In the final paragraph of Section 2.6, it is the view of the Association that children or young persons should not be allowed anywhere near any venue where adult entertainment is taking place – either before or after. We accept that in the majority of venues where adult entertainment is permitted, that would be the case but there are concerns in view of the fact that there is at least one venue whose Operating Plan permits adult entertainment which is in fact an hotel where it is highly probable that children or young persons may be, for the time being, resident. In such circumstances the Association would support the Board in imposing conditions to ensure that the part of the hotel being used for adult entertainment is strictly out of bounds to children or young persons.</p>	Inverness, Highlands and Islands Licensed Trade Association
<p>Inverness Pub Watch agree with the conditions proposed by the Board.</p>	Inverness Pub Watch
<p>They are necessary but not adequate. The Scottish Christian Party has responded at greater length to the Scottish Government Consultation on Sexual Entertainment Venues, which is available</p>	Scottish Christian Party

<p>separately, and which we are happy to make available to the Highland Licensing Board.</p> <p>We believe that adult entertainment is inimical to all five core objectives in The Licensing (Scotland) Act 2005 because it promotes and fuels the desire for sexual gratification off-premises, leading to the problems of sexual exploitation and assault too often associated with adult entertainment. These off-premise consequences impinge upon all five core objectives: 1. Preventing crime and disorder; 2. Securing public safety; 3. Preventing public nuisance; 4. Protecting and improving public health; 5. Protecting children from harm. The Board should consider the consequences of adult entertainment and not simply its regulation during its performance.</p> <p>Further, we believe adult entertainment conflicts with the Board's Equality Strategy because it is discriminatory in that it demeans women more selectively than men. It can lead to sexual harassment off-premises. "The focus should not only be internal (mainstreaming equality principles into procedures and systems) but also external (mainstreaming equality principles into policies and customer service delivery)" (Highland Equality Strategy, p. 9). "Customer service delivery" should include the likely or possible consequences off-premises of adult entertainment. The police do so in considering public disorder with pre-match drinking.</p>	
<p>They do not go far enough. Adult entertainment conflicts with all five of the core objectives in the Licensing (Scotland) Act 2005 as it leads to increased sexual behavior off premises. Thus while the requirements try to regulate in respect of the Licensing Act's objectives in the premises, they are ineffective in doing so off-premises.</p>	Individual
<p>Page 7 of the consultation document states, "The Board also expects licence holders to address equalities issues in all aspects of the operation of their premises." The joint Scottish Government COSLA document outlines our understanding of Violence Against Women (including Commercial Sexual Exploitation) as a significant issue in our progress towards gender inequality as both a cause and a consequence of it. We would argue that to permit 'adult entertainment' on premises is for a License Holder to not only fail to address gender inequality, but to perpetuate it.</p> <p>We continue to be concerned, in general, about licenses being approved whilst 'Adult Entertainment'</p>	Highland Violence Against Women Partnership

is being offered and we maintain our position that 'adult entertainment' is a form of Violence Against Women. In this regard, we would prefer that the Licensing Board did not grant any alcohol licenses during adult entertainment. However, we appreciate the legal difficulties that the Board believe themselves to have in this regard.

The current consultation document asks for views on the requirements proposed by the Board for "Adult Entertainment". We, and the Board, are aware of the current legal difficulties in imposing any conditions on "Adult Entertainment" and urge the Board not to grant any licenses until this issue is resolved. As we have previously discussed with the Board, the current legal position is that any conditions are entirely voluntary & should there be any breach of these, there is no legal basis for sanctions.

However, as this Consultation is for the Licensing Board's 3 year Policy Statement, we have commented on the proposed conditions for "Adult Entertainment". This is in the hope that, the legal position will change, and, if there are to be venues offering so called adult entertainment, these will be subject to legally enforceable conditions

We believe that the proposed changes outlined below (if able to be enforced), would serve to increase protection for performers, customers and the wider public and would serve to better meet the Licensing Objectives. The additions to the current conditions are outlined below:

— performers must be directly employed by the Licensee and not employed on a 'self-employed' basis which leaves women unprotected and not covered by the conditions attached to the License (as evidenced in the legal challenge in Glasgow, the Brightcrew case). We also believe that because women are most often self employed in lap dancing clubs and have to pay a 'house fee' or commission, this is what can often lead them to break their own boundaries (and the conditions) in relation to contact with customers. It must be recognised that, on average, in Glasgow, women are paid between £10-£20 per dance¹. Women may make more money from private dances, and although in Highland, as in Glasgow, the conditions already state that these must not take place, the issue is that women will be tempted to breach these conditions to ensure

¹ Information supplied by the Women's Support Project

they leave work in rather than out of pocket. We believe that women should be paid the Living Wage, in accordance with The Highland Council policy. **Licensing Objectives 1 & 4**

- the Licensee and staff attend Equalities training, as do stewarding staff, to a minimum standard to be decided by The Highland Council Equalities Officer. **Licensing Objectives 1, 2 & 4**
- the distance between performers and customers is specified and set at 2 feet minimum so it is clear what is meant by the statement in the conditions “no touching”. **Licensing Objectives 1, 2, 3 & 4**
- prices for drinks, admission, etc are set annually by the Licensee and apply on all days of opening, regardless of whether or not ‘adult entertainment’ is taking place (this will address some concerns re: customers being financially exploited by venues whilst ‘adult entertainment’ takes place). **Licensing Objectives 1, 2, 3 & 4**

In terms of protecting and improving public health (Licensing Objective 4) , we believe the following additions to the conditions are required:

Risk Assessments - A risk assessment should be undertaken and regularly reviewed and appropriate control measures should be implemented in respect of:

- the precise work activities required of performers
- the personal safety of performers

The Licensing Standard’s Officers should be able to access, on request, copies of these risk assessments and any subsequent risk management plans prepared.

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

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

<p>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 performers and should provide privacy and security from intrusion by members of the opposite sex and from customers and members of staff.</p> <p>Washing Facilities - Wash hand basins and showers should be provided for the exclusive use of performers 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 customers. Washing facilities should be provided in the immediate vicinity of the sanitary conveniences and the changing facilities.</p> <p>Changing facilities for performers - Should comply with the following basic standards: -</p> <ul style="list-style-type: none"> a) the facilities should have a minimum floor area of 1.86m² per performer 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 customers or members of staff; 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 performer for the safekeeping of valuables and clothing; e) the facilities should include a plentiful supply of chilled drinking water for all performers <p>We urge the Board to recognise that when inspecting premises offering 'adult entertainment' this should be done anonymously and without the Licensee (or other staff's) previous knowledge. This is in order to gain a true picture of how the conditions are or are not being upheld.</p>	
<p>Generally acceptable but need to ensure controls are strictly applied and no illegal activity takes place.</p>	<p>Raigmore CC</p>
<p>Whilst we acknowledge and support the aims of this part of the policy in terms of public and performer safety, we would remind the Board of the terms of Brightcrew Ltd v City of Glasgow Licensing Board 2011 as regard the "essential function" of the licensing board being the regulation of the sale of alcohol. We note that the Scottish Government is seeking to introduce a new type of</p>	<p>Punch Taverns</p>

<p>licence called a Sexual Entertainment Licence and suggest that some of what is proposed here (including the proposed conditions at Appendix 9) would be regulated under that regime and not via an alcohol licensing regime. The Board may wish to take advice on whether elements of this part of the proposed policy are within its remit.</p>	
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MEMBERS' CLUBS

7. Section 2.8 relating to clubs sets out reminders as to statutory requirements applicable to the sale of alcohol in clubs. Are there any additional requirements which you consider the Board should impose on clubs as a matter of policy?

No. responding yes: 2

No. responding no: 16

Comments received on additional requirements for clubs:

Respondent:

The Board should encourage Clubs to ensure via their constitutions that a limit is placed on the number of members who can be signed in by a Club member and bona fide entertained by that member in their company. The Board should encourage Clubs to ensure observance of their constitutions in the Policy Statement. The Forum is also of the view that the Board could more forcefully point out the statutory obligations and restrictions on members clubs. This would be a useful reminder for clubs themselves and would help inform other licensing stakeholders who read the policy statement. As the Board has heard during review hearings, some members clubs do not apply for occasional licences when they should. Trade in other licensed premises suffers because of this. Indeed the Board highlighted the issue when responding to the Scottish Government consultation in March.

