



## **Foreword to South Ayrshire Licensing Board Statement of Licensing Policy**

In developing our new Policy Statement, the Board have sought a clear promotion of the Licensing Objectives, based firmly on reliable evidence.

Our priorities have been informed by our engagement with a range of organisations including the Police, the NHS, representatives of the licensed trade, alcohol and drug partnerships and community councils.

Our initial engagement work identified three main areas for review:

- Access to licenced premises and events for young people
- Overprovision of off-sales premises
- Noise issues from licenced premises

We are required to ensure our policy promotes the five Licensing Objectives. We could not directly consider how our policy would impact on local businesses and the wider economy, but in developing the policy we were clearly conscious of the context in which local businesses operate. Our licenced premises serve not only local residents and workers, but also the large numbers of visitors who come to Ayrshire for our beaches, shopping and Burns Country attractions, and particularly with regard to on-sales, this shapes how many premises operate.

Visitors, including families, have an expectation of being able to enjoy a drink, and a policy which unduly restricts well-run premises from offering refreshments (including non-alcoholic drinks) would be counter to South Ayrshire Council's objective of making the most of the local economy, unless there is a clear Licensing justification for imposing restrictions.

The Board wished to strike a balance, in support of our very important objective of protecting children and young persons from harm, by suggesting that moderate on-premises consumption of alcohol in a well-run and supervised family friendly environment is better able to protect our young people than any provisions we can make to discourage families consuming excessive alcohol in their homes.

Children attending events with Occasional Licences are also a complex matter. The wide range of events in South Ayrshire's vibrant calendar is of significant importance to our local economy. Every event has different requirements; however we have seen some good examples recently where event organisers have worked with our Licensing Standards Officer to ensure that young attendees can fit seamlessly into the event arrangements, ensuring our licensing requirements are adhered to without requiring more onerous measures.

We wished to clarify this approach going forward and our new policy specifically encourages organisers of larger events to discuss their plans with the Licensing Standards Officer before submitting their application. In doing so it is our intention to highlight examples of good practice, which for larger events may include laying out food and drinks vendors within a shared space, rather than having a separate "beer tent".

We considered the possibility of adopting a policy on overprovision in significant detail, both at the pre-consultation stage and following receipt of consultation responses and further discussions with NHS Public Health. We fully recognise the concerns from a public health point of view about the availability of alcohol and links which can be made with anti-social

behaviour and hospitalisations. Our consideration of overprovision is set out in detail in Appendix 2 of the policy.

Finally on noise related issues, our focus has been on clarifying our policy. There was consensus that noise nuisance is best dealt with through Environmental Health, and that our previous policy which was slightly at variance with the statutory duties of Environmental Health served only to make enforcement more complex.

We have however strengthened the protection for neighbouring properties. New live entertainment venues will be encouraged to engage a noise consultant to demonstrate how noise nuisance will be prevented, with adequate design and management measures in place to minimise any risk of disturbance to neighbouring properties. Additional safeguards will also be introduced for occasional licences for events in marquees.

We very much appreciate the input and feedback received from interested parties at all stages of our policy development. This has enabled a wide range of stakeholders to have a genuine influence on our new policy, and ensure it fully reflects local priorities for South Ayrshire's licensing in the coming years.

**Cllr Craig Mackay**  
**Chair, South Ayrshire Licensing Board**



## **SOUTH AYRSHIRE LICENSING BOARD**

### **STATEMENT OF LICENSING POLICY**

**Approved 22<sup>nd</sup> November 2018**

#### **1. Introduction**

The Licensing (Scotland) Act 2005 ("the Act") requires every Licensing Board to prepare and publish a statement of its licensing policy within 18 months after an ordinary election of councillors for local government areas having taken place under section 5 of the Local Government etc. (Scotland) Act 1994 and to keep the policy under review. The Board is required to ensure that its policies promote the licensing objectives set out in the Act namely:-

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

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

In implementing its policy statement, the Board is obliged to consult with:-

- The Local Licensing Forum which has been established by South Ayrshire Council
- Such other persons who appear to the Board to be representative of holders of licences
- The Chief Constable of Police Scotland
- Persons having functions relating to health, education, social work, and young people
- Persons resident within the Board's area
- Such other people as the Board thinks appropriate

Details of all the responses received to the Board's consultation on its draft policy can be viewed at <https://www.south-ayrshire.gov.uk/licensing/consultations.aspx>

It must be recognised that this policy covers a wide variety of activities and premises. It cannot provide for every eventuality but seeks to detail those factors and the Board's policies which will influence the achievement of the licensing objectives. The Board recognises and supports the contribution which licensed premises make to the economy of the area, to employment, tourism and the vitality of the area.

## **2. General measures to promote the Objectives**

### **2.1 Preventing crime and disorder**

The Board supports a strategy aimed at making the area a safe place to live and visit. It will expect operating plans to include information as to how applicants will address the problems of underage drinking, drunkenness on premises, public drunkenness, illegal possession and/or use of drugs, violent behaviour, antisocial behaviour, and litter. However the Board acknowledges that the licensing function cannot be used for the general control of the antisocial behaviour of individuals once they are beyond the direct control of the licence holder of any premises.

### **2.2 Securing public safety**

The Board is committed to ensuring that the safety of any person visiting, or working on, or in the vicinity of, licensed premises is not compromised. In the operating plan the Board expects details of precautions taken such as installation of CCTV, membership of local trade forums etc.

### **2.3 Preventing public nuisance**

The Board wishes to protect and maintain the amenity of residents and occupiers of other businesses from any adverse consequences of the operation of licensed premises whilst at the same time recognising the valuable social, cultural and business contribution that such premises provide. The operating plan should demonstrate how the premises will be good neighbours both to residents and other local businesses.

### **2.4 Protecting and improving public health**

The Board is concerned about the link between the consumption of alcohol and public health. While the Board wishes to see premises thriving, this cannot be at the expense of patrons' health and wellbeing. Operating plans will be expected to detail suitable measures have been identified and will be implemented and maintained to protect patrons' health. These might include making available information regarding sensible drinking, the effects of excessive alcohol consumption and contact points where assistance can be obtained for problem drinking. The Board supports participation in designated drivers schemes and alcohol awareness campaigns.

### **2.5 Protecting children and young persons from harm**

The Board wishes to see family friendly premises thriving in the area. However premises which sell alcohol for consumption on the premises and which do not offer the option of meals are unlikely to be considered a suitable environment for children and young persons. Operating plans should give detail of the measures which have been identified to protect children and young persons from harm. These may include limitations on the hours during which children and young persons may be in all or part of the premises, limitations or exclusions by age when certain activities are taking place, imposition of requirement for children and young persons to be accompanied by an adult, and measures to ensure that children do not purchase, acquire or consume alcohol.

### **3. Applications for licences and disposal of business**

- 3.1 When considering applications for premises licenses, the Board must be satisfied that the measures proposed in the operating plan will meet the five licensing objectives. The Board may include undertakings given by the applicants as conditions in the licence to ensure compliance with the licensing objective.
- 3.2 The Board will not accept any premises licence applications which fail to satisfy the requirements of section 20 of the Act and any regulations made under the Act.
- 3.3 The Board will dispose of its business in an open and transparent manner. Information will be made available to those persons who wish to apply for a licence, make representations or to lodge objections. While office staff will give advice, it must be understood that staff will not complete applications or operating plans for applicants or frame objections.
- 3.4 The Board will meet in public although members may retire into private session to consider their decision.
- 3.5 Details of all Board meetings will be advertised on the website <https://www.south-ayrshire.gov.uk/licensing/> and minutes of meetings will be available at <https://www.south-ayrshire.gov.uk/committees/agendas.aspx>

### **4. Delegation of licensing functions**

- 4.1 The Board will provide an efficient and cost effective service to all those who are involved in the licensing process. Therefore the Board has adopted a scheme of delegation to ensure that decisions can be made in a way which is consistent with this aim.
- 4.2 The Board will receive regular reports regarding licences determined under delegated powers.
- 4.3 The scheme of delegation is attached as appendix 1.

### **5 Premises Licences**

- 5.1 Premises wishing to sell alcohol for consumption on or off the premises will require to have a premises licence. This will govern, amongst others, what activities are allowed on the premises and what hours the premises can be open for business. Each licence will be tailored to the type of premises in question. There must be a description of the premises, an operating plan, a layout plan of the premises and a disabled access and facilities statement. If an activity is not mentioned in the operating plan then it cannot take place in the premises.
- 5.2 Notification of application, objections and representations

The Board will give notice of a premises licence application to:

- Each person having a notifiable interest in any land 4 metres in any direction of any boundary of the property to which the application relates
- Any community council within whose area the premises are situated
- South Ayrshire Council

- Chief Constable of Police Scotland
- Scottish Fire and Rescue Service
- Ayrshire & Arran Health Board

Additionally the Board will list all applications received on South Ayrshire Council's Website:

<http://www.south-ayrshire.gov.uk/licensing>

Any person may submit an objection or representation to the Board. The objection must relate to one or more of the licensing objectives. Details of how to make an objection are given on the website <https://gis.south-ayrshire.gov.uk/licensing/prlrObjection.asp> Additionally Alcohol Focus Scotland has developed a resource to assist anyone wishing to make an objection or representation which is available at <https://www.alcohol-focus-scotland.org.uk/media/133477/Community-licensing-toolkit.pdf>

### 5.3 Consideration of premises licence applications

The Board will assess each application on its own merits. The Board will have particular regard to:

- The nature of the premises, the style and type of use and the potential number and profile of the customers likely to attend the premises
- The proposed hours of operation
- The means of access to the premises including the location of customer entrances and exits
- Whether children /young persons are to have access to the premises or parts of the premises and upon what terms
- The need for door supervisors.
- Areas or activities which may have potential for crime and disorder or public nuisance and any measures proposed to mitigate those issues. For new premises or premises planning to have live entertainment for the first time the Board will expect a noise consultant to provide a report on the suitability of the premises and any action required to ensure no nuisance occurs. When considering any application for premises which have been previously licensed, or in any review of an existing licence, the Board will take into account any relevant evidence, especially of the impact on local residents and businesses and will also look at the measures proposed by the applicant to mitigate any adverse impact. This may lead to additional conditions being placed on licences.

### 5.4 Conditions

There are mandatory conditions set out both in the Act and in Regulations. The Board will consider on an individual basis whether it is necessary or expedient to impose additional conditions, to promote one or more of the licensing objectives.

## 5.5 Duplication

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

## 6. Management of premises

The Board considers that licensees and their staff should operate their premises in a manner which is consistent with the licensing objectives. In particular the Board has determined the following policies:

### 6.1 Personal licence holders

The Board expects a personal licence holder to be on the premises at all times in order to ensure compliance with all the licensing objectives.

### 6.2 Noise Nuisance

There are various potential sources of noise relating to licensed premises. These include entertainment noise, noise from mechanical services equipment and noise from deliveries to the venue. It is expected that licensed premises are good neighbours and do not cause “nuisance”.

Nuisance may be simply defined as an adverse impact on a persons’ ability to enjoy their amenity, either inside or outside their residence. (Scottish Government)<sup>1</sup>

Entertainment noise is one of the principle causes of complaint regarding licensed premises. Entertainment noise levels should not give rise to nuisance within nearby noise sensitive properties or gardens

Good location, design and layout of the premises is essential to ensure that excessive noise breakout does not occur. Consideration should be given with respect to the type and volume of music or other entertainment likely to be provided. In particular sufficient sound insulation and ventilation must be provided (to prevent the need to open external doors and windows).

Robust management controls are fundamental to ensure that suitable internal and external noise levels are not exceeded

Noise complaints may result in an adverse report being sent to the Licensing Board leading to a premises licence review.

### 6.3 Outdoor drinking facilities

To ensure that the licensing objective of preventing public nuisance is met, the Board will normally impose a local condition that that no alcohol is consumed outside after 10pm, The Board will consider varying this condition only if it satisfied that that there is no likelihood of nuisance being caused to neighbours. Although patrons may still use the external area for smoking, staff should ensure that noise is kept to a minimum.

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<sup>1</sup> <http://www.gov.scot/Topics/Environment/waste-and-pollution/Pollution-1/Noise-Nuisance>

The Board does not expect amplified music or television screens in outdoor drinking areas unless this has been specifically agreed by the Board. All applicants seeking outdoor drinking areas will be expected to address noise nuisance in their operating plans. This may include a noise consultant's report.

The Board expects outdoor drinking areas to be supervised and may require such areas to be monitored from inside the premises by CCTV as well as by staff working in the premises.

#### 6.4 Children and young persons on licensed premises

In order to meet the licensing objective of protecting children and young persons from harm the operating plan should give details of control measures which will be implemented. These may include:

- Provision of a sufficient number of people employed to secure the protection of children from harm
- Appropriate instruction, training and supervision of those employed to secure the protection of children and young persons from harm
- Limitations on the hours children and young persons may be present, in part or all of the premises
- Limitations or exclusions by age when certain activities are taking place
- Imposition of requirements for children and young persons to be accompanied by an adult
- Implementation of age verification policy
- Measures to ensure children and young persons do not purchase acquire or consume alcohol
- Measures to ensure children and young persons are not exposed to incidences of violence or disorder

The Board wishes to see family friendly premises thrive in the area both for local residents and for the tourist trade. In some circumstances children and young persons may be adequately protected from harm by the action taken to protect adults but they may also need particular measures to be taken; no policy can anticipate every situation. When addressing the issue of protecting children and young persons from harm, the applicant must demonstrate that those factors, which may particularly impact on harm to children and young persons, have been considered.

The Board will not normally permit children and young persons to be on premises where food is not served unless the applicant can make a compelling case for why children and young persons should be permitted and how they will be protected from harm.

The Board is aware that some premises which permit children have their own policies which include restricting the number of alcoholic drinks an adult in charge of children may have and the Board regards this as good practice.

Premises which permit children and young persons are expected to have family seating areas , where possible, away from any bars

Children and young persons should not be permitted in the vicinity of any gaming machines.

## 6.5 Door supervision

In order to meet the licensing objectives of preventing public nuisance, securing public safety and preventing crime and disorder, the operating plan should address whether door supervision is required and if so, the number of supervisors required, the occasions they must be present, and the hours they must be present on.

The Board may impose conditions requiring the presence of door supervisors and each case will be assessed according to the merits of the individual application.

For full details of all SIA requirements please refer to <http://www.sia.homeoffice.gov.uk/Pages/home.aspx>

## 7. Trading Hours

In order to address all the licensing objectives the Board will have regard to its general policy on licensed hours, however each application will be dealt with on its merits and with regard to the following factors, although this list is not exhaustive:-

- The prevalence of anti-social behaviour in the vicinity of the applicant premises as disclosed by any Police report provided in terms of section 21(3)(b) of the Act.
- The location of the premises and the general character of the area in which the premises are situated.
- The activities and hours proposed in the draft operating plan accompanying either a premises licence application or an application for variation
- The availability of public transport in the locality of the premises late at night and in particular whether or not the use of the premises for the sale of alcohol in the absence of adequate public transport facilities may cause nuisance
- The impact additional licensing hours may have on police demands in conjunction with resources available to deal with such needs.

### 7.1 Off-Sales

The maximum hours set by the Act are 10am – 10pm and the Board has no discretion to permit sales outwith these hours. However, the Board may further restrict these hours, in applications where it is thought necessary to curb the occurrence of anti-social behaviour and in order to ensure compliance with all of the licensing objectives.

### 7.2 On-Sales

The Board considers that the maximum trading hours to be enjoyed by any premises shall not exceed fourteen and a half continuous hours. The earliest opening time normally permitted will be 10am.

The Board will not normally permit a terminal hour of later than 02:30 except during the festive period (1<sup>st</sup> December – 2<sup>nd</sup> January) when an additional hour may be granted, or for an individual special event for which an extended hours application has been granted (see paragraph 11).

Any premises which open beyond 1 am will have mandatory or local conditions detailed in appendix 2 imposed.-

The terminal hour granted by the Board may be reconsidered at a review hearing if it is felt that any of the licensing objectives are being adversely affected.

As ever with matters of policy the determination of the standard to be applied must allow for exceptions if good cause can be shown for making an exception to the general approach.

## **8. Adult Entertainment**

Premises managers should ensure that no forms of entertainment offered on the premises conflict with any of the licensing objectives.

Following consultation carried out in May 2009, the Board will not normally permit adult entertainment in any premises.

Adult entertainment means any form of entertainment which:

- (a) Involves a person performing an act of an erotic or sexually explicit nature.
- (b) Is provided wholly or mainly for the sexual gratification or titillation of the audience.

## **9. Consideration of applications**

All applications will be considered with reference to the five licensing objectives and in addition the following matters will be considered.

### **9.1 Overprovision**

Having carefully reviewed all the evidence presented to it and having regard to the Board's own knowledge, the Board has determined that there is no over provision either (a) of licensed premises or (b) of licensed premises of a particular description in any locality within South Ayrshire and any new applications will continue to be dealt with on their individual merits. Further details of the Board's consideration of the overprovision policy are given in Appendix 2

### **9.2 Occupancy Capacity**

The occupancy capacity of premises will be recommended by the Council's Building Standards service and is one factor in the assessment of overprovision. However all premises should have a risk assessment as required by the Fire (Scotland) Act 2005 which should detail the safe occupancy level for specific areas within the premises to ensure the safety of persons in the premises and safe escape in the case of emergency. If there are additional concerns about crime and disorder or public nuisance, the Board may consider setting a lower maximum occupancy limit than that recommended by Building Standards.

## **10. Review of Premises Licenses.**

Any person may apply for the review of a licence on the grounds specified in section 36 of the Act. A review will include consideration being given to the suspension, revocation or variation of a licence or alternatively to the issue of a written warning.

In the event that a licence is suspended by the Board for any reason, the Board would expect that all alcohol is removed from the premises during the period of suspension.

## **11. Extended hours applications**

The Board may extend the licensed hours in respect of premises by such period as it considers appropriate. However, the Board can only do so in connection with:

- A special event or occasion to be catered for exclusively on the premises or in a dedicated function suite.
- A special event of local or national significance. The grant of an extension of licensed hours can last no longer than one month.

The applicant will be required to demonstrate the hours requested are appropriate in the circumstances. The applicant should provide sufficient information to the Board to enable a decision to be made. This will include:

- The hours sought.
- The description of the special event or occasion, including the name and contact details of the person who has booked the special event.
- The activities proposed.
- The hours those activities will take place.
- Why the event or occasion is considered to be special.
- Why the event cannot take place within the existing on-sales hours.
- Any applications for more than an hour beyond the core hours granted to premises and all applications beyond 2.30 am will require to be considered at a Board hearing.

If the Board receives a number of applications from the same premises to extend licensed hours, it will expect the applicant to consider whether an application should be made to vary the premises licence.

Where an application is made for extended hours in relation to a festival or event of local or national significance, the Board will expect the applicant to demonstrate that there will be a substantial form of entertainment taking place on the premises which is related to the particular festival or event. In such cases, the applicant will be required to submit a programme of events along with the application form. For the avoidance of doubt, mere sponsorship of the festival or event will not generally be considered sufficient to warrant the granting of extended hours. Every application which seeks extended hours for any associated activities will be treated on an individual basis, based on the nature of the activities to be made available.

The Licensing Board will tend to look favourably on applications for extended hours which are designed to cater for increased numbers of visitors to the area arising from particular events.

Where a festival or event is localised, such as Live@Troon or Girvan Folk Festival extended hours will generally only be granted to premises in the locality of the festival or event.

## 12. Occasional licenses

An occasional licence authorises the temporary sale or supply of alcohol which is not authorised by a premises licence. The application may be made by:

- The holder of a premises licence.
- The holder of a personal licence.
- A representative of any voluntary organisation (restricted to an event in connection with the voluntary organisation's activities).

While premises and personal licence holders can make unlimited applications, voluntary organisations will be limited, in any 12 month period,(beginning on 1<sup>st</sup> January each year) to not more than 4 licence for a period of 4 days or more, and not more than 12 each having effect for less than 4 days.

The Board will consult with the Chief Constable and the Licensing Standards Officer on all applications and applications will require to be lodged a minimum of 28 days before the proposed event.

The Board will not normally grant occasional licences with a terminal hour later than midnight as it recognises the need to protect the amenity of the surrounding neighbourhood.

Occasional licences are often sought for events in marquees. Marquees provide little sound insulation and therefore in some cases may be unsuitable for live/amplified music. Each situation will be different and advice can be sought from Environmental Health at the event planning stage. The Board may require applicants to produce a noise consultant's report on sound mitigation when considering the application.

However each application will be dealt with on its merits. Applicants should bear in mind that any applications with a terminal hour beyond midnight will require to be granted by the Board rather than under delegated powers and therefore such applications will require to be lodged a minimum of 28 days before the board meeting preceding the proposed event. The timetable of meetings is available at <https://www.south-ayrshire.gov.uk/licensing/board/> .Conditions may be imposed on any licence granted in order to ensure compliance with the licensing objectives

While the Board is aware that the Act does not refer to the holding of an "event" in the provisions dealing with occasional licences, given their short-term nature and that they are not subject to any requirements for certification, neighbourhood notification, nor public site notices, it will generally look for the applicant to demonstrate that the occasional licence is required for a special event to be catered for on unlicensed premises,

The Board believes that this policy approach is necessary so as to avoid the occasional licence process being used as a mechanism to circumvent the full licensing process which would more readily identify any issues of concern in relation to one or more of the licensing objectives, and in particular that relating to securing public safety.

The Board encourages applicants to make contact with the Licensing Standards Officer at the planning stage of an event to discuss their proposals

While the Board wishes to encourage family friendly events, it expects all applicants to give detailed consideration as to whether or not it is appropriate for children and young persons to have access to the licensed area and for applicants to be clear in their applications as to how children and young persons will be protected from harm. In particular if there are no other activities available other than the sale of alcohol, or if the event is aimed primarily at children and young persons, it is unlikely that a licence will be granted.

The Board considers that if alcohol is to be available at events, it would be preferable to have the sale of alcohol situated in an area where food and seating is also available so that families may sit together in a relaxed atmosphere.

The Board will consider on a case by case basis whether it is necessary or expedient to impose conditions to give effect to the licensing objectives

Delegated powers have been given to impose conditions on Occasional Licences as set out in Appendix 4

It should also be noted that some events may require a public entertainment licence in addition to an occasional licence to sell alcohol and that the public entertainment licence is dealt with under the Civic Government (Scotland) Act 2018 and is not regulated by the Board.

### **13. Licensing Standards Officer**

The Board has appointed a Licensing Standards Officer, who will investigate allegations relating to licensed premises to ensure that licensing conditions are being complied with and to provide information, guidance and a mediation service. The LSO can be contacted by phone 01292 617686, by email at [licensingstandardsofficer@south-ayrshire.gov.uk](mailto:licensingstandardsofficer@south-ayrshire.gov.uk) or by letter to County Buildings Wellington Square, Ayr KA7 1DR.

### **14. Personal Licences**

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

The Board will grant a personal licence if it is satisfied that the applicant:

- Is over 18 years of age.
- Possesses a relevant licensing qualification.
- Has not held a previous personal licence which has been revoked in the previous five years, ending on the day on which the application was received (except where the revocation was for a failure to comply with the refresher training requirements).
- Has not been convicted of any relevant offence or foreign offence and the application has not attracted any comment from Police Scotland or the Licensing Standards Officer.

All applications are forwarded to Police Scotland and the Licensing Standards Officer. If Police Scotland or the Licensing Standards Officer give notice of any relevant offences or draw any other information to the attention of the Board in respect of the application, the application will be heard at a Board meeting. The Board will consider the seriousness of and relevance of any conviction, the period which has elapsed since the offence was committed, any other relevant information

and any mitigating circumstances The licence will be refused if the Board considers (a) that, having regard to the licensing objectives, the applicant is not a fit and proper person to be the holder of a personal licence or (b) that it is otherwise necessary to refuse the application for the purposes of any of the licensing objectives.

Personal licence holders are also statutorily required to undergo refresher training within five years after the grant of their licence. Licence holders should be aware that the Board will only send one reminder regarding the need to undertake refresher training and if the licence holder does not complete the training and produce evidence of completion to the Board within the statutory time limit then the Board must revoke the personal licence.

Personal licence holders are also required to renew their personal licences .every ten years. Applications for renewal must be lodged a minimum of three months before the expiry date of the personal licence. In 2019 the Board anticipates a very large volume of applications and applicants should lodge their renewal application as early as possible to avoid any delay in the application process. It should be noted that there is no provision for a licence remaining in force while a renewal application is being processed. This is particularly important for personal licence holders who are premises managers. If the premises manager has no valid personal licence the premises cannot operate.

#### **15. Off Sales**

Applications for licences for premises which are to be used for the sale of alcohol for consumption off the premises will be expected to address the five licensing objectives

The Board considers that there should be no displays located at the entrance/exit of the premises and, where possible would prefer that the alcohol display area is not in the centre of the premises so that anyone not wishing to buy alcohol is not forced to enter the alcohol display area to carry out their shopping.

The Board considers that that a refusal book should be maintained in the premises detailing all incidences of refused sales, including the date and time, the reason for refusal and the member of staff refusing the sale. Any such refusal book should be checked and signed by the Premises Manager at least on a weekly basis. The refusal book should be made available for inspection by the Police and Licensing Standards Officers on request.

#### **16. Non Trading Premises**

The Board has in the past suspended the premises licence of any premises which have breached their licence conditions by failing to pay the annual fee. The Board accepts that the annual fee may not have been paid because the premises have not been trading and may be for sale. However, if the premises licence remains unpaid for more than two years then the Board may hold a review to consider revoking the premises licence unless the licence holder can show good reason why the licence should not be revoked.

**Scheme of Delegation – Licensing Board**

As approved by the Licensing Board on 17<sup>th</sup> January 2008

**Licensing (Scotland) Act 2005**

**1. Reserved to the Licensing Board**

Decisions on the following matters shall be made by the Licensing Board at a meeting arranged by the Clerk:-

- 1.1 Determining the Licensing Board's policy for the purposes of a Licensing Policy Statement or any Supplementary Licensing Policy Statement.
- 1.2 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.
- 1.3 Determining a premises licence application.
- 1.4 Determining a premises licence variation application where the variation sought is not a minor variation.
- 1.5 Determining an application for the transfer of a premises licence where the applicant has been convicted of a relevant or foreign offence.
- 1.6 Determining a personal licence application, or personal licence renewal application where the applicant has been convicted of a relevant or foreign offence.
- 1.7 Conducting a hearing under the Act, including taking any of the following steps:-
  - 1.7.1 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 or
  - 1.7.2 Making an order revoking, suspending or endorsing a personal licence.
- 1.8 Making a closure order.
- 1.9 Refusing an application for confirmation of a provisional licence.

## 2. **Delegation to the Clerk or Depute Clerk of the Licensing Board**

Decisions on the following matters are delegated to the Clerk or Depute Clerk:-

- 2.1 Any application for a minor variation of premises licences (section 29)
- 2.2 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)
- 2.3 Any application to transfer a premises licence – where the transferee has *not* been convicted of any relevant or foreign offence (sections 33 to 35)
- 2.4 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)
- 2.5 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 to 61)
- 2.6 Any applications 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 to 70)
- 2.7 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.
- 2.8 Where a decision has been taken not to hold a hearing in terms of section 70 (s) of the Act, the determination of the application.
- 2.9 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).

## 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 arranged by the Clerk in consultation with the Chairman of the Licensing Board.

## Overprovision

The Board has carefully considered the views expressed at a pre-consultation event held in February 2018 which was attended by representatives of the Licensed Trade, Local Licensing Forum, Public Health, Community Councils, Street Pastors and Police Scotland. Almost unanimously it was accepted that it was preferable that alcohol consumption took place in on sales premises, in a regulated environment. The majority view, supported by the Board and Police Scotland was that in general on sales premises were well managed and gave no real cause for concern. For those reasons the Board did not consider any further an overprovision policy for on sales or on and off sales premises.

However it did wish to consider further the position of off sales given that the majority of alcohol is sold in off sales.<sup>2</sup> The majority view at that event was that there was no dispute that Scotland in general and South Ayrshire in particular, did have a problem with alcohol consumption but nevertheless that overprovision of licensed premises was not the cause of the problem and that restricting the number of outlets was not going to mitigate the problem.

The Board has been asked by the Local Licensing Forum to consider the number of off sales premises but it has not submitted any further information.

The Board has also carefully considered all of the information provided by Public Health, NHS Ayrshire & Arran and their request that the Board should consider limiting further licences for off sales premises<sup>3</sup>. It also considered the survey carried out by Public Health<sup>4</sup> which found that 67% of respondents thought the number of on and off-licence premises was about right; 24% thought there were too many off-licence premises in their local community and 16% thought that there were too many on-licence premises.

The Board was pleased to note from the Public Health data which had looked at the 25 communities in South Ayrshire that in 2016/17 18 communities had experienced a decrease in alcohol related hospital stays although disappointed that 7 had seen an increase. It also noted that 4 of the areas which were decreasing were still statistically worse than the Scottish average (in itself a high figure). The Board also considered the Alcohol Outlet Availability and Harm in South Ayrshire Report which sets out the findings from research by Alcohol Focus Scotland (AFS) and the Centre for Research on Environment, Society and Health (CRESH)<sup>5</sup>, which investigated whether alcohol-related health harm (hospitalisations and deaths) and crime rates across Scotland were related to the local availability of alcohol outlets.

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<sup>2</sup> [http://www.healthscotland.scot/media/1460/alcohol-sales-in-scotland-2016\\_english.pdf](http://www.healthscotland.scot/media/1460/alcohol-sales-in-scotland-2016_english.pdf)

<sup>3</sup> <https://www.south-ayrshire.gov.uk/licensing/policy.aspx>

<sup>4</sup> <https://www.south-ayrshire.gov.uk/licensing/policy.aspx>

<sup>5</sup> <http://www.alcohol-focus-scotland.org.uk/media/310754/alcohol-outlet-availability-and-harm-in-south-ayrshire.pdf>

The Board considered the Health Harm maps provided by Public Health showing density outlet but from its own knowledge the Board members felt that customers bought alcohol from outlets in the community in which they lived but that many also travelled to other communities both within and outwith South Ayrshire to purchase alcohol for a variety of reasons. This is also confirmed in the Public Health survey

Following on the consultation response received from Public Health NHS Ayrshire & Arran which was endorsed by the Alcohol And Drug Partnership the Board considered the approach taken by Highland Licensing Board which introduced a policy whereby there is a presumption against the granting of any premises licence where the off sales capacity sought is 40 square metres or over. The Board arranged a further meeting with Public Health to discuss and also considered the capacities of the off sales premises per ward within South Ayrshire<sup>6</sup> but the Board decided that they were still not satisfied that there was evidence to warrant a finding of over provision.

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<sup>6</sup> <https://www.south-ayrshire.gov.uk/licensing/consultations.aspx>

**Conditions for premises opening beyond 1.00am**

1. A person trained to the satisfaction of the Licensing Board in administering first aid must be present on the premises from 1:00 am (on any day when the premises are open at that time) until whichever is the earlier of:
  - (a) the time at which the premises next close; and (b) 5:00 am.
  
2. A designated person who is the holder of a personal licence must be present on the premises from 1:00 am (on any day when the premises are open at that time) until whichever is the earlier of:
  - (a) the time at which the premises next close; and
  - (b) 5:00 am 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 1:00 am (on any day when the premises are open at that time) until whichever is the earlier of:-
  - (a) the time at which the premises next close; and
  - (b) 5:00 am or such other time as the Licensing Board may specify.

**Occasional Licences**

## Conditions which may be imposed

Condition	Objective
1. The main bar to be situated in a suitable place separate from dance floor or to be partitioned off from the dance floor area	PCD SPS
2. No under 18's to be allowed in the main bar area.	PCD, PCFH
3. The licence holder or their nominee and sufficient responsible persons are to be present throughout the event to ensure its safe conduct and compliance with the Licensing (Scotland) Act 2005	SPS PPN
(a) The licence holder must ensure that sufficient staff/volunteers are on duty to ensure a safe and responsible event. Such persons must be easily identifiable as such to persons present and should be made aware of their duties, policies and practices by the licence holder. They must be responsible, capable and not drink alcoholic liquor for the duration of the event. Their duties are to: <ul style="list-style-type: none"> <li>• Confirm that persons who seek access to the event have paid for admission or have appropriate passes/invitations</li> <li>• Supervise entrance doors/access points at all times to ensure that no fire or other exits are blocked</li> <li>• Be aware of the fire safety precautions and procedures and all other polices and practices appropriate to the event</li> <li>• Provide assistance to patrons, including customer care, directions to facilities and health and safety.</li> <li>• Remain on the premises until the end of permitted hours and all patrons have vacated the premises.</li> <li>• Be aware of the provisions of the Licensing (Scotland) Act 2005 which impact on the event</li> </ul>	PCD SPS PPN
4. A sufficient number of Security Industry Authority licensed stewards must be present to address the identified needs/risks of the event. They will be responsible for controlling the licensed area of the event during licensed hours and until attendees have dispersed from this area at the end of the event. SIA stