



# **ANGUS LICENSING BOARD**

## **LICENSING (SCOTLAND) ACT 2005 STATEMENT OF LICENSING POLICY**

November 2023

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## 1. INTRODUCTION

- 1.1 The Licensing (Scotland) Act 2005, as amended, (“the Act”) established a national policy framework to provide an appropriate level of consistency across Scotland on the implementation of licensing policy. Within that national framework, Licensing Boards have flexibility to take local decisions in light of their own area's particular circumstances.
- 1.2 The Act sets out 5 high level "licensing objectives." These represent the principles on which the licensing system is based, and provide Licensing Boards with a solid foundation on which to base their own local policies. These objectives are not ranked in order of importance. Each has equal weighting and all must be paramount considerations when Licensing Boards are carrying out their responsibilities. These 5 objectives are:
- preventing crime and disorder;
  - securing public safety;
  - preventing public nuisance;
  - protecting and improving public health; and
  - protecting children and young persons from harm.

Each objective will be considered in detail at paragraph 3.

- 1.3 Section 6 of the Act requires Angus Licensing Board (“the Board”) to prepare and publish a Statement of its Licensing Policy before the beginning of each licensing policy period. In exercising their functions under the Act during each period, the Board must have regard to their Statement of Licensing Policy and any supplementary licensing policy statement published by the Board in relation to that period. The Board’s last Statement of Licensing Policy was published in August 2018. This Statement of Licensing Policy will have effect from 6 November 2023 and will be reviewed again within 18 months after the next ordinary election of councillors. During each licensing period, the policy must be kept under review and the Board may publish a Supplementary Statement of their Policy with respect to the exercise of their functions during the remainder of that period. For example, such revisions may be made in response to feedback from the Local Licensing Forum.
- 1.4 Before determining its policy for any licensing period, the Board must consult the persons listed in section 6(3) of the Act. These are:
- the Local Licensing Forum for the Board's area;
  - if the membership of the Forum is not representative of the interests of all of the persons specified in paragraph 2(6) of schedule 2 of the Act - that is: holders of premises licences and personal licences; the chief constable for the police area in which the Forum's area is situated; persons having functions relating to health, education or social work; young people; and persons resident within the Forum's area, then the board must consult such person or persons as appear to the Board to be representative of those interests of which the membership is not representative;

the local Health Board and  
such other persons as the Board thinks appropriate;

1.5 The Board undertook two periods of consultation in preparing this Statement of Licensing Policy:-

(a) it consulted with the following interested persons/bodies –

- Angus Local Licensing Forum
- Every Member of Angus Council
- Angus Council Education Department
- Angus Alcohol and Drugs Partnership
- Angus Health and Social Care Partnership
- Angus Council Housing Department
- Chief Constable of Police Scotland
- NHS Tayside
- Angus Child Protection Committee
- Angus Adult Protection Committee
- Scottish Licensed Trade Association
- Scottish Grocers Federation
- Scottish Hospitality Group
- Community Councils in the Angus area
- Professional Football Clubs in the Angus area
- Members of the faculty of Solicitors and Procurators in Angus

(b) copies of the then current Statements were available free of charge on Angus Council's website

(c) posts were placed on Angus Council's Facebook page and Twitter feed advising the public of the review of policy and how to make comments or suggestions; and

(d) it utilised the "Have Your Say" section of Angus Council's website as a means of advising of the consultation exercise and providing an avenue for comment to be made.

1.6 All responses to the consultation were taken into account by the Board in the finalisation and adoption of this Statement and regard was also given to:-

(a) the Guidance issued to Licensing Boards and Local Authorities by the Scottish Government; and

(b) the terms of the Licensing (Scotland) Act 2005.

## **2. DECISION MAKING, PROCESSES AND PROCEDURES**

2.1 The Board will deal with applicants in a courteous manner and will aim to make proceedings before it as open and friendly as possible so far as this is consistent with the quasi-judicial nature of its function. It will aim to provide equality of access and ensure that all participants are given appropriate advice on procedures or requirements of the Board.

2.2 Meetings of the Board may be hybrid, conducted in person and remotely. The procedure for hearings and other proceedings before the Board will normally be conducted in the following manner:-

- submissions will be heard from the Applicant person seeking a review, on his/her proposals, followed by an opportunity for any Objector or the licence holder and the Board to ask questions of the Applicant;
- submissions will then be heard from the Objector or licence holder followed by an opportunity for the Applicant or person seeking a review and the Board to ask questions; and
- the Applicant or licence holder will then give their final submission to the Board followed by the Applicant/person seeking a review's final submission.

The Board may adjourn to consider matters in private but will reconvene to resume consideration and/or make its decision before the parties concerned.

2.3 The Board will aim to provide an efficient and cost-effective service to all those who are involved in the licensing process. Angus Licensing Board will operate in accordance with the Constitution detailed in Appendix 1 and will delegate to the Clerk those functions specified in Appendix 1 to ensure that decisions can be made in a way which is consistent with this aim.

2.4 To assist applicants, the Board will publish, on the Board's web pages, procedural guidance on how it will handle applications and details of the fees applicable to each type of application.

2.5 It should be noted that this statement of policy does not override the right of any person to make representations on an application or to seek a review of a licence where such provision has been made in terms of the Licensing (Scotland) Act 2005

2.6 It should be noted that the Licensing Board will consider each application presented to it on its own merits.

## **3. THE LICENSING OBJECTIVES**

### **Preventing Crime and Disorder**

3.1.1 The Board accepts that alcohol consumption can adversely contribute to the level of crime and disorder within an area. The Board are committed to acting with Police Scotland to pursue policies intended to prevent crime and disorder. To that end, the Board will expect applicants for new premises licences and those applying for major variations to existing premises licences to implement and maintain appropriate and robust policies and practices to address all relevant factors which impact on crime and disorder, including:-

- underage drinking;
- proxy purchasing;
- drunkenness on premises;
- public drunkenness;
- violent/aggressive behaviour;
- noise nuisance;
- possession/use of illegal substances; and
- driving whilst under the influence of alcohol.

3.1.2 The Application should address how this will be achieved and include the following matters. Applicants should be prepared to introduce such measures as are reasonably necessary to meet the Crime and Disorder objective:-

- effective and responsible management of premises;
- training and supervision of staff;
- policies on proof of age requirements;
- pricing/promotions policies and advertising;
- CCTV provision/external lighting;
- use of SIA licensed door supervisors;
- membership of local pub/shop-watch schemes and involvement in responsible business award schemes;
- training staff in managing patrons who are already intoxicated;
- measures applicants may take to reduce violence through environmental measures, such as, choice and volume of music;
- a requirement to have a refusals book where staff can record all instances where they have refused to serve someone; and
- a requirement to adopt effective policies and procedures to prevent open drink containers, bottles and empty glasses from being removed from the premises.

3.1.3 Where door supervisors are used, licence holders will require to maintain a record of the names, dates and hours of work for each door supervisor.

### **Securing Public Safety**

3.2.1 Angus Council is committed to securing the safety of residents, visitors and those working within Angus and will seek to ensure that the operators of licensed premises take all necessary measures to implement this policy. To this aim, Licence holders are encouraged to participate in the Ask Angela Scheme. Licence holders should consider engaging in other external initiatives and developments which aim to secure the safety

of patrons and others, such as in relation to anti-spiking.

3.2.2 In 1999, Angus Council promoted byelaws prohibiting drinking in certain public places within the Burghs of Brechin, Carnoustie and Montrose. The byelaws were extended to include the Burghs of Arbroath and Kirriemuir in 2008. In 2011, the byelaws were amended and they now apply to certain areas within all seven burghs – Brechin, Carnoustie, Montrose, Arbroath, Kirriemuir, Forfar and Monifieth. These byelaws are intended to assist in making safe all public areas covered by them.

3.2.3 When addressing the issue of public safety, applicants should consider the following:-

- the occupancy capacity of their premises (broken down into areas if an outdoor space is included and otherwise as relevant);
- the internal lay-out, including means of escape in an emergency;
- the minimum number of staff to be employed (broken down into areas if relevant and times of employment);
- the nature, times and location of the activities to be provided;
- any differentiation between the hours of opening and the hours when alcohol will be sold;
- customer profile/target market eg. age/type of customer;
- provision of facilities for the hygienic service of food and alcohol; and
- any other matters which the applicant considers relevant.

The detailed information gathered by the applicants as aforesaid will depend on the type of premises proposed but applicants should ensure that sufficient information is provided in their application to enable the Board to consider proposed service against the licensing objectives and condition the licence appropriately.

### **Preventing Public Nuisance**

3.3.1 Angus Council is committed to protecting the amenity of residents and occupiers of other businesses from the potential adverse consequences of licensed premises, whilst at the same time recognising the valuable social and business service such premises provide.

3.3.2 Nuisances occur frequently at or around the terminal hour of on-trade businesses and applicants for on-trade premises licences will require to outline to the Board, and implement, effective policies on the dispersal of patrons.

3.3.3 Nuisance may also be created by noise and applicants should plan their business to be as considerate as possible to the public, including neighbouring occupiers. Details of, for example, external drinking areas and control of noise whilst using those areas should be addressed in the operating plan. Premises offering music, either live or recorded, will be required to detail their proposals to limit noise emissions from the premises. These proposals should include measures aimed at controlling noise from amplified and non-amplified music, singing and speech so as to be inaudible within any adjacent noise sensitive property, particularly between 11pm and 7am. Such measures

can include keeping doors and windows closed, and the installation of soundproofing measures and sound limiters. Advice can be obtained from Council Officers but it may also be necessary to contact acoustic consultants. There having been a growth in external drinking areas, perhaps increased by the Pandemic, the Board has approved Conditions which may be attached to a Premises Licence in any combination. The currently approved conditions are noted at Paragraph 11.5.

- 3.3.4 Objectors are, however, advised that licensing law is not the primary mechanism for the general control of noise nuisance nor antisocial behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned.

### **Protecting and Improving Public Health**

- 3.4.1 It is widely accepted that the excessive consumption of alcohol can have a damaging effect on health. The Board considers that this may be either on a single occasion or through prolonged excessive use. One particular area of concern relates to irresponsible promotions and the Board will apply the interpretation of an irresponsible promotion (as contained in para 8(2) of Schedule 3 of the Act), as one which:-

- relates specifically to an alcoholic drink likely to appeal largely to persons under the age of 18
- 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)
- involves the supply free of charge or at a reduced rate of one or more extra measures of an alcoholic drink on the purchase of one or more measures of the drink\*
- involves the supply of unlimited amounts of alcohol for a fixed charge (including any charge for entering to the premises)\*
- 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\*
- is based on the strength of any alcohol
- rewards or encourages or seeks to reward or encourage drinking alcohol quickly and
- offers alcohol as a reward or prize unless the alcohol is in a sealed container and consumed off the premises

\*Applies only to a drinks promotion carried on in relation to alcohol sold for consumption on the premises

- 3.4.2 The Board will have particular regard to the views of NHS Tayside in considering measures to protect public health from harm caused by alcohol. It will also continue its close relationship with the Angus Alcohol and Drugs Partnership and support its initiatives around responsible drinking.

- 3.4.3 The Board considers that licensed premises should not only provide free drinking water on request and reasonably priced non-alcoholic drinks, but should also participate in measures to inform the public of responsible drinking limits, the number of units in



particular drinks and the availability of non-alcoholic drinks. The Board will encourage licensed premises to join in with initiatives led by the Focus on Alcohol Angus initiative.

- 3.4.4 Applicants will also require to demonstrate their policies on the sale of alcohol to persons already intoxicated and to under-age persons.

### **Protecting Children and Young Persons from Harm**

- 3.5.1 Angus Licensing Board supports the provision of family friendly premises within the area. The Board expects that applicants will fully understand the additional responsibility which this will place on them and that this will be reflected in the operating and layout plans, facilities to be provided and the practices and procedures to be implemented by the applicants. The Board however recognises that parents and adults accompanying children and/or young persons also retain responsibilities.
- 3.5.2 The Board has particular concerns in permitting children under the age of 16 and/or young persons, age 16 and 17, into premises where the operating plan indicates that the supply of alcohol is the primary purpose of the service to be provided.
- 3.5.3 The Board will expect applicants to provide details of the applicant's proposals to prevent the sale of alcohol to children and/or young persons including, but not restricted to the following:-
- Effective and responsible premises management
  - Appropriate instruction, training and supervision of those employed to secure the protection of children and young persons from harm
  - Adoption of best practice guidance on prevention of sales of alcohol to children and young persons
  - Limitations on the hours when children and young persons may be present in all or parts of the premises
  - Limitations or exclusions by age when certain activities are taking place
  - Acceptance of accredited proof of age cards with photographs or Passports
  - Implementation of the Age verification policy of 25 (Challenge 25)
  - Where appropriate, differentiation between proposals for children and young persons
- 3.5.4 Where applicants intend permitting children under the age of 5 to access the premises, baby changing facilities which are accessible to persons of any gender will require to be provided on the premises
- 3.5.5 The Board will require details of the category and location of any gaming machines on the premises. Applicants have a duty under the Gambling Act 2005 to ensure that children and young persons do not access gaming machines above category D (as specified in the Gambling Act 2005). Licensed premises may have both category C and Category D gaming machines and applicants should consider siting, or may be required to site, Category C machines away from child-friendly areas where no or unsatisfactory measures are in place to deny children and young persons access. Clubs may have

certain types of category B gaming machines and the above restriction on under 18s' access applies to these types of machines.

- 3.5.6 The Board will also require details of the times and locations within the premises where children and young persons will be permitted.
- 3.5.7 The Board is mindful that children and young people can be impacted by exposure to marketing. Where licensed premises intend to hold events specifically targeted at children or young persons where alcohol is not provided, such as underage discos, consideration should be given to taking steps to avoid any obvious promotion of alcohol.
- 3.5.8 The Board expects all Licensed Premises to comply with legal requirements governing Age Restricted Good and encourages licensed premises to engage with initiatives aimed to protect children and young people from harm such as in relation to proxy purchasing.

## **4. TYPES OF LICENCE**

### **Premises Licences**

- 4.1 The Board will consider applications for premises licences as required in terms of the Act or any regulation made thereunder. The premises licence will be supported by an operating plan which will detail the type of activities which are permitted on the premises and the hours of operation. The information contained within the operating plan will depend on the type of premises but applicants should ensure that sufficient information is contained in the operating plan to fully inform the Board of what is proposed and enable the Board to condition the licence appropriately.

### **Provisional and Temporary Premises Licences**

- 4.2.1 The Board will consider applications for a provisional premises licence for premises which are to be constructed or converted for use as licensed premises. A provisional licence will require to be confirmed within 4 years of grant and will have no effect until confirmed. An extension of time may be permitted by the Board.
- 4.2.2 It should be noted that where an application is made for the confirmation of a provisional premises licence (section 46 of the 2005 Act refers), the Board may make a variation to the conditions for the purposes of ensuring consistency with any statement of licensing policy since the licence was issued.
- 4.2.3 A temporary premises licence may be applied for where existing licensed premises are to undergo conversion or reconstruction and the Board is satisfied as to the need for the applicant to continue this business pending reconstruction/conversion of the original premises. Such a licence will have effect for a maximum period of 2 years.

### **Personal Licences**

- 4.3.1 Licensed premises require one or more personal licence holder. The personal licence is intended to regulate those who can sell alcohol. Whilst the Act requires that each sale

is authorised by a personal licence holder, such authorisation can be a general one. Where such authorisation has been granted the Board will not insist on a personal licence holder being present on the premises at all times. However, where a personal licence holder is not present they still retain responsibility for the premises and appropriate steps should be taken to ensure that holiday cover/sickness absence are provided for. Please note that special rules apply to Clubs and premises with an occasional licence.

### **Occasional Licences**

4.4.1 The Board will consider applications for occasional licences authorising the sale of alcohol on premises which are not licensed. Applications may be made by:-

- the holder of a premises licence
  - the holder of a personal licence
  - a representative of any voluntary organisation
- For this purpose the Board consider that the holder of a personal licence which is suspended, is ineligible to apply in that capacity.

4.4.2 The Act imposes mandatory conditions on Occasional Licences. The Board has approved local conditions which will also attach to Occasional Licences and the currently approved conditions are attached as Appendix 2 to this Statement of Licensing Policy.

4.4.3 The Board has delegated powers to three of its members (local where possible), who must include the Convener and/or Vice Convener of the Board, to determine applications for Occasional Licences in the following circumstances:

- where objections or representations have been received, the Chief Constable or the Licensing Standards Officer have recommended refusal, or the hours or activities proposed are outwith Board Policy and
- the date(s) of the event in respect of which the application for the Occasional Licences relates is before the reporting cycle date of the next meeting of the Board or
- the date of the next meeting of the Board is more than 42 days after receipt of the application for the Occasional Licence

In the event of a tied vote, the Convener has the casting vote.

## **5. OVERPROVISION**

5.1 Section 7 of the Act requires the Board to include, in its Statement of Licensing Policy, a statement as to the extent to which the Board considers there to be an overprovision of:

- Licensed premises
- Licensed premises of a particular description

in any locality within the Boards area.

Having regard to Section 7 of the Act and Scottish Government Guidance for Licensing Boards and Local Authorities, the Board determined that the Board's area localities are the Burghs of Arbroath, Brechin, Carnoustie, Forfar, Kirriemuir, Montrose and Monifieth.

Having fully considered and evaluated the responses received from Police Scotland, and NHS Tayside and having full regard to the legislative provisions of the Licensing (Scotland) Act 2005 in particular Section 7, and Scottish Government Guidance issued to licensing boards in respect of the Review of Statement of Licensing Policy and Over-provision assessment, the Board have established, and are satisfied, that no robust and reliable evidence suggesting that a saturation point has been reached or is close to being reached, has been provided illustrating a dependable causal link between the operation of any type of licensed premises, or licensed premises of a particular description and alcohol related harm, in any locality or other area within Angus.

## **6. LICENSING HOURS**

- 6.1 Each application will be considered on its own merits. Licensed hours will be those agreed following the Licensing Board's consideration of the operating plan and any mandatory and local licence conditions applied. Particular attention is drawn to those premises wishing to open after 1.00am since mandatory licence conditions will apply (The Licensing Conditions (Late Opening Premises)(Scotland) Regulations 2007) The Board will expect the applicant to justify their request and demonstrate measures that promote the five licensing objectives having particular regard to proposed hours which are outwith the Board's policy hours. Following a review, reducing licensed hours can be one of the sanctions applied against a licence holder.
- 6.2 Applicants should not overestimate their trading hours on the assumption that they may need additional hours at some stage in the future. Applicants are reminded of the facility to request a variation of their licence under section 29 of the Act.
- 6.3 Section 64 of the Act provides a presumption against 24 hour opening of licensed premises.

In terms of Section 64 (2) of the Act, the Board must refuse any such application unless the Board is satisfied that there are exceptional circumstances which justify allowing the sale of alcohol on the premises during such a period. Angus Licensing Board considers that 'exceptional circumstances' include social events such as one-off local or national events.

- 6.4 In terms of the updated Scottish Government Guidance issued under Section 142 of the Act, in considering applications relating to licensed hours Licensing Boards may wish to consider applications for up to 14 hours continuous trading as being reasonable but local circumstances and views of those represented by Local Licensing Forums should always be considered. Any application for licensed hours for more than 14 hours should require further consideration to the effect of granting extra operating hours. It is unlikely that "exceptional circumstances" would be justified in the case of premises where there were routine requests to sell alcohol for 24 hour periods.

- 6.5 While each application is considered on its individual merits the Licensing Board is alert to and this statement of licensing policy recognises, the aggregate effect that a number of licensed premises may have on a community and potential impact on the licensing objectives, for example, by considering ways in which large numbers of customers leaving premises simultaneously can be appropriately managed to prevent disorder and nuisance.
- 6.6 No off-sale licensed hours are permitted before 10.00am and after 10.00pm on any day. Each off sales application is assessed on its own merits, having regard to the licensing objectives and licensed hours may be less.
- 6.7 Extended hours applications are assessed on their own merits. Where the extended hours sought are for on sales and fall out with the Board's on sale policy hours, the applicant is expected to demonstrate good reason for the hours sought and that the hours are appropriate in the circumstances. The applicant will require to provide the Board with sufficient information to enable a decision to be made in this regard. This information will include:-
- the hours sought;
  - a description of the special event or occasion;
  - the proposed activities to take place during these hours;
  - when each activity will take place;
  - information regarding steps taken to avoid any extension causing a public nuisance;
  - why the event or occasion is considered to be special;
  - why the event or occasion cannot take place within the on sale policy hours appropriate to the applicant premises.
- 6.8 Having regard to the above and to information provided as part of the consultation process the Board adopts the following policies in relation to considering the licensed hours in applications for premises licences, or for variations of premises licences, within the meaning of Section 62(1)(a) of Act and for occasional licences within the meaning of Section 62(1)(b) of the Act:

**LH/1 For Occasional Licences and general licensed premises (except for off-sale licensed premises – see paragraph 6.6), the licensed hours which will generally be permitted by the Board will be:**

- (i) from 11.00am to midnight on Sundays;**
- (ii) from 11.00am to midnight, Monday to Thursdays inclusive; and**
- (iii) from 11.00am on Fridays and Saturdays to 1.00am on Saturdays and Sundays respectively.**

**LH/2 For licensed premises where the activities permitted to be carried on as specified in the operating plan comprise public entertainment (such as dance halls, discotheques and nightclubs), and provided**

**that alcohol is sold as an ancillary to the entertainment, the licensed hours which will generally be permitted by the Board will be:**

- (i) from 11.00am to midnight on Sundays;**
- (ii) from 11.00am to midnight, Monday to Thursdays inclusive; and**
- (iii) from 11.00am on Fridays and Saturdays until 2.00am on Saturdays and Sundays, respectively.**

6.9 The Board considers that policies contained in 6.8 above will promote the licensing objectives with particular reference to prevention of crime and disorder, prevention of public nuisance and promotion of public health.

6.10 The Board will deal with every application on its own merits and is not restricted to granting the specified hours, however, the above policy is a guideline to applicants of the hours which will generally be acceptable to the Board.

6.11 The Board will consider applications by licence holders to extend the licensed hours of licensed premises in respect of a special event or occasion to be catered for on the premises, or a special event of local or national significance.

6.12 The Board has delegated powers to the Convener and Vice Convener of the Board, together with other Members as narrated at 4.4.3, to determine extended hours applications for special events or occasions in the following circumstances:

- where objections or representations have been received, the Chief Constable or the Licensing Standards Officer have recommended refusal, or the hours proposed are outwith Board Policy and either
- the date(s) in respect of which the application for the special event or occasion relates is before the last reporting date in advance of the next meeting of the Board or
- the date of the next meeting of the Board is more than 42 days after receipt of the application for the Extended Hours.

In the event of a tied vote, the Convener would have the casting vote.

6.13 In respect of the extension of hours on Christmas Eve, Christmas Day, Boxing Day, Hogmanay and New Years' Day:

- (i) If Christmas Eve, Christmas Day, Boxing Day Hogmanay and New Year's Day fall on a Sunday, Monday, Tuesday, Wednesday or Thursday then, on that day, the Board will permit on sale premises to trade for the hours provided to them in their Operating Plan for a Friday and Saturday night; for premises operating under an occasional licence the Board will permit the premises to trade until 1am;

- (ii) If Christmas Eve, Christmas Day, Boxing Day, Hogmanay and New Year's Day fall on a Friday or a Saturday then, on that day, the Board will permit on sale premises one additional hour at the end of trading. However, the Board will not permit this extension of hours if it would result in premises trading beyond 2am, for premises operating under an occasional licence the Board will permit the premises to trade until 2am;
- (iii) If applicants wish to take advantage of this relaxation, they should include provision for it in their Operating Plan, or apply for an extension of hours in terms of Sections 67 to 70 of the Act.

- 6.14 The run up to Christmas is always a very busy period for staff engaged in the processing of applications under the Act. Accordingly, the processing of applications for extension of hours in terms of Sections 67 to 70 of the Act cannot be guaranteed in respect of the month of December unless they are received by the Clerk by the last Friday in November.
- 6.15 The Board will deal with every application on its own merits and is not restricted to granting the specified hours, however, the above table is a guideline to applicants of the hours which will generally be acceptable to the Board.
- 6.16 For the avoidance of any doubt, these policies on licensed hours apply to premises licences and occasional licences authorising the sale of alcohol for consumption on the premises but do not apply to applications for a premises licence or occasional licence authorising the sale of alcohol for consumption off the premises.

## **7. LAYOUT PLANS**

- 7.1 The layout plan is intended to provide the Licensing Board and the statutory consultees with a clear indication of the proposed layout of the premises when considering the Licensing Objectives, particularly that of securing public safety. Inadequate plans may be rejected and in such circumstances the application form will not be regarded as complete.
- 7.2 The layout plan must be prepared in standard scale of not less than 1:100 and be printed on paper no larger than A3. Where the size of the premises would prevent this, the scale may be reduced to 1:200 provided that the clarity of the plan is not compromised. A separate layout plan should be included for each floor of the premises if applicable. Authority is delegated to the Clerk by the Board, to refuse to accept plans which are unclear or do not allow consultees to obtain the correct information from them.
- 7.3 Layout plans may be submitted electronically or on disc or other media. However, such plans must be capable of being printed to scale on paper no larger than A3.
- 7.4 Except as provided for in 7.3 above, an application for a premises licence must be accompanied by one additional copy of the layout plan.
- 7.5 The layout plan for premises should conform in all other respects with the terms of the

Act or any regulation made there under and show all necessary information in support of the application. Such information must include:-

- the full extent and dimensions of the boundary of the building, if relevant, and any external and internal walls of the building, and, if different, the perimeter and dimensions of the premises to be licensed (including outside drinking areas)
- the location and names of any streets surrounding the premises from which members of the public have access to the premises
- the location and width of each point of access to and egress from the premises
- the location and width of any other escape routes from the premises
- the location of any equipment used for the detection or warning of fire or smoke or for fighting fires
- the location of any steps, stairs, elevators or lifts on the premises
- the location of any toilets on the premises (identified as male, female or disabled as appropriate)
- any area on the premises set aside specifically for the use of children and young persons
- any area on the premises to which children and young persons will have access

In addition to the above information, where applicants intend to sell alcohol for consumption on the premises, the following information must also be included:-

- the use or uses to which each part of the premises will be put (under reference to the activities identified in the operating plan).

In addition to the above information, the Board requests that layout plans also include details of:-

- the number of patrons permitted into each area of the premises
- fixed seating and table arrangements
- staff toilet accommodation

Where the premises are to be used for the sale of alcohol for consumption off the premises, except as noted below, the following information must be included:-

- the location of the area or areas to be used for the display of alcohol
- the maximum width and height (in metres) of the frontage to be used for the display of alcohol within that area or those areas
- the maximum linear measurement (in metres) and the measured area (in square metres) of any displays of alcohol outside the frontage referred to in the above bullet point

Premises where the main function is to provide a visitor attraction and where the premises either form part of a larger site which is principally for the production of alcoholic drinks or where the visitor attraction is used principally to provide information about and promote the history and attributes of a particular alcoholic drink or category of such, are not expected to provide these display area details.



Where the amount of information to be included in the plan prejudices the clarity of the plan, a legend may be included in which matters referred to above are sufficiently illustrated by the use of symbols on the layout plan.

- 7.6 Plans must be of sufficient quality and clarity to ensure that they remain legible after scanning/photocopying.
- 7.7 An application for a premises licence must also be accompanied by a disabled access and facilities statement.

## **8. NOTIFICATION OF PREMISES LICENCE APPLICATIONS**

The Board will deliver within 21 days of receipt of the application, notification of each application to every occupier of any property within a 4 metre radius of any part of the premises boundary. The Board will also publish, within 42 days of receipt of the application, notice of each application on the TellmeScotland website.

## **9. OBJECTIONS, REPRESENTATIONS AND REQUESTS FOR REVIEW**

- 9.1 Anyone can object to an application for a licence to vary a licence (when the variation is not a minor variation as defined by Section 29(6) of the Act) or request a review of a licence which has already been granted. They must give notice to the Clerk which should be in writing, detailing the name and address of the objector/person requesting a review, the premises or person (in respect of a premises licence application only) to whom they object/request for a review and the aspect of the application or operation to which they object. An objector opposes the grant/existence of a licence. Objectors should address the statutory grounds including the licensing objectives. The Clerk will issue a copy of the objection/ request for a review to the applicant/licence holder.
- 9.2 A person may make a representation to the Board. A representation is not concerned with the issue of a licence in principle. A representation is concerned with the conditions or the suggestion of possible modifications to the grant of the licence. The Clerk will issue a copy of the representation to the applicant/licence holder.
- 9.3 The Board is entitled to reject objections/representations/requests for review which it considers either vexatious or frivolous and costs incurred in investigating such an objection or representation can be charged to the person who made the objection or representation.

## **10. CONDITIONS**

- 10.1 Flexibility to deal with local circumstances is a vital component of the licensing regime. However, local discretion must be balanced with a clear and effective national framework within which Boards must operate. This is reflected in the requirement that all premises licences issued under the Act will be subject to a range of mandatory licence conditions set out in schedule 3 of the Act. This is further supplemented by a range of discretionary licence conditions that Boards can choose from that may be appropriate to apply to meet local circumstances.

10.2 A Board cannot impose any discretionary condition which:-

- is inconsistent with any condition to which the premises licence is subject by virtue of section 27(1) of the Act, or prescribed in regulations
- would have the effect of making any such condition more onerous or more restrictive
- relates to a matter (such as planning, building control or food hygiene) which is regulated under another enactment

10.3 The guidance states that:

- Licensing Boards when considering any premises licence whose operating plan states that they wish to operate after 1am may find it appropriate to supplement the mandatory late opening conditions with other conditions. The addition of such conditions should be appropriate and proportionate and made on a case by case basis after consideration of antisocial behaviour reports submitted by the Police and the effective delivery of the licensing objectives of the 2005 Act
- a Licensing Board may attach a condition which is mandatory for certain premises to a premises licence which falls out with the prescribed definition if they think it necessary and proportionate
- a Licensing Board may also decide the time at which individual conditions should come into operation for each licence. For example in some circumstances it may be appropriate to have stewards on duty from 10.00pm, rather than from 1.00am

10.4 Any general statement of policy is subject to each application being considered on its own merits by the Board

10.5 The Board adopts the following policies on discretionary conditions which it will generally apply:-

#### **DC/1**

##### ***ENTERTAINMENT PREMISES***

**Where the licensed premises comprise entertainment premises (within the meaning set out in policy LH/2):**

- (i) details of the entertainment shall be advertised by the licence holder in advance. The advertisement may be made by way of public notice at the premises;**
- (ii) a reasonable amount of food and non-alcoholic beverages, including hot beverages shall be available at all times;**
- (iii) the playing of music shall cease at the end of the**

permitted hours;

- (iv) all music and vocals must be controlled to the satisfaction of any officer of Angus Council authorised in that regard; and
- (v) all acts and participants must wear clothing or a costume made of non-transparent/non-translucent material to cover breasts in the female and buttocks and genitals in each sex.

## CHILDREN AND YOUNG PERSONS

10.6 The Board considers that it is essential, if children and young persons are permitted access to licensed premises, that their presence is strictly regulated, having regard, particularly, to the licensing objective of protecting children and young persons from harm. The Board has approved Model Local Conditions which will attach to Premises Licences and the currently approved conditions are attached as Appendix 3 to this Statement of Licensing Policy. In the event that the Board agrees that a particular condition from the Model Local Conditions shall not apply, the premises licence will indicate the exemption by reference to both the number and heading of the exempted condition.

## 11. TAKE-AWAY PREMISES, GARAGES, REMOTE TRADING (INTERNET SALES) and EXTERNAL DRINKING AREAS

11.1 The Board adopts the following policy in respect of take away premises:-

**TA/1**                      **The Board considers that, in general, take away premises are not considered to be suitable for the sale of alcohol for consumption off the premises. For the purposes of this policy “takeaway premises” means premises or parts of premises which are wholly or substantially organised for the sale to the public of prepared food which is ready for consumption outwith the premises.**

11.2 Garages or premises which form part of a garage are exempt premises in terms of s.123(2)(b) and the Board must refuse any application to sell alcohol unless the applicant can satisfy the Board that persons resident in the locality are reliant to a significant extent on the premises as the principal source of either petrol/derv or groceries.

11.3 The Board adopts the following policy in respect of remote trading:-

**RT/1**                      **In respect of applications for premises licences where the intention is that the premises will only receive orders for alcohol for consumption off licensed premises and/or the despatch of alcohol so ordered by the person selling it, then**

**the following conditions will be applied:-**

- (a) no sales will take place to the public over the counter unless the Board is satisfied that the premises are suitable for such sales; and**
- (b) no deliveries will be permitted to or from the premises between the hours of midnight and 6am.**
- (c) Alcohol sold or dispatched from the premises will be delivered only to residential, business or organisation addresses.**
- (d) The licenceholder shall exercise due diligence to check the age of customers or potential customers and be satisfied that they are aged 18 years or over before any sale is completed.**
- (e) Sales of alcohol may only take place within licenced hours. Any order submitted outwith the licenced hours shall be not be processed until after the commencement of the next period of licensed hours and the customer will be advised of this.**
- (f) The Licenceholder shall ensure that those persons who deliver the sold alcohol are aware of the provisions of and restrictions on the delivery of alcohol contained within the Licensing (Scotland) Act 2005.**
- (g) A notice, or electronic notice if it is a third party operator, shall be affixed to every package containing alcohol dispatched from the premises, stating that the package contains alcohol and that it is an offence to deliver it to a person under 18 years of age.**

#### **11.4 EXTERNAL DRINKING AREAS**

The Board has approved a range of conditions for premises licence applications which include external drinking areas. The conditions may be applied in full or in any combination. Applicants will be expected to satisfy the Board as to the proposed use to enable the Board to condition appropriately.

- a) Patrons shall not be permitted to use external drinking areas beyond 21:00.
- b) No music shall be provided in external drinking areas.
- c) No music or amplified sound shall be provided anywhere within the licensed premises with the intention of being heard within the external drinking areas.

## **12. LICENSING STANDARDS OFFICER**

- 12.1 Angus Council has employed one Licensing Standards Officer. The Licensing Enforcement Concordat approved by Angus Licensing Board on 22 October 2003 will continue (until up-dated) to guide the procedures of the Licensing Standards Officer in his/her investigation and addressing of complaints. The Board has a firm commitment to ensuring that the Licensing Standards Officer is fully trained and can carry out his/her duties in an efficient and fair, open and consistent manner. Such duties include their membership of the Angus Licensing Forum.
- 12.2 As resources are limited, they will be targeted at high-risk premises and activities that are likely to or are causing the greatest public concern.

## **13. LICENCES CEASING TO HAVE EFFECT**

In terms of the Act, a premises licence ceases to have effect by virtue of the occurrence of a number of events. Periodic reports will be made to the Board in order that the Board can revoke such licences or note that licences have been surrendered. The Board recognises that it may take time to negotiate the transfer of licensed business concerns. The Board will not generally consider premises which are being actively marketed as having ceased to be used for the sale of alcohol for up to five years after the premises have been closed. It should be noted that this does not affect application of the relevant provisions of the Act.

## **14. RELATIONSHIP WITH OTHER STRATEGIES**

- 14.1 Angus Licensing Board in exercising its functions under the Act will avoid duplication with other regulatory regimes so far as possible, particularly health and safety and fire safety.
- 14.2 The Board recognises the value of linkages with other bodies interested in alcohol regulation, and relevant strategies on matters such as:
- local crime prevention; community safety strategies; the Alcohol and Drugs Partnership local strategy; health, particularly in relation to the Scottish Government's Alcohol Framework 2018; planning; transport; tourism; race equality schemes; cultural strategies; and any other plans introduced for the management of town centres and the night-time economy. Some of these issues may not directly relate to the promotion of the five licensing objectives, but may indirectly impact upon them.
- 14.3 The Board will also develop practices on any arrangements agreed between the police and the Licensing Standards Officer for reporting views or concerns to the local authority in respect of transport issues. The police are best placed to advise on the dispersal of people from town centres quickly and safely to avoid concentrations of people in particular vicinities which may lead to disorder, disturbance and pressures on public transport facilities.
- 14.4 Finally, the Board recognises that planning and building standards regimes are separate from that of licensing. Notwithstanding, an application for a premises licence must be

accompanied by a Planning Certificate and consultations with the Council's Planning service and Building Standards service are carried out on licensing applications. . Licensing applications should not be a re- run of the relevant planning application, not cut across decisions taken by the planning authority, nor seek to challenge decisions taken by that authority. Similarly, the granting by the Board of any variation of a licence which involves a material alteration to the premises would not relieve the applicant of the need to apply for planning permission nor building warrant, where appropriate. Nor will the Board as the licensing authority be bound by decisions made by the Council as the local planning authority. Applicants for licences should be aware that planning permission may be required for certain uses and that planning consents may carry conditions. Applicants should also be aware that consent from the Roads Authority may additionally be required to operate a pavement café.

14.5 All of these general premises will be the subject of ongoing policy development.

## **15. FREEDOM OF INFORMATION**

15.1 Information supplied by an applicant for a licence to the Board will be held and processed by the Board for its purposes as a licensing authority. That data will be disclosed to the Police and other public bodies involved with licensing, processing and enforcement, including departments of the Council. The Board will enter data on its register of applications which may be inspected by members of the public on request and certified copies of entries on this register may be issued to members of the public on request and on payment of the appropriate fee. Applicants may check or request amendment or deletion of data held by contacting the Clerk of the Licensing Board, Angus Council, Orchardbank Business Park, Forfar, DD8 1AN.

The Board has adopted a Publication Scheme under Section 23 of The Freedom of Information (Scotland) Act 2002. A copy of this scheme can be accessed on the Angus Council website – [www.angus.gov.uk](http://www.angus.gov.uk).

## 16. COMMENTS/CONTACTS

If you would like to make comments on the foregoing Policy Statement please send them to:-

Clerk of Angus Licensing Board  
Angus House  
Orchardbank Business  
Park  
Forfar  
Angus  
DD8 1AN

Or e-mail: [LawLicensing@angus.gov.uk](mailto:LawLicensing@angus.gov.uk)

[The Licensing Standards Officer may be contacted at LawLicensing@angus.gov.uk](mailto:LawLicensing@angus.gov.uk)

**If you require a copy of this document in another language, large print or another format please contact:**

**Angus Council ACCESSLine on: 03452 777 778.**

**ANGUS LICENSING BOARD**

**1. Membership**

- (1) The Licensing Board shall consist of such number (being not fewer than 5 and not more than 10) of members as may be determined by Angus Council (“the Council”).
- (2) The individual members of the Licensing Board shall be elected by the Council from among their councillors, at their first meeting after each ordinary election of councillors, or at any time when there is a casual vacancy.

**2. Disqualification from Membership**

- (1) A councillor is disqualified from appointment as, and from being, a member of the Licensing Board if that councillor is:-
  - (a) a premises licence holder;
  - (b) an employee of a premises licence holder and works as such in licensed premises;
  - (c) whether alone or in partnership with another person, engaged in the business of producing or selling alcohol;
  - (d) a director or other officer of a company so engaged; or
  - (e) an employee of any person so engaged and works as such in that business.
- (2) A councillor who knowingly acts or purports to act as a member of the Licensing Board at a time when he/she is disqualified from being such a member by virtue of sub-paragraph (1) above, commits an offence.
- (3) A person guilty of an offence under sub-paragraph (2) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

**3. Tenure of Office etc.**

- (1) A member of the Licensing Board:-
  - (a) shall hold office as such, subject to the following provisions of this paragraph and to paragraph 11(4), during the period:
    - (i) beginning on the day after the member’s election, and
    - (ii) ending on the day on which the next appointment of members of the Board is held in accordance with paragraph 1(2)
  - (b) is eligible for re-election as a member;
  - (c) may, at any time, resign by giving notice to the clerk of the Board; and



(d) ceases to hold office:

- (i) on ceasing to be a councillor of the Council; or
- (ii) on becoming disqualified from being a member of a Licensing Board.

(2) The clerk must give the Council a copy of any notice received under sub- paragraph (1) (c).

#### **4. Removal of Members from Office**

The Council may remove a member from office if the member is unfit by reason of mental or physical inability.

#### **5. Convener**

(1) The Licensing Board shall, at their first meeting after appointment or re- appointment, elect one of their members as convener of the Board.

(2) Where there is a vacancy in the office of convener, the Board shall, at their first meeting after the vacancy arises, elect one of their members to fill the vacancy.

(3) The convener of the Licensing Board shall:-

(a) hold office as such for the period:

- (i) beginning on the day after the convener's election; or
- (ii) ending with the day on which the next election of a convener is held in accordance with sub-paragraph (1);

(b) be eligible for re-election as convener of the Board; and

(c) cease to hold office on ceasing to be a member of the Board.

(4) The convener may, at any time, resign by giving notice to the clerk of the Board who shall give the Council notice of such resignation.

(5) If the convener is for any reason unable to chair any meeting of the Board, the Board shall, at that meeting, elect another of their members to act as chair.

(6) If, at any meeting of the Board, there is an equality in the votes of members on any matter, the member chairing the meeting shall have a casting vote.

#### **6. Removal of Convener**

(1) The convener may be removed from office by the Board.

(2) A decision of a Board to remove the convener is valid only if the number of members voting in favour of the decision exceeds one half of the total number of members of

the Board.

## **7. Administrative Support**

- (1) In relation to the Licensing Board, the Council shall:-
  - (a) appoint, on such terms and conditions as they may determine, a clerk of the Board; and
  - (b) provide, or ensure they are provided with, the clerk, such other staff, property and services as are required for the Board's purposes.
- (2) The clerk appointed under sub-paragraph (1)(a) shall be an advocate or solicitor.

## **8. Committees**

The Board may establish such committees as they consider necessary for or in connection with the exercise of any of their functions.

## **9. Delegation of Functions**

- (1) The Board may authorise (whether generally or specifically)—
  - (a) any member of the Board;
  - (b) any committee established by the Board;
  - (c) the clerk of the Board; or
  - (d) any member of staff provided under paragraph 7(1) (b), to exercise on their behalf, any of the Board's functions under this Act, other than the functions mentioned in sub-paragraph (2).
- (2) Those functions which shall not be delegated are:-
  - (a) determining the Board's policy for the purposes of a licensing policy statement or supplementary licensing policy statement;
  - (b) determining, for the purposes of any such statement, whether there is overprovision of licensed premises, or licensed premises of any particular description, in any locality;
  - (c) determining a premises licence application;
  - (d) determining a premises licence variation application where the variation sought is not a minor variation;
  - (e) determining an application for the transfer of a premises licence where the applicant has been convicted of a relevant offence or a foreign offence;
  - (f) determining:
    - (i) a personal licence application; or
    - (ii) a personal licence renewal application, where the applicant has been convicted of a relevant offence or a foreign offence;
  - (g) conducting a hearing under this Act (including taking any of the steps mentioned in sub-paragraph (3) at, or as result of, the hearing);
  - (h) making a closure order; or
  - (i) refusing an application for confirmation of a provisional premises licence.

- (3) The steps referred in sub-paragraph (2)(g) are:-
- (a) at a review hearing in respect of a premises licence:
    - (i) issuing a written warning to the licence holder;
    - (ii) revoking or suspending the licence; or
    - (iii) making a variation of the licence;
  - (b) making an order revoking, suspending or endorsing a personal licence.
- (4) A Licensing Board may, under sub-paragraph (1), delegate to the clerk of the Board the function of granting an occasional licence application only where there is no notice of objection or representations in relation to the application, or no notice from the appropriate chief constable recommending refusal of the application.

## **10. Training of Members**

- (1) Each member of the Board must, no later than one month after the expiry of each 3 month period, produce to the clerk evidence that he/she has, during the period, complied with such requirements as to the training of members of Licensing Boards as may be prescribed.
- (2) In sub-paragraph (1), “3 month period” means, in relation to a member of a Licensing Board:-
- (a) the period of 3 months beginning on the day on which the member is appointed, and
  - (b) if the member is re-appointed, the period of 3 months beginning with the day on which the member is re-appointed.
- (3) A member of the Board must not take part in any proceedings of the Board until he/she has produced the evidence required by sub-paragraph (1).
- (4) If a member of the Board fails to comply with sub-paragraph (1), the member shall cease to hold office as a member of the Board.
- (5) Regulations under sub-paragraph (1) prescribing training requirements may, in particular:-
- (a) provide for 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 requirements in relation to different descriptions of members; and
  - (c) require that any person providing training or any particular description of training

in accordance with the regulations holds such qualification as may be prescribed in the regulations.

## **11. Proceedings**

- (1) The quorum for a meeting of the Board is one half of the number of members (but in any case not fewer than 3).
- (2) Subject to sub-paragraph (3), meetings of the Board must be held in public.
- (3) The Board may, before it decides any matter, conduct their deliberations on the matter in private.
- (4) The Board shall comply with any Regulations made by Scottish Ministers about the proceedings of Licensing Boards including, in particular, provision as to:-
  - (a) the times by which applications to the Board under the Licensing (Scotland) Act 2005, and other business to be considered by the Board, are to be determined or considered;
  - (b) the publicising of meetings of the Board; and
  - (c) public access to any agenda and record of, and other information concerning, a meeting of the Board.
- (5) Unless otherwise provided for, arrangements for meetings of the Board, and other matters relating to proceedings of the Board are to be such as the Board may by rules provide.
- (6) The Board shall ensure that any rules made by them under sub-paragraph (5) above are published.

## **12. Validity of Proceedings**

The proceedings of the Board are not affected by:-

- (a) any vacancy in the membership of the Board,
- (b) any defect in the appointment of any member of the Board, or
- (c) the disqualification of any councillor from being a member of the Board.

## **SCHEME OF DELEGATION**

### **1. INTRODUCTION**

The Scheme of Delegation covers the powers of the Licensing Board, in terms of the Licensing (Scotland) Act 2005

These delegations will be subject to any alterations made necessary due to amendments to Legislation, Regulations, Codes of Practice or Government Circulars. In the event of a conflict between the terms of this scheme of delegation and the relevant Legislation, the scheme of delegation shall be amended forthwith to accord with the provisions of the said relevant Legislation.

The Board is committed to decisions on licensing matters being taken in accordance with an approved scheme of delegation aimed at underlining the principles of timely, efficient and effective decision making.

### **2. LICENSING (SCOTLAND) ACT 2005**

2.1 In terms of the Licensing (Scotland) Act 2005 Angus Council Licensing Board is responsible for the consideration of the following types of applications and matters:

- premises licences
- occasional licences
- temporary licenses
- provisional licences
- personal licences
- variation of licences
- review of licences
- transfer of licences
- extension of licensing hours
- the sale of alcohol by retail
- the supply of alcohol in members clubs

2.2 Functions reserved to the Licensing Board

The following matters are reserved to the Licensing Board to be determined at a meeting of the Board:-

- (a) determining the Licensing Board's policy for the purposes of a Licensing Policy Statement or any supplementary Licensing Policy Statement;
- (b) determining, for the purposes of any such statement, whether there is overprovision of licensed premises, or licensed premises of any particular description, in any locality;
- (c) determining a premises licence application;
- (d) determining a premises licence variation application where the variation sought is not a minor variation;

- (e) determining an application for the transfer of a premises licence where the applicant has been convicted of a relevant or foreign offence;
- (f) determining a personal licence application, or personal licence renewal application where the applicant has been convicted of a relevant or foreign offence;
- (g) conducting a hearing under the Act, including taking any of the following steps:-
  - (i) at a review hearing in respect of a premises licence;
    - (a) issue a written warning to the licence holder;
    - (b) revoking or suspending the licence; or
    - (c) making a variation of the licence; or
  - (ii) making an order revoking, suspending or endorsing a personal licence.
- (h) making a closure order; and
- (i) refusing an application for confirmation of a provisional licence.

2.3 Functions Delegated to the Clerk or Depute Clerk of the Licensing Board Decisions on the following matters are delegated to the Clerk or Depute Clerk:-

- (a) any applications for a minor variation of premises licences (Section 29);
- (b) any application for variation to substitute a new premises manager- where the applicant has not been convicted of any relevant or foreign offence (sections 31 and 54);
- (c) any application to transfer a premises licence – where the transferee has not been convicted of any relevant or foreign offence (sections 33 – 35);
- (d) any application for confirmation of a provisional premises licence – where no variation (other than a minor variation) has been made to the operating plan or layout plan for the premises to which the licence relates since the provisional licence was issued or since a variation of the provisional premises licence was granted (section 46);
- (e) any application for an occasional licence – where no objections or representations have been received, nor a notice recommending refusal from the Chief Constable or any report from the Licensing Standards Officer recommending refusal (sections 56 – 61) where the application relates to hours within Section 6 of the Board’s policy;
- (f) any application for extended hours – where no objections or representations have been received, nor a notice recommending refusal from the Chief Constable or any report from the Licensing Standards Officer recommending refusal (sections 68-70) where the application relates to hours within Section 6 of the Board’s policy;
- (g) the determination in terms of Section 70(2) of the Act as to whether or not the Licensing Board will hold a hearing to determine an application for extended

- hours where an objection, representation or a notice recommending refusal from the Chief Constable or a report from the Licensing Standards Officer recommending refusal has been received;
- (h) where a decision has been taken not to hold a hearing in terms of Section 70 (2) of the Act, the determination of the application;
  - (i) any application for a personal licence or renewal of a personal licence where the applicant has not been convicted of a relevant or foreign offence (section 74);

***(Note that the Clerk, or Depute Clerk, may elect not to use their delegated powers in a particular case in which case the matter will be referred to the Board)***

- 2.4 The Clerk or Depute Clerk will have delegated authority to refuse to accept any plans which do not comply with the requirements contained in Section 7 of the Statement of Licensing Policy.
- 2.5 The Clerk or Depute Clerk will have delegated authority to accept any occasional or extended hours application received with less than 21 days and 10 days' notice respectively, the expectation being that such occasional licence applications in respect of funerals shall be so accepted where possible.

### **3. OTHER MATTERS**

Any matters which are not the subject of a specific delegation in terms of this Scheme of Delegation and are not prescribed by the Licensing (Scotland) Act 2005 shall be determined by the Licensing Board at a meeting of the Board.

## Occasional Licence Local Conditions

### A. General

The occasional licence holder must operate within the boundaries of the premises as they are described in the occasional licence and in accordance with the terms of the occasional licence.

### B. Display of Notice

The occasional licence holder shall display at all times during the operation of the licence the statutory notice (under-age purchase etc. offences) at each place on the premises where sales of alcohol are made and in a position where it is readily visible to any person seeking to buy alcohol.

### C. Access to Licensed Premises (On Sales) by Children and Young Persons

Children under the age of 16 and young persons aged 16 or 17 will only be permitted to access and remain within the part/s of the premises identified in the occasional licence as part/s to which children or young persons are permitted entry.

The Licensing Board will permit children and young persons within Occasional Licences where the Board is satisfied that the event for which the Occasional Licence is to be granted is catering for family activities and recreation involving children and young persons.

In addition the following control measures will require to be in place:-

- (a) Children and young persons are not permitted to be present at or in their immediate vicinity of any bar or bar counter.
- (b) Children and young persons must be accompanied by and kept under the direct supervision of a responsible adult (not less than the age of 18) who must keep proper control of the children at all times.
- (c) The part or parts of the licensed premises where children and young persons are permitted should be free of category A, B or C gaming machines and gaming, unless the gaming is equal chance prize gaming which children and young persons are permitted to participate in under the Gambling Act 2005.
- (d) Gaming, category C and greater gaming machines should not be located in walkway areas, must be sited in a location where their use can be monitored by staff (including volunteer staff) and no children and young persons will be permitted to operate said machines.



- (e) Where televisions or screens for live or pre-recorded entertainment or games are intended to be used in areas where children and young persons are permitted, the programmes or video games must be of a type suitable for family and children and young persons' viewing.
- (f) Male and female toilets must be readily accessible from the area/s where children and young persons are allowed and remain open at all times when children and young persons are in the premises.
- (g) Electrical sockets within the part or parts of the premises to which children have access should, when not in use, have plug caps thereon.
- (h) Where open fires, electrical or gas fires or radiators are within part or parts of the premises to which children and young persons have access, it is expected that such fires and radiators etc. will be securely guarded or otherwise protected. Fire guards will require to comply with the relevant British Standards.
- (i) Occasional licence holders must ensure that stringent measures are in place to ensure that neither children nor young people purchase or consume alcohol on the premises (unless such consumption by a young person is permitted in terms of the restricted provisions of Section 105(5) of the Licensing (Scotland) Act 2005).
- (j) Occasional licence holders must ensure that stringent measures are taken to prevent the operation of the occasional licence resulting in children and young persons being exposed to strong language, violence or disorder.

**D. Premises operating as a restaurant under an occasional licence**

Unless the Board allows otherwise, premises operating as a restaurant under an occasional licence will only be able to authorise the sale or supply of alcohol to persons taking table meals for consumption as an ancillary to the meal and no bar counter service should be available.

**E. Off Sales**

Off-sales are to be sold in sealed containers for consumption off the premises

**F. Marquees**

- (i) Where the premises operating under an occasional licence include a marquee, any area adjacent to the marquee where patrons are permitted to consume drinks outside, must be clearly defined by suitable fencing.
- (ii) Except in the case of weddings, non-glass containers must be used, and drinks will be dispensed into non-glass containers at the point of sale.

**G. Outdoor Events**

Where a premises operating under an occasional licence includes an outdoor area, non-glass containers must be used, and drinks will be dispensed from bottles etc into non-glass containers at the point of sale.

- H.** The Occasional Licence Holder shall ensure that such measures, as may be necessary, are taken to prohibit the intentional release of airborne launched lanterns, latex balloons and similar free-floating devices containing a naked flame, fuel cell, helium gas or similar elevation mechanism – whether the device is specified as bio- degradable or otherwise in respect of which this licence is granted. Such lanterns or devices are commonly known as Chinese Lanterns, Sky Lanterns, Flying Lanterns, Glowing Lanterns, Night Sky Lanterns, Kongming Lanterns and similar.

For the avoidance of any doubt, static, fixed, hanging or waterborne ornamental or decorative lanterns, balloons or similar devices are not prohibited

**MODEL LOCAL CONDITIONS - CHILDREN AND YOUNG PERSONS**

**1. General**

The licence holder must operate the premises in accordance with the description of the premises detailed in the licence, as approved by the Licensing Board.

**2. Access to Licensed Premises (On Sales) by Children and young persons**

Children and young persons will only be permitted to access and remain within on-sale licensed premises in accordance with the details specified in the Operating Plan. In addition the following control measures will require to be in place:-

(a) (i) WHERE FOOD IS SOLD ANCILLARY TO ALCOHOL

Children and young persons will only be permitted into licensed premises where the primary purpose of allowing them access is to consume a meal. Children and young persons will only be permitted in licensed premises until 9.00pm or one hour after cessation of serving of food to the individual person or group of persons consuming the meal, whichever is the earlier.

(ii) WHERE ALCOHOL IS SOLD ANCILLARY TO FOOD I.E. RESTAURANTS.

Children and young persons will only be permitted into licensed premises where the primary purpose of allowing them access is to consume a meal. Children and young persons will be permitted in the licensed premises until one hour after the cessation of serving food to the individual person or group of persons consuming the meal.

(iii) WHERE ALCOHOL IS SOLD ANCILLARY TO A FUNCTION/ ENTERTAINMENT

Children and young persons will only be permitted into licensed premises where the primary purpose of allowing them access is to attend a pre-booked private function or a ticketed function until the termination of the function.

(iv) WHERE NO FOOD IS SOLD

No children under the age of 16 will be permitted into any premises and young persons aged 16 or 17 will only be permitted in the licensed premises until **9.00pm**.

(v) ALCOHOL SOLD IN LEISURE CLUBS ETC.

Notwithstanding the foregoing restrictions, **if requested by an applicant or licence holder**, the Board may declare that it is satisfied that specific Licensed Premises (such as a family leisure club or family orientated hotel) substantially cater for family activities and recreation involving children and young persons. In such instances, Children and Young Persons will be permitted to remain within the Licensed Premises during the hours when the Licensed Premises are catering for family activities and recreation, but children and young persons will not be permitted in any bar area beyond 9:00 pm.

(vi) ALCOHOL SOLD IN PREMISES IN REMOTE AND RURAL AREAS

Notwithstanding the foregoing restrictions, **if requested by an applicant or licence holder**, the Board may declare that it is satisfied that specific Licensed Premises are located in a remote and rural area and provide services and facilities that substantially cater for tourism. In such instances, Children and Young Persons will be permitted access to the premises without the requirement to be taking a meal, but children and young persons will not be permitted in any bar area beyond 9:00 pm. For the purposes of these Conditions, remote and rural areas are defined as being within that part of the Angus Local Authority Area within the Cairngorm National Park, or identified as Category 2 Rural Settlement Units in the Angus Local Plan Review (Adopted 2009).

(vii) ALCOHOL SOLD IN PRESCRIBED CLUBS

Notwithstanding the foregoing restrictions, **if requested by an applicant or licence holder**, the Board may declare that it is satisfied that specific Licensed Premises qualify as a club of a prescribed description within the meaning of the Licensing (Clubs) (Scotland) Regulations 2007 and which is devoted primarily to some sporting purpose. In such instances, Children and Young Persons will be permitted to remain within the Licensed Premises, only if they are members of the club and solely for the purposes of their participation in a sporting event, but that children and young persons would not be permitted in any bar or other area beyond 9.00 pm. For the avoidance of doubt, the viewing of a televised sporting event is not a sporting event for the purposes of this condition.

(b) Children and young persons are only permitted to be present in licensed premises seated at tables and not bar counters.

(c) Children and young persons must be accompanied by and kept under the direct supervision of a responsible adult (not less than the age of 18) who must keep proper control of the children and young persons at all times.

- (d) The part or parts of the licensed premises where children and young persons are permitted should be free of category C or greater gaming machines.
- (e) Category C or greater gaming machines should not be located in walkway areas and must be sited in a location where their use can be monitored by staff and no children or young persons will be permitted to operate said machines.
- (f) Where televisions or screens for live or pre-recorded entertainment or games are intended to be used in areas where children and young persons are permitted, the programmes or video films must be of a type suitable for family and children and young persons' viewing.
- (g) Male and female toilets should be accessible without having to pass through an area that is not open to children and young persons and remain open at all times when children and young persons are in the premises.
- (h) A children's menu shall be made available. There is no requirement to provide a children's menu at a wedding or other pre-booked private function or ticketed function.
- (i) Electrical sockets within the part or parts of the premises to which children and young persons have access should, when not in use, have plug caps thereon.
- (j) Where open fires or electrical or gas fires or radiators are within part or parts of the premises to which children and young persons have access, it is expected that such fires and radiators etc. will be securely guarded.
- (k) Managers must ensure that stringent measures are in place to ensure that children or young people do not purchase or consume alcohol on the premises (unless such consumption by a young person is permitted in terms of the restricted provisions of Section 105(5) of the Act).