Highland Licensing Forum

The Forum would commend to the Board the paragraphs submitted by the SLTA for inclusion in the Board's policy statement –

"The Board would emphasise that Members Clubs exist primarily for the use of members only and their bona fide guests. The Board will ensure that appropriate action is taken in circumstances where it comes to the Board's attention that Members Clubs openly advertise, through any medium whatsoever, that the Club facilities are freely available to non-members.

If Members Clubs wish to allow general admission to non-members of the club without being invited, signed in and accompanied by a member of the club, they will require to lodge an application for a

<p><i>major variation of their licence. They will also be required to appoint a premises manager, to have the sale of alcohol authorised by a premises manager or personal licence holder and will no longer be able to benefit from the reduced annual fee for clubs.</i></p> <p><i>Clubs are further reminded that where they agree to host functions (such as weddings, parties etc) at which non-members are to be supplied with alcohol on the club premises at a time when they are not the guest of a member and are accompanied by that member, alcohol may only be sold to those non-members if an occasional licence has first been obtained.</i></p> <p><i>Clubs are asked to note that these statements reflect mandatory legal requirements (The Licensing (Clubs) (Scotland) Regulations 2007 and Section 125 of the Act) rather than Board policy.</i></p> <p>In relation to occasional licences the Forum notes that the draft policy refers to a requirement for an occasional licence to be obtained before alcohol can be supplied to members of the public “at any function”. There is no requirement in terms of the legislation for clubs to hold a “function” before applying for an occasional licence. Occasional licences can be applied for at any time whether a function is taking place or not. If the Board has a policy on the types of event or function for which occasional licences can be granted to clubs, or indeed to voluntary organisations or personal licence holders then that policy should be set out in the policy statement.</p>	
<p>No additional requirements proposed.</p>	<p>Police Scotland</p>
<p>No additional requirements proposed.</p>	<p>NHS Highland</p>
<p>This is an area that has caused much concern in the licensed trade. We are aware that there could well be legislative changes in relation to Clubs as a result of the recent Government Consultation Paper – “<i>Further Options for Alcohol Licensing</i>” - but, notwithstanding such potential changes, we would ask that the Board make it abundantly clear in the Policy Statement, to all Clubs who continually violate the legislation, that such behaviour will not be tolerated. Accordingly, we would suggest that the wording reflects the issues along the lines of –</p>	<p>Inverness, Highlands and Islands licensed Trade Association</p>

<p><i>“The Board would emphasise that Members Clubs exist primarily for the use of members only and their bona fide guests. The Board will ensure that appropriate action is taken in circumstances where Members Clubs openly advertise, through any medium whatsoever, that the Club facilities are freely available to non-members.</i></p> <p><i>If Members Clubs wish to allow general admission to non-members of the club without being invited, signed in and accompanied by a member of the club, they will require to lodge an application for a major variation of their licence. They will also be required to appoint a premises manager, to have the sale of alcohol authorised by a premises manager or personal licence holder and will no longer be able to benefit from the reduced annual fee for clubs.</i></p> <p><i>Clubs are further reminded that where they agree to host functions (such as weddings, parties etc) at which non-members are to be supplied with alcohol on the club premises at a time when they are not the guest of a member and are accompanied by that member, alcohol may only be sold to those non-members if an occasional licence has first been obtained.</i></p> <p><i>Clubs are asked to note that these statements reflect mandatory legal requirements (The Licensing (Clubs) (Scotland) Regulations 2007 and Section 125 of the Act) rather than Board policy.”</i></p>	
<p>No additional requirements but Pub Watch is of the view that the Board could more forcefully point out the statutory obligations and restrictions on members clubs. This would be a useful reminder for clubs themselves and would help inform other licensing stakeholders who read the policy statement.</p>	<p>Inverness Pub Watch</p>
<p>There is an ongoing issue with clubs, which is their continual ignorance of the current Act in relation to their statutory obligations, mainly being their forgetfulness in applying for the necessary occasional licences. I am sure the Board is aware of this happening.</p>	<p>Premises licence holder</p>
<p>Perhaps a reminder of the statutory obligations and restrictions that members’ clubs should adhere to should be brought to their attention by the Board.</p>	<p>Premises manager</p>
<p>We welcome the proposals to insist that clubs seek a major variation of their premises licence in order</p>	<p>Punch Taverns</p>

to allow general access by the public. We are aware that this is now accepted practice in most licensing boards in Scotland.	
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PLASTIC/POLYCARBONATE GLASSES

8. In response to concerns raised by the police in relation to glassing attacks, the Board has for a number of years had a policy of requiring (by local condition) that premises open until after 0100 hours (Late Opening Premises) all drinks served after 2100 hours must be served in plastic or polycarbonate glasses. Five options for the position the Board might take on this issue in its revised Policy Statement 2013-16 are set out at Section 2.9 for consideration.

a. Which of these 5 options do you support and why?

Option 1: Retain the existing policy of requiring only Late Opening Premises to serve drinks in plastic or polycarbonate glasses from 2100 hours (or amend start time to 2200 hours).

No. expressing support for 1: 3

Option 2: Retain the existing policy in relation to all Late Opening Premises and extend it to specify other types of on-sales premises (public houses, hotel bars, members' clubs or restaurants) to which it will apply (whether from 2100 hours or 2200 hours).

No. in favour of Option 2: 1

Option 3: Retain the existing policy in relation to all Late Opening Premises and apply it also to other individual on-sales premises (whether from 2100 hours or 2200 hours) but only where considered appropriate on the basis of individual risk assessment at that premises.

No in favour of Option 3: 3

Option 4: Apply the policy and the condition to Late Opening and other on-sales premises in each case only where considered appropriate on the basis of individual risk assessment at that premises.

No. in favour of Option 4: 12

Option 5: Remove the policy entirely.

No. in favour of Option 5: 3

Comments received on use of plastic/polycarbonate glasses:	Respondent:
<p><u>Forum decision</u> Option 1 – 0 votes Option 2 – 2 votes Option 3 - 0 votes Option 4 – 9 votes Option 5 – 0 votes</p> <p>Option 4 – Apply the policy and the condition to Late Opening and other on-sales premises in each case only where considered appropriate on the basis of individual risk assessment at that premises.</p> <p>The majority of the Forum members were not persuaded by the document entitled Literature Review of Glassing and Use of Polycarbonates, nor by the arguments presented by Elizabeth Smart, Public Health Consultant at the meeting. These arguments were that there is evidence that the condition should be imposed on all late opening premises. The PHC made the point that she had presented a range of data types to the meeting and that there was a limited amount of data to draw upon. Furthermore, only limited data was collected by the A & E department.</p> <p>In the absence of local evidence supporting the argument in favour of the condition or any recent or local statistics the Forum did not support the blanket imposition of this condition.</p> <p>The dissenting members pointed out the lifechanging nature of injuries caused by broken glass, and the high quality plastic and polycarbonate glasses which are now available; evidence from the review showing that (a) some nightclub managers have reported no detriment to business as a result of using polycarbonates (b) patrons reported that they felt safer where no glass is in use and (c) staff reported fewer injuries.</p>	Highland Licensing Forum
<p>Option 4 supported. Police Scotland currently monitor all licensed premises in relation to upholding the Licensing Objectives. Where there is evidence to suggest one or more of the Objectives is not being met by a particular premises, Police Scotland will, in conjunction with the Licensing Standards Officer, put intervention measures in place. In certain cases, for example where there has been</p>	Police Scotland

<p>violence or disorder, the intervention could include the carrying out of a public safety risk assessment on the premises and the submission of a report to the Highland Licensing Board (HLB) requesting a review of the Premises Licence. The selection of Option 4, facilitates and formalises this process and will ensure Police Scotland, the LSOs and the HLB are applying an evidence based approach to this issue. Notwithstanding, Police Scotland encourages the use of plastic/polycarbonate glasses in licensed premises to assist with the achievement of the following Licensing Objectives;</p> <ul style="list-style-type: none"> • Preventing Crime and Disorder • Securing Public Safety • Protecting and Improving Public Safety 	
<p>Option 2 supported.</p> <p>It is not possible to predict where a glassing incidents may occur therefore extending this measure to all establishments (as in option 2) would give wider coverage.</p> <p>Use of polycarbonates protects staff as well as customers.</p> <p>The severity of a glassing incident can have severe life changing consequences for both the victim and the attacker – the LB can do something about this by choosing option 2.</p> <p>Retention of 2100 hours commencement time preferred.</p> <p>9.00pm onwards will cover clientele out for a night but exclude those who wish to use early evening services/take part in activities. A change to current practice might cause some confusion.</p> <p>Should be for all premises.</p>	<p>NHS Highland</p>
<p>There are no significant health and safety issues, but the production of yet more plastic is an issue. You should return to an all glass (full recyclable) policy in the interests of the environment and customer experience.</p>	<p>Individual</p>

<p>This is simply crazy. A “nanny state” gone mad. Tourists laugh at us. It is embarrassing and stupid.</p>	<p>Individual</p>
<p>I think it is ridiculous that adults should have to drink out of plastic glasses. This is not the image Scotland should be projecting to tourists enjoying a quiet drink. It would be better to address the root of the problem and refuse to sell alcohol to anyone showing signs of aggression or having consumed too much alcohol. This proposal should only apply to “high-risk” premises.</p>	<p>Individual</p>
<p>As a rule, I am tucked up in my bed long before 0100 hours and am thus not in a position to comment on the appropriateness of the use of plastic glasses in these late night situations.</p> <p>However, I am horrified at any suggestion that plastic or polycarbonate glasses might become mandatory in all licensed premises. There is something reassuring and pleasurable in sitting down with a pint after a day’s work or recreation, something solid about your favourite glass shape in your hand: to change this to a flimsy, plastic container is to remove much of the pleasure of sipping the pint in the first place. Such a move, apart from being insulting to vast majority of the public who may go to bars, will surely convince the responsible drinkers to stay at home and indulge there: the pubs will thus become haunts only for the irresponsible, aggressive and drunken louts this move is presumably intended to curtail.</p> <p>If I, and others, have read the options correctly this possible development must be thrown out by the licensing board.</p>	<p>Individual</p>
<p>In regards to this: http://www.bbc.co.uk/news/uk-scotland-highlands-islands-22690774 This is ABSURD! Truly absurd. Do not go ahead with this plan. It makes the highlands look like a joke. Just because you lost your little battle with the curfew in Inverness doesn't mean you have to punish us all in a different way. Find something worthwhile to do. <i>(Comment submitted after BBC News article suggested that the Board was proposing to extend the use of plastic glasses to all pubs in Highland)</i></p>	<p>Individual</p>
<p>I would like to record my disagreement with the proposals in the above proposed legislation, to introduce the serving of drinks in plastic containers after 9.00pm. While I understand the logic behind the proposal I believe it is both unnecessary and unwarranted and is likely to create a negative</p>	<p>Individual</p>

<p>impression of the Highlands of Scotland on the tourists and visitors who form such an important part of our economy. I would respectfully ask that this clause is removed from the proposed legislation.</p>	
<p>I am writing to you re the policy on "plastic glasses" in The Den & Johnny Foxes. I love going into the two venues for a glass of wine or a cocktail of a Friday & Saturday night and think there is nothing worse than having to be served it in a plastic glass after 9pm, it certainly puts me off going out for a drink so I can't begin to imagine how many other people feel this way.</p> <p>I feel it makes a big difference to when your drinking out of a plastic glass, doesn't feel as nice. I have often heard other customers around me at the bar complaining about it & feel it has a knock on effect to the customers in the bar.</p> <p>I hope you take my opinion into consideration and this policy is addressed for the near future.</p>	Individual
<p>I hear that you are considering forcing all pubs in the Highlands to use plastic glasses. Please get a grip. This is not North Korea. This mentality that because a few people cause problems with glasses then therefore the rest of us must suffer is the worst case of nanny state, 1984, type behaviour. Find something useful to do, please!</p>	Individual
<p>Plastic 'glasses'</p> <p>What a truly ridiculous idea for an area with a huge number of hotels and restaurants generating a massive proportion of much needed income. Not to mention for an area famous for its whiskies. Imagine the scene: a group of American tourists arrive at a beautiful Highland venue longing to taste a fine single malt only to find it served in plastic beakers. Please assure me that this whole story has been exaggerated by the media and will not see the light of day. If not you have made yourselves and all of us who live in the Highlands a laughing stock.</p> <p>The way to deal with the minority who use glasses as a means of attack is to use strong penalties not deprive the vast majority of their freedoms.</p>	Individual

<p>Supports Option 1.</p> <p>Plastic “glasses” for ALL restaurants, hotels and pubs, regardless of style of operation or opening times? A most definite “NO”.</p> <p>There is no justification for such a proposal, and God-forbit it were to become a mandatory conditions, the negative impact it would have on the licensed trade and tourism I the Highlands would be monumental. I cannot imagine how the Highlands would be perceived by those looking to visit. Are things so bad up there that all hotels, restaurants and bars are forced to use plastic glasses?!</p> <p>For some late opening premises, then I can understand the wish to restrict glass use. But for the rest of us, the suggestion we all switch to plastic glasses is totally unwarranted. We strive to offer quality locally-sourced products throughout the business. On the bar side, we sell a choice of some 300 malt whiskies, most of which are at a premium price to the standard blended spirits. In some cases £5, £10 and occasionally more for a 25ml measure. It would be unthinkable to offer these in a plastic tumbler and would go totally against the aim of offering a premium product. Likewise, we offer a huge range of locally sourced cask and craft beers. Again, selling these in plastic tumblers would be very detrimental to the quality offering we are trying to promote. Increasingly, drinks are being offered in specialist glassware to enhance the product. For example, “snifters” for the malts to enhance the bouquet of these historic and iconic premium products and nucleated glasses for the craft beers, to aid the presentation (on top of shaped glassware to best showcase the beer).</p> <p>To summarise, we aim to offer the best in local sourced craft products, to be enjoyed in good surroundings with great atmosphere, and to present them at their very best. We simply cannot do this with plastic glasses. Please don’t tar all licensed premises with the same brush, if just one has done something to warrant this proposal.</p> <p>On the assumption that [the existing condition requiring plastic/polycarbonate glasses] will only apply to late opening premises, then I would imagine that most will not get busier until later on. A 9 pm cut off time seems very early given a 10 pm time would still allow all glass to be recovered long before the peak late night business.</p>	<p>Premises licence holder</p>
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<p>Supports Option 4</p> <p>The Association would support the concept of Premises Specific (and Event Specific) requirements for the use of plastic or polycarbonate glasses. This would be much fairer and a more pragmatic solution. The Association would also comment that the inclusion of Appendix 6 – “<i>Review of literature – issue of glassware in nightclubs</i>” – was, to say the least, inappropriate, on two counts. First, part of it alludes to a report written over 10 years ago. Things have changed considerably in the past decade – the fact that we now operate under the 2005 Act and that compliance with the Licensing Objectives contained in that legislation have impacted greatly on the licensing scene. Secondly, the reports contained relate to places such as Liverpool, Glasgow, Preston and Burnley, none of which remotely reflect the circumstances in the Highlands. It is also the view of the Association that the concept of a blanket use of plastic glasses sends out the wrong message, especially in respect of the tourism industry. If tourists have an inkling that there is a plastic glass policy in place right across the board they will wonder what kind of place they have come to. The Highlands have and continue to be marketed as the safest place in the country – let’s not spoil that image with a full blown plastic glass policy.</p>	<p>Inverness, Highlands and Islands licensed Trade Association</p>
<p>Option 4 Supported - Apply the policy and the condition to Late Opening and other on-sales premises in each case only where considered appropriate on the basis of individual risk assessment at that premises.</p> <p>Option 5 Supported</p> <p>Comment: Inverness Pub Watch would submit they were not persuaded by the document entitled Literature Review of Glassing and Use of Polycarbonates, nor that there is evidence that the condition should be imposed on all late opening premises. In the absence of local evidence and in the experience of the Pub Licensees, Pub Watch do not support the blanket imposition of this condition. It is their overall view that this condition should only be applied following a risk assessment and be site specific.</p> <p>Plastic glasses do not portray the right image of our licensed premise as safe premises. The work the Inverness Pub Watch premises have done with initiatives such as Best Bar None and Operation Respect in ensuring that the 5 licensing objectives are fully implemented has increased the safety of</p>	<p>Inverness Pub Watch</p>

<p>premises.</p>	
<p>Supports Option 4.</p> <p>This response from the Scotch Whisky Association to the Highland Licensing Board Consultation draft policy statement 2013-16 concerns only question 8 that relates to the local condition that premises open until after 0100 all drinks served after 2100 must be served in plastic or polycarbonate glasses.</p> <p>Scotch Whisky is a craft product made by traditional processes that underpin the drink's quality reputation. By law it must be matured in oak casks for a minimum of three years and in many cases is matured for much longer. Distillers want to maximise consumer enjoyment of their brands, and to minimise harm from irresponsible drinking.</p> <p>The Scotch Whisky industry is involved in a range of initiatives to promote responsible attitudes to alcohol and tackle alcohol related harm. All our members are signed up to the SWA's robust Code of Practice on marketing and promotions and many brands already carry responsibility messages and provide other information for consumers. Responsible drinking advertising is a positive way in which to remind the consumer about the issue of individual responsibility.</p> <p>It is our view that any restrictions on glassware and the use of plastic glasses should be on a risk assessed basis. The SWA does not believe that a blanket approach, that would extend the policy to other types of on-sales premises, should be introduced as it would unnecessarily penalise responsible operators. By applying a blanket approach, it could capture restaurants and distillery visitor centres who would be required to serve drinks during a meal or reception in a plastic or polycarbonate glass after 2100. Implementing the requirement for plastic glasses in all premises could remove consumer enjoyment of Scotch Whisky and diminish the quality image of Scotch Whisky.</p> <p>With regard to the options provided within the consultation, the SWA supports the risk based approach which is option 4. This would apply the policy and the condition to Late Opening and other on-sales premises in each case only where considered appropriate on the basis of individual risk assessment at that premises.</p>	<p>Scotch Whisky Association</p>

<p>With over 1.3 million people visiting Scotch Whisky visitor centres in 2010, the Scotch Whisky tourism sector is thriving. The SWA believes that it is important for visitors from around the world to Scotland to be able to enjoy and appreciate Scotch Whisky in proper glasses.</p> <p>While the figures that relate to incidents fuelled by alcohol misuse are disturbing, it is important to view them in context - that most people in society consume alcohol with no harm to themselves or others. It is understandable that where risk has been identified in certain establishments, steps are taken to minimise harm, however, in on-trade premises where no such risk has been identified, it would be more fitting to continue to permit drinks to be served in glasses.</p>	
<p>Do not support the complete removal. Would like to see Licensing Board left with the option of applying the sanction if deemed necessary after a risk assessment.</p> <p>Support start time being changed to 2200 hours.</p>	Portree and Braes CC
<p>Supports Option 3</p> <p>Allows policy to be implemented where necessary and appropriate whilst not affecting other establishments where there is not a problem, eg rural pubs and hotels such as the Halladale Inn, Melvich Hotel and Strathy Inn.</p> <p>Supports 2200 hours commencement time because there are many casual drinkers still in establishments at 2100 hours but most will probably leave before 2200 hours.</p>	Melvich CC
<p>Supports Option 1</p> <p>Option 1 appears to be working well. No need to change it.</p> <p>Support for start time remaining at 2100 hours</p>	Aviemore & Vicinity CC
<p>Option 3 allows intelligent and targeted extension of the policy as monitored and and suggested by</p>	Scottish Christian Party

<p>police advice. However, option 2 may be easier to implement, be less discriminatory and save time and money in risk assessments.</p> <p><i>On the question of which other types of on-sales premises the policy should be extended to if Option 2 is selected:</i> This should be guided by police records of the pattern of attacks. We suspect that pubs are more likely to have such attacks than hotel bars, members' clubs and restaurants. Consideration should also be given to distinguishing between premises, such as hotels, where patrons are likely to remain on the premises overnight and are not likely to cause trouble on the public street after closing time.</p> <p>Support 2200 hours commencement. 2200 hours commencement may indicate more clearly that drinkers are moving into the "risk period" and it may go some way to satisfy those who wish to abolish the policy altogether.</p>	
<p>This should only be based on risk and nature of licence compliance. The Board should use this as a sanction against poorly operated premises.</p> <p>Supports 2200 hours commencement.</p>	Peci Ltd (Hush)
<p>I guess the only evidence that would be acceptable is actual incidents that have occurred in recent years..... Which is none at my premises !! Which is the foundation of my argument that the plastic glass condition should be PREMISE SPECIFIC !! The following points however are worthy of considering.....</p> <ol style="list-style-type: none"> 1. Currently pubs have no plastic glass condition, which is grossly unfair considering they are open to 1am and premises that are open to 3am have to operate this condition from 9pm.... There is an issue of equality here and my view should be one rule for all.... Simply put, late night premises should only be operating this condition from 1am if the Board is to continue this policy. 2. There are flaws in the condition.... For example, I serve food until 2.45am.... Served with stainless steel knives and forks.... I serve bottles of Champagne, which are exempt from decanting (as per the licensing standards officer) albeit into plastic glasses. The Polycarbonate glasses I use have a 	Premises licence holder

thick base, which could cause injury if thrown or mishandled with intent !!

3. As per the recent debates on the late door entry policy (curfew) we heard a lot of arguments from both sides including the Board based on how far licensing and licensees had come in recent years through all the initiatives like Pub Watch, Best Bar None, operation respect, Crime reduction p/ship not to mention the Licensing (Scotland) Act 2005 which has made licensed premises a much safer environment ! This condition is also outdated and sends out the wrong message to not only local people but more importantly visitors to the Highlands..... It's an issue which I receive most complaints about !!! I had a call recently from Fox News USA wanting to know if this Policy was to be brought in across the Highlands, would it mean that the place where they make whisky, which is exported to every corner of the world,.would be getting drunk out of a plastic glass !!?? That's the impact this could have !!
4. There is plenty of provision in the new Act already with regard to dealing with licensed premises where incidents of this nature occur ! A simple police report or licensed standard officer report deals with it premise specific !
5. Customer service suffers greatly with this condition also.... For bar staff have to decant bottled beers into the plastic glasses after 9pm !! An order of 6 bottles of lager can take several minutes to administer and bottles of wine we can't serve after 9pm... It's very restrictive !
6. Please do not be persuaded by the Literature Review of Glassing and use of Polycarbonates, presented by the NHS (Liz Smart). Having looked at this paper in detail, I was amazed to see the figures used in the report were from 1997 and 1998 !?? The Paper was published in 2002 !!!!! Worst of all the information was from incidents in Glasgow and Liverpool (Toxteth). How can we compare our Highlands of Scotland within the context of this debate with 2 cities which arguably are the most violent in the United Kingdom !!!??

In my view we have alleviated the type of person who uses a glass as a weapon. Just look at the list of persons who are banned for life in pubs in Inverness alone for various incidents in recent years!!! Pubs are much more safer than they ever have been !!! It's supervised drinking. The right environment has been created by licensee's working with the public agencies and their customers.....

<p>Option 4 is the way Forward !!</p> <p>Individual risk assessments should also dictate the time from which any plastic glasses requirement should be required at the individual premises.</p>	
<p>Supports option 1</p> <p>While it would be sensible to follow police advice one suspects that the chances of being glassed are very small. A compromise position such as option 1 (with 2200 hours commencement) will allow time for more drinking in glasses and should be sufficient.</p> <p>2200 Hours gives one more hour of drinking from glass. It is also possible that drinkers will realize it is getting quite late to be drinking. By this time, moreover, some people will have consumed too much alcohol, so it may work as a double preventative – the rejection of plastic glasses will stop people drinking so much as well as trying to injure others.</p>	Individual
<p>Supports option 4</p> <p>Many premises are involved in Best Bar None initiative and Operation Respect and work very hard to provide a safe environment which supports the five licensing objectives. Plastic glassware does not portray a safe image of our venue. An assumption is made which is that Inverness is a hot spot of trouble when this is not the case.</p> <p>Application of the policy should be premises specific in response to risk assessment.</p>	Premises manager
<p>Plastic Glasses</p> <p>The Association and indeed the wider industry are in full support of policies designed to target and tackle the violent thugs who use glass as a weapon. We equally want to work with Licensing Boards to examine what further actions we can take in contributing fully to the active management and reduction of risk in this area. Whilst recognising that the issue is a very serious one, the industry</p>	Scottish Beer & Pub Association

opposes a blanket ban on glass on the basis that it cannot be justified in terms of cost or risk and is in our opinion a totally disproportionate response to the issue.

We believe that the Board's suggestion of using plastic glasses or toughened glass is best used on a premises by premises basis where problems have been identified and this approach will assist in addressing the problem in these locations. On that basis we would support the status quo with the Board being able, as always to impose a "plastic/toughened" glass condition where this is considered appropriate in response to specific incidents or concerns. We also do not believe that there should be a requirement on all premises to proactively conduct a "risk assessment" in order to avoid the imposition of this requirement. We would therefore support Option 3 in the Board's consultation which we believe is effectively the status quo position.

Having reviewed the pre-consultation submissions made to the Board we are not aware of any evidence having been produced demonstrating the extent of incidents involving glass within the area of the Board or the changes in the number of these. We would be interested to see the latest evidence considered by the Board on this matter and would suggest it should have been included in the draft Statement in justifying the Board's eventual position.

We believe that the number of incidents involving the use of glassware in on-sales licensed premises has actually fallen very considerably over the last twenty-five years, with the problem now primarily relating to incidents away from licensed premises. Glass related violence is perpetrated by a small number of violent individuals. In Scotland there are nearly a million visits made every week by customers to pubs. It is the small minority that should be targeted rather than reducing the enjoyment of the vast majority of law-abiding people.

There are also a number of other practical problems that would be caused by the blanket use of plastic/toughened glassware; paramount amongst these are environmental considerations.

Although plastic bottles and toughened glasses are recyclable, the material is used for "low grade" purposes. Glass represents a totally recyclable form of packaging, and as such is more "environmentally friendly". There are environmental impacts from the use of plastic/toughened

<p>materials. It is important to note that more than 620,000 pints of beer alone are served in glasses every day in Scotland – 228,000,000 a year – an indicator for the number of plastic glasses that could have to be produced and disposed of annually across Scotland if this condition was applied.</p>	
<p>Option 3 or Option 4 are the most appropriate, with a preference for 4 as with all these premises requiring stewarding an appropriate risk assessment should be all that is necessary. Well-managed establishments should not need to use plastic or polycarbonate glasses.</p> <p>If option 3 is used then it should be from 2200 hours.</p> <p>There should be consistency across all types which is why Option 4 is best.</p>	Raigmore CC
<p>We consider that Option 4 is the correct option on the grounds that it is not equitable for every premises to be treated as if they have the same issues when each may be managed and operated to differing levels with unique due diligence and supervision in place. Each premises must be considered based on its own merits and demerits and risk assessed accordingly.</p>	Punch Taverns

OUTDOOR DRINKING AREAS

9. In relation to outdoor drinking areas, do you consider the requirements proposed by the Board at section 2.10 are adequate and necessary for the purpose of any of the licensing objectives?

No. responding yes: 12

No. responding no: 5

Comments received on requirements relating to outdoor drinking areas:	Respondent:
Yes, with the exception of the paragraph which says, "The Board will also require that the boundary of any outdoor drinking area situated on a public footway must be effectively demarcated to the satisfaction of the Licensing Standards Officer to separate it from the general pedestrian area". The Forum suggests that this paragraph be deleted. The reason for this is that the issue of demarcation of the outdoor drinking area is an issue to be agreed between the licence holder and the Council's TEC Services in terms of a pavement permit and is not believed to be something the Board could easily enforce.	Highland Licensing Forum
Yes.	Police Scotland
On a beautiful Highland evening when it remains light until 11 pm, no drinks can be served outside after 9 pm. Please acknowledge the country we live in and the visitors we have to impress.	Individual
It is important that there is no blanket decision on this and that every premises is considered on its own merits.	Inverness, Highlands and Islands licensed Trade Association
Yes, with the exception of the paragraph which says, "The Board will also require that the boundary of any outdoor drinking area situated on a public footway must be effectively demarcated to the satisfaction of the Licensing Standards Officer to separate it from the general pedestrian area". Pub	Inverness Pub Watch

Watch suggests that this paragraph be deleted. The reason for this is that the issue of demarcation of the outdoor drinking area is an issue to be agreed between the licence holder and the Council's TEC Services in terms of a pavement permit.	
These are necessary but possibly not adequate. "Depending on the location of the premises" gives discretion to the Board, but what safeguards are there for the Board to consider representations from other bodies, such as community councils, Inverness Civic Trust, or such like bodies.	Scottish Christian Party
All properly contained and controlled smoking areas should allow patrons to consume their drinks while smoking. Reduces the risk of unattended drinks being tampered with.	Peci Ltd (Hush)
Other bodies such as community councils or restaurants may wish to object. Perhaps, depending on the location, they ought to be considered.	Individual
Discussions or dispute regarding the issue of demarcation of outdoor drinking area should be agreed between the licence holder and the Highland Council TEC Services in terms of pavement permit.	Premises manager
<p>This depends on where the tables are placed. If placed facing towards the road then noise would carry and 9pm, as it was previously, seemed a better cut-off point for drinking there than 10pm as in the new draft policy. The more obvious position for tables would be facing the sea view, but then consideration would have to be given to residents down below on that side.</p> <p>Even after outdoor drinking hours smokers often congregate loudly outside the bar door.</p> <p>There have been cases of disturbance from inebriated customers well into the night , with people in no hurry to go back to their accommodation lingering and causing a nuisance as a result.</p> <p>Due consideration should be given by the Board to how often opening hours would be allowed to extend so late, ie beyond 11pm. The publican could also be asked to liaise with the Community Council on such matters.</p>	Morar CC
Further restrictions on time will be required in residential areas to reflect the needs of residents to get	Raigmore CC

<p>undisturbed and may need to be early evening rather than mid to late evening. Non-residential areas will be able to have later outside hours and a map showing which are classed as which should be available and used as guidance.</p>	
<p>We welcome the revised policy noting the requirements of the Roads (Scotland) Act 1984 regarding separate provision for a permit. As responsible licence holders we also recognise that the use of external areas must be properly managed and supervised.</p>	<p>Punch Taverns</p>

LOCAL CONDITIONS

10. Are there any changes or additions to the local conditions listed at appendices 7, 8 and 9 which you consider should be made and why? (If you have already commented on any of these conditions in your answers to the previous questions, please simply refer to those answers.)

Comments on local conditions (not already included above)

Respondent:

Appendix 7, condition J and Appendix 10 - The use of the word “adequate” in the context of “adequate stewards” is so vague as to be meaningless.

Highland Licensing Forum

Appendix 7, condition D (plastic glasses condition) – Supports use of this condition only on the basis of assessed risk.

Police Scotland

Appendix 8 (Occasional licence local conditions) – We believe that there should also be a condition relating to the provision of first aid.

Appendix 9 (Adult entertainment local conditions) – Comments as per question 6 above.

- Local police should be made aware of forthcoming events
- Licence Holder to be present for the duration of each event

Premises Licence Local Condition e. (No consumption of drinks in outdoor drinking areas after 2200 hours:

Premises licence holder

- Not needed and should be removed. Provided the area is properly monitored, and any noise will not unduly disturb others locally, there is no reason to force people inside. We live in an area of outstanding beauty. Many of our customers are here because of that. Let them enjoy it. Midges permitting!

<p>Premises Licence Local Condition g. (Premises open after 0100 hours to have available a selection of hot and cold foods and advertise this within the premises)</p> <ul style="list-style-type: none"> • Seems unnecessary. 	Premises licence holder
<p>Premises Licence Local Condition h. (Dartboards and pool table to be situated in a location approved by the LSO)</p> <ul style="list-style-type: none"> • Seems unnecessary. 	Premises licence holder
<p>Premises Licence Local Condition j. (After 2100 hours (or such time as Board specifies) stewarding at entrances and egresses and within the premises required)</p> <ul style="list-style-type: none"> • Strongly disagree. Responsible business will continually monitor the behavior of all customers as all times. Not just those entering or leaving after a specific time. Dedicated door staff, or “bouncers” on the doors may be a sensible way forward for a handful of businesses occasionally, but most definitely not for all businesses. 	Premises licence holder
<p>Occasional Licence Local Condition g. (Licence holder must provide [<i>insert number</i>] stewards. If these are working in a voluntary capacity, they do not require to hold an SIA licence):</p> <ul style="list-style-type: none"> • Pub watch would submit that the Board requires to clarify “adequate” in the context of “adequate stewards”. Clarification is required as to whether trained or untrained volunteer stewards are required and the Board should clarify in its policy what it expects the responsibilities of stewards to be. (Clerk’s note: <i>the word “adequate” in relation to stewards was removed when the draft statement was issued for consultation. The respondent may have been referring to an earlier version</i>) 	Inverness Pub Watch
<p>Appendix 9 on Adult Entertainment has been discussed above under Question and Answer 6.</p>	Scottish Christian Party.
<p>General: Prior to and since the demise of the three District Licensing Boards, local conditions have appeared</p>	Inverness, Highlands and Islands licensed Trade

<p>in a variety of formats some of which haven't been entirely clear in their presentation. The Association would welcome a standard format that leaves no dubiety as to which Local Conditions apply to their specific premises.</p>	<p>Association</p>
<p>Adequate !?? trained stewards or volunteers ? should be clarified !!!</p>	<p>Premises licence holder</p>
<p>Yes – please see our answer to question 6.</p> <p>We would also revise the introduction to Appendix – 9 – Adult Entertainment Local conditions to state that “All of the following local conditions....” Rather than the current statement, which reads, “Any of the following...”, with the expectation that our recommendations included in question 6 are adopted.</p>	<p>Highland Violence against Women Partnership</p>
<p>We would like to see some clarification on what is termed as “adequate stewards”. It is unclear whether this is trained and registered as in SIA stewards or untrained volunteer stewards.</p>	<p>Premises manager</p>

COMMENTS RECEIVED ON ISSUES NOT RAISED IN CONSULTATION QUESTIONNAIRE	Respondent:
<p>Other matters -</p> <p>Stewards - Clarification is required in the policy statement as to whether trained or untrained volunteer stewards are required, and the Board should clarify in the policy its expectations of the responsibilities of stewards. Occasional licence holders can be required to obtain stewards as a condition of their licence. Sometimes, SIA stewards are engaged but it is the experience of at least one Forum member that occasional licence holders, particularly voluntary groups have no knowledge of the duties the Board expects SIA or volunteer stewards to carry out, eg whether the stewards are there only to deal with disorder or whether they will be expected to cover issues such as fire safety or age verification. It is suggested that in the policy it is made clear when stewards require to be SIA stewards and when volunteers will suffice and that the duties required of volunteer and SIA stewards be stated. The Board might also give an undertaking in its policy statement that in the actual licences some information and guidance on the reason for imposing a condition regarding stewarding will be given so that licence holders know how they should utilise the stewards they have obtained.</p> <p>Occasional licences - In relation to occasional licences attention is drawn to the final paragraph of response number 7 above as this applies equally to all categories of occasional licence. In relation to voluntary organisation occasional licences it is suggested that it would be to the benefit of applicants and other licensing stakeholders if the Board were to explain at Section 2.4 of the policy that in relation to occasional licences granted to voluntary organisations alcohol may be sold on the premises only at an event taking place on the premises in connection with the voluntary organisation's activities.</p> <p>The following example is given in the draft Policy Statement - if a premises were to be used for a quiz night on a Friday evening, a birthday party on the following Saturday evening and a live band on the Sunday evening, three separate occasional licences will be required. This reflects the fact that the nature of the events is different, raising different considerations and requiring different conditions. The Forum suggests that where three different events have a common theme, eg all part of a school reunion weekend or a fundraising weekend for one particular charity or a village Gala weekend, with no other licensed</p>	<p>Highland Licensing Forum</p>

<p>events taking place in the premises over the course of the weekend then the events on the three separate days comprise one occasion and could have one occasional licence rather than three. This would avoid small voluntary organisations paying three separate fees when one will suffice. The statutory form of licence provides for separate hours and separate conditions on different days.</p> <p>Training – the draft Policy Statement says at 2.4 that the Board encourages voluntary organisations to ensure that at least one member present at the event to which the occasional licence relates is trained at least to a standard prescribed in the Licensing (Training of Staff) (Scotland) Regulations 2007. The Forum suggests that additional information on the training standard and some information on how to obtain training is provided here in order to properly inform licensing stakeholders.</p>	
<p>Having been in the licenced trade for over 40 years I would like to offer the following comments.</p> <p>Reduce the hours that supermarkets are allowed to sell drink, is it in the public interest to sell super strength lager and cider at 8.30 am!?</p> <p>All checkout operators must be over 18, how can a 16 yr old sell alcohol "under supervision" in a supermarket , yet it's illegal to employ any one under 18 behind a bar?</p> <p>Take alcohol out of all filling stations alcohol and motoring do NOT mix</p> <p>Be really radical restrict alcohol sales in supermarkets to wine only . All other alcohol sales to be in specific off licences which open restricted hours (the way it used to be) attached to pubs who were very careful who they sold to as it could jeopardise the pub licence</p> <p>Some may see this as a backward step,but it would bring more control over sales, keep pubs alive , and reduce the need to diversify into Lap dancing!!</p> <p>Do not be persuaded that the cost of alcohol to the NHS is a relevant issue, no one ever correlates that cost to the income from alcohol sales, ie duty and VAT which probably runs the whole of the NHS and all the emergency services.</p>	Individual

<p>Section 2.4 – Occasional Licenses</p> <p>When Premises or Personal Licence holders apply for an Occasional licence they are expected to apply the same standards in terms of training and service that they would be expected to promote in their own establishments. Licensees have no issue with this. However, as stated three years ago, the Licensed Trade would welcome the Board taking an approach that when Voluntary Organisations are granted an Occasional Licence, that they too have to undertake appropriate training</p>	<p>Inverness, Highlands and Islands licensed Trade Association</p>
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<p>I am writing on behalf of my Association in response to the Highland Licensing Board's review of its Statement of Licensing Policy. I am grateful for an opportunity to comment.</p> <p>You will be aware that the SBPA's members account for 1,000 of the 5,000 licensed public houses in Scotland, including a number within the area of the Highland Licensing Board, "the Board." Our members promote the responsible sale of alcohol and management in all of its licensed premises, helping to make the Highlands a safe and enjoyable place to visit and socialise in. We are also an important local employer and help contribute to the economy of the area. My Association's sister trade association is the British Beer and Pub Association, the BBPA.</p> <p>As a general comment, I would begin by expressing the Association's disappointment at the significant increase in the length of the Board's proposed Licensing Policy Statement. The policy document adopted by the Board in January 2011 is very significantly shorter than the current proposed draft. We do not believe that the suggested new version merits the volume of content much of which simply restates many of the requirements of the Licensing (Scotland) Act 2005, "the 2005 Act," or deals with internal administrative matters relating to the Board itself. Much of the policy statement is not policy as such but rather advice and guidance. This information could more appropriately be in a separate document or schedule. The SBPA would hope that the Board would be able to significantly shorten its current draft and focus on policy in order to make it more accessible to licensing stakeholders.</p> <p>The Board may be aware of the Regulatory Reform (Scotland) Bill which is currently before the Scottish Parliament and which is intended to improve further the way regulation is developed and applied in practice across Scotland. It is hoped that the Board will bear the ethos of this Bill in mind when it finalises the review of its Policy Statement</p> <p>.</p> <p>I will restrict our response to those matters on which we have a particular view and would respond as follows:</p> <p>Premises Licence Core Hours <i>(see comments included at Question 1 above)</i></p> <p>Sunday Trading Hours <i>(see comments included at Question 1 above)</i></p> <p>Options for Scottish Premier League Match Days <i>(see comments included at Question 2 above)</i></p>	<p>Scottish Beer & Pub Association</p>
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Plastic Glasses *(see comments included at Question 8 above)*

Other Recommended Control Measures

We would submit that these should only be applied where necessary and always in a proportionate and reasonable way having regard to the particular circumstances necessitating further control.

Capacity

We note the comment: *“For on sales premises, applicants will also require to satisfy the Board that they will have sufficient measures in place to monitor the number of persons on the premises to ensure that maximum capacity is not exceeded.”*

We would remind the Board that the “capacity” measure is referenced in Sections 20 and 147 of the 2005 Act, and that the Guidance to the Act makes clear that “capacity” can only be used for overprovision purposes and “for no other purposes.” The draft Statement itself says that “the Board may not impose conditions on licences which relate to matters (such as planning, buildings standards or food hygiene) which are regulated under other statutory powers.” **Given those comments we do not believe this specific assertion is appropriate for inclusion as a local condition and we would suggest it should be removed.**

Licensing Fees

The Board will be aware that it is under a statutory requirement under the terms of the 2005 Act to levy licensing fees on applicants and operators which are “broadly equivalent” to the Board’s costs in delivering the liquor licensing function. This is also a requirement of the EU Services Directive 2009. The Board should only be meeting its costs and not generating a profit from licensing fees. **We believe there is a need for greater transparency in the Board’s operations and budgetary processes in meeting its statutory obligations and as such we would urge the Board to give a commitment in its Statement to publishing on an annual basis within the first three months of every new financial year, an account detailing its previous income and expenditure and providing detailed evidence to demonstrate compliance with the statutory measure of**

“equivalence.”

Enforcement

From a trade perspective we believe there is a need for Licensing Boards, Councils and their Licensing Standards Officers to give more consideration to the principles of Better Regulation and Enforcement, not least given that Scottish Councils have signed up to the Enforcement Concordat, which advocates “openness, helpfulness, proportionality and consistency” in enforcement matters.

We would welcome a recognition of the Hampton principles of inspection and enforcement in the Licensing Statement, including the following principles, namely that no inspection should take place without a reason, and that regulators should recognised that a key element of their activity will be to allow or even encourage, economic progress and only to intervene when there is a clear case for protection.

Overprovision

We note the Board’s intention of consulting separately on the issue of overprovision and we will respond to the Board’s proposals in due course.

I trust that our views are of use and we look forward to the eventual outcome of the Board’s deliberations on these issues. We will of course contribute to the Board’s further deliberations on these issues going forward.

The Highland Licensing Board

Meeting – 02 April, 2013

Agenda Item	
Report No	HLB

Extended Hours Applications in respect of Scottish Premier League Football Matches.

Report by Licensing Standards Officer

Summary: The Report summarises issues relating to pre-match drinking at Scottish Premier League Football matches and invites the Board to have regard to those issues when considering its policy in relation to extended hours.

1.0 Background

Within the Highland Licensing Board’s area are two Premier League Football Teams, Inverness Caledonian Thistle FC based at the Tulloch Caledonian Stadium, Longman, Inverness and Ross County Football Club based at Victoria Park, Dingwall.

With the current popularity surrounding high profile football matches televised coverage means substantial revenue to the Clubs involved. The respective Television Companies also wield substantial influence in being able to have the matches scheduled to early kick-off’s from the traditional start time of 3pm to maximise the revenue from pay per view television subscription. A number of matches are now scheduled for midday or 12.45pm kick-offs.

In turn Premises Licence Holders are keen to maximise revenue in a very challenging economic climate and have submitted in the past extended hours applications to open their premises from 10.00am.

The demographics of the two Clubs are relevant. In Dingwall the Football Ground is adjacent to the Town Centre and is literally a couple of minutes walk from the commercial district. Inverness Caledonian is situated about a mile outside the City Centre and accordingly visiting fans are usually bussed directly to the stadium and the travel times are planned so as to arrive in good time at the ground. Relatively few fans bother to visit Inverness and extended hours applications are not something that City Centre licensed premises have contemplated thus far.

Dingwall is a different proposition with fans able to quickly enter the Town Centre and visit hostelryes. Several Dingwall Premises have submitted extended hours applications in the past.

1.1 Ancillary Issues- Drinking en-route

Discussion has taken place with Northern Constabulary senior officers. It is evident that the behaviour of some fans on football match days is very much one of custom and practice. Police report that a major problem is that fans arrive by coach having already consumed substantial quantities of alcohol during the long journey to the Highlands.

Whilst this is a criminal offence, tackling it is not within the remit of the Licensing Board and it is one for the Police, Football Clubs, Bus Companies and the Traffic Commissionaires to tackle through pro-active enforcement of the existing law and for the relevant Clubs to apply sanctions such as revocation of season tickets on supporters.

Both Clubs have operated successfully Public House type bars at their grounds largely patronised by home support for a number of seasons. These venues have not sought to extend their hours. They have operated under robust conditions and have been effectively managed and stewarded.

1.2 Policing Match Days

Feedback from the Police in Dingwall has indicated that there are an increasing number of entry refusals at the turnstiles due to intoxication. At a recent Ross County v Aberdeen FC match on the 3 November, 2012 the following statistics were gleaned:

Refusal of entry- 20 person (drunkenness).

Ejections during the match-3(affected by alcohol)

Arrests-3(all accused affected by alcohol).

As this was not an early kick off it is indicative of the fact that pre-match drinking and football go hand in hand.

During the first visit of Celtic FC to Dingwall on 18 August, 2012, I observed dozens of coaches arriving between 10.00 and 11.00 and it was clear that large quantities of supporters had been drinking heavily during the journey. The majority then proceeded to enter the Town Centre to seek further refreshment at Premises who were opening at 11.00am. I spoke to the SFA Match Observer (a former Police Football Match Commander) who commented on the potential for mishap due to the drunkenness of Celtic supporters who had gained access to the ground.

Football Match days see a large scale Police operation coupled with high visibility stewarding provided by the Clubs deployed to ensure the safety of the crowd. The presence of alcohol is undoubtedly a complication which inhibits safety and adds to the risk of injury or harm. Whilst the Licensing Board cannot influence a great deal of the consumption, it can ensure that it does not add to the complication by granting extended hours.

I have contacted most other LSO's in Scotland and all have reported that their Boards do not entertain early extensions for Football Matches on the grounds that conflict with the first two Licensing Objectives is occasioned. I

have spoken with Harry Dunn, the LSO serving Perth and Kinross Licensing Board, who have a similar sized City and Football Club to our own. Whilst not having a bespoke policy they do not grant early extensions for Football Matches for the reasons outlined previously and their Premises Licence Holders are aware of the approach and do not apply.

On occasion the British Transport Police are utilising the sanctions available under Section 127 of the Act to prohibit the buying of alcohol on trains likely to be accessed by supporters on grounds relevant to the first two Licensing Objectives. It seems incongruous that upon arrival at the destination that normal drinking hours should be extended.

1.3 Policy Considerations

It seems irrefutable that there is a real and present threat to the Licensing Objectives from extending the sale of alcohol prior to football matches. Even if there are no issues by allowing this I believe we would be introducing a risk element in relation to the first two Licensing Objectives which we could prevent in standing behind a policy that adheres to regular policy hours.

An area where the Board may consider a relaxation is in respect of Sundays where the Football Club themselves are providing in-house hospitality packages within function suites at the grounds. The Board may see fit to allow extended hours solely at these venues from 11am on a Sunday to compliment dining and pre-match entertainment packages. These functions are effectively stewarded and are well controlled. The alcohol is very much an ancillary matter to the dining and entertainment provided.

I further believe that through a clear policy surrounding this issue there is the opportunity to influence supporter behaviour in that travel arrangements will be made to coincide the arrival in time for kick-off's and not pre-match drinking.

1.4 Ancillary Issues

One Licensed Premises in Dingwall, the Mallard, situated at the railway station in Dingwall has the facility to open at 10.00am through the exercise of grandfather rights, having made the case under the 1976 Act that there was a need for catering for rail passengers from 10.00am.

On match days the premises have employed a high level of serving staff supported by SIA registered stewarding. The local Police Chief Inspector states he has been impressed by their operation and approach and there have been no adverse incidents. The venue is conveniently situated near to the main thoroughfare to the football ground and it is popular with supporters.

Liaison with the management reveals that although they do get some custom between 10.00am and 11.00am it is not busy and the main customer attendance is from 11.00am.

Whilst this is something of an anomaly it seems effectively managed and causing no adverse issues.

8. Recommendation

Board Members are invited to:

- (a) note the contents of the report; and to;
- (b) consider the information within the report when considering the format of the revision of the existing Policy Statement for the Highland Licensing Board.

Designation: Licensing Standards Officer

Reference:

Date: 21 February, 2013

Author: Ian Cox

Background Papers: The Licensing (Scotland) Act 2005

Review of literature – issue of glassware in nightclubs

Situation

The Licensing Board will agree a new licensing statement in November 2013 and this is an opportunity to consider if the current policy on glass alternatives and polycarbonates is fit for purpose. The Board currently applies a local condition to late opening premises (premises opening after 0100 hours) requiring that from 2100 hours, alcoholic and non-alcoholic drinks be sold or served in plastic or polycarbonate glasses. This was introduced in response to concerns raised by Northern Constabulary over numbers of “glassing” incidents.

This literature review summaries evidence drawn from case studies, pilot projects and observational studies.

Background

A search of the available data and literature shows that in for Highland region it is not possible to make a link directly between the number of glass related assaults, the resultant injuries and links to late night entertainment venues. This data is simply not collected. Instead it is possible to draw upon other types of evidence and make generalisations to the Highland region.

Attacks with glass can be fatal and cause lifelong disfigurement through scarring. Furthermore the assault victim and the perpetrator can experience life changing circumstances that could arguably be avoided; in the case of the former this might be serious facial injuries and in the case of the latter a prison sentence. It is estimated that 70% of assault attendances at A&E are alcohol related and some of these involve injury through glass. Some research, albeit observational, has demonstrated by not using glass there is potential to reduce the severity of alcohol-related violence in the night club economy. Furthermore patrons find the use of glass alternatives acceptable and report they feel safer in areas where this is now policy. In general it is older patrons who report that they do not like glass substitutes. Some night club managers have reported no detriment to their business after polycarbonates were introduced.

The development of polycarbonates has resulted in products that are much more difficult to break, cause less damage and also lend themselves to sponsorship. A past criticism has been that they are not recyclable but there are products on the market that can be recycled.

Assessment/summary of the literature

Source, aim and date	Description & Methodology	Key issues	Conclusions and limitations
Title: A Little Nightclub Medicine: the Healthcare Implication of Clubbing			
<p>Luke LC <i>et al.</i> (2002) <i>Emergency Medicine</i> Vol 19: 5420545 Aim: To describe the scale and range of acute medical problems among patients who present to an inner city accident and emergency department after attending nightclubs in Liverpool.</p>	<p>From April 1997- April 1998 all patients having identified as having attended a nightclub before their arrival at the department were included in the study. 777 were enrolled in study. Most presentations at a weekend between midnight and 8.00am.</p>	<p>Assault accounted for most presentations 57% and lacerations were the commonest injury. Alcohol was the main intoxicant.</p> <p>Cites that 9% of assault victims are attacked with broken or intact glass receptacles. Many victims have facial wounds and one quarter experience post-traumatic stress reaction.</p>	<p>Research made several recommendations:</p> <ul style="list-style-type: none"> - Introduction of unbreakable glass or plastic containers - Curbing of over-crowding and cheap drinks - Registration of door staff - Targeted policing <p>Paper suggested that the cost of above should be met by the nightclubs and brewing industries.</p> <p>A booklet entitled '<i>Safer Clubbing</i>' was produced by the Home Office on the back of this research.</p> <p>Limitations Published in 2002 Looks at all assaults not just glass.</p>

			Liverpool based.
Title: Banning Glass from nightclubs in Glasgow: Observed Impacts; Compliance and Patrons Views			
<p>Forsyth AD (2008) Scottish Centre for Crime and Criminal Justice Research, Glasgow</p> <p><i>Alcohol and Alcoholism</i> Vol 43, No 1 pp 111-117</p> <p>Aim: To examine the impact of glassware ban policy on disorder-related harm within licensed premises and how this action was viewed by their patrons</p>	<p>Field studies were carried out in 8 nightclubs in Glasgow following the introduction of a glassware ban policy.</p> <p>Qualitative and quantitative data was used.</p>	<p>Disorder in all-plastic venues was observed to incur less injury risk. Patrons reported feeling safer in nightclubs with the ban.</p> <p>Clubbers perceived Glasgow's nightclubs to be safer than other cities because of the ban.</p> <p>Depending on type of 'plastic' could result in clubbers discarding the vessel and increase in littering.</p>	<p>Research demonstrated the potential to reduce the severity of alcohol-related violence in the night club economy.</p> <p>Recommendation – future bans be tailored towards elimination of all types of glassware from like premises.</p> <p>Limitations Observation only; not a before and after study. Glasgow based.</p>
Title: Understanding alcohol Misuse in Scotland Harmful Drinking Alcohol and Assaults			
<p>Scottish Emergency Development Alcohol Audit &</p>	<p>24 emergency departments tool part over a 6 week</p>	<p>It was estimated that 70% of all assaults presenting to A&E were alcohol</p>	<p>Alcohol is found to be a contributory factor is 73% of assaults.</p>

<p>NHS Quality Improvement Scotland</p> <p>2006</p> <p>Aim: To determine the number and nature of patient attendances to emergency departments in Scotland as the result of an assault and to identify the degree to which alcohol is a contributory factor.</p>	<p>period.</p> <p>3281 patients presented to 16 centres.</p>	<p>related. Therefore each day there are 77 alcohol related assaults.</p> <p>Wounds were the most common form of injury.</p> <p>The location of assault was documented in 43% of cases. The most common documented location was the 'street' followed by the home and then a bar or club. Glass was identified as a key weapon second to a 'blunt object'. Lacerations were the most common type of injury.</p>	<p>Shows the situation for nightclubs and for glass as a weapon.</p> <p>Limitations Not all centres participated in the study and therefore estimates have been used. Overall there was poor documentation which suggests under-recording of incidents.</p> <p>Figures/percentages not given. Presentation is via graphs.</p> <p>The report describes the situation and does not offer recommendations.</p>
<p>Title: Design Out Crime: Using Design to Reduce Injuries from Alcohol Related Violence in Clubs and Pubs</p>			
<p>Design and Technology – Alliance Against Crime (Home Office) 2011</p> <p>Aim: To use design and modern technologies to help reduce and</p>	<p>An information sheet that describes how different technologies can help reduce injuries and crime where glass is implicated. It addresses the</p>	<p>Outlines the problems associated with glassing incidents.</p> <p>Describes a range of alternatives to glass and describes both the advantages and disadvantages of using polycarbonates. Although</p>	<p>Polycarbonates appear to be accepted by the customer who report they feel safer in venues where they are used. Furthermore it does not adversely affect the taste of the alcohol.</p> <p>Advertising potential should make it attractive to those selling alcoholic and non alcoholic drinks.</p> <p>Some studies have been able to link the</p>

eliminate crime.	problems associated with glass and offers a range of alternatives including the use of polycarbonates. National statistics and research are cited illustrated by case studies.	<p>more expensive than glass they are long lasting and can be recycled.</p> <p>Cites a trial in Northampton where polycarbonates were introduced with an associated 40% decrease in glassing incidents. Customer opinion was that the polycarbonates helped them feel safer in the venue and that the taste of alcohol was not adversely affected.</p> <p>Polycarbonates can be an attractive position to advertises/sponsors because of the setting (clubs/pubs), durability and being recyclable.</p>	<p>introduction of glass alternatives to a reduction in glassing incidents.</p> <p>An emerging technology.</p> <p>Limitations Not Scottish specific.</p>
Title: Injuring Potential of Drinking Glasses			
Sterzik V <i>et al.</i> (2008) Forensic Science International 179 19-23	Case study of incident in a sports club. Describes tests where drinking vessels	Shows the severity and in this case fatal the impact of a broken glass in a social situation.	<p>Case studies speak for themselves and although not in Scotland the circumstances and issues are relevant.</p> <p>Limitation</p>

<p>Aim: Describes a glassing incident at a sports club in Bern Switzerland.</p>	<p>were thrown at the skull-neck to find out how the fatal wound occurred. Results suggest the glass was broken prior to being thrown.</p> <p>Contains photos of the fatal wound.</p>	<p>Tests showed that injury caused death because the glass was broken at the time of being thrown.</p> <p>The perpetrator was found to have drunk alcohol.</p> <p>The perpetrator was sentenced to three years and nine months in prison.</p>	<p>A sports club and not a night club.</p>
<p>Title: Evaluating the use of Polycarbonates in Pubs and Clubs</p>			
<p>Hughes <i>et al.</i> (2010) John Moores University in collaboration with WHO</p> <p>Aim: Evaluation of the use of polycarbonates glasses in clubs and pubs.</p>	<p>A collaborative study between JMU, Lanarkshire police into the acceptability of polycarbonates. Took place in Burnley, Chorley and Preston. 5 venues in each area over a 3 month period stopped using glass and used PCG. Used a mix of qualitative and</p>	<p>Shows high quality PCG is acceptable to staff and customers.</p> <p>Suggests PCG could reduce serious injury</p> <p>The research recommends that the PCG should be part of a strategy for crime and violence reduction</p>	<p>Customers reported that the use of PCG would not affect their choice of venue.</p> <p>Most customers did not say it affected their drinking experiences furthermore customers reported it kept their drinks cool (and keep its' head).</p> <p>Managers reported no adverse effect on business. Sales data showed no difference between sites using PCG and comparison sites.</p> <p>Older customers less likely to visit a bar using PCG.</p>

	quantitative methods. Outcomes included no glass breakages and a reduction in customer injuries. No recorded impact on A&E services.		Limitation Outwith Scotland.
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Summary

This literature review lays out some of the key issues arising from incidents relating to glass.

- It is estimated that 70% of assault attendances at A&E are alcohol related and some of these involve injury through glass
- For both the victim and perpetrator there can be life-changing mental health issues and physical injury
- Some research, albeit observational, has demonstrated by not using glass there is potential to reduce the severity of alcohol-related violence in the night club economy
- Patrons find the use of glass alternatives acceptable and report they feel safer in areas where this is now policy; staff reported less injury
- In general it is older patrons who report that they do not like glass substitutes
- Some night club managers have reported no detriment to their business after polycarbonates were introduced.

Recommendations

Given the severity of injury resulting from a glass assault and because there is a safer alternative, I recommend that:

- **the current policy of glass alternatives and polycarbonates in the night club economy remains in place for the sale of alcoholic and non-alcoholic drinks**
- **the use of glass alternatives and polycarbonates should be extended to all late night opening premises.**

**Elisabeth Smart, Consultant in Public Health
April 2013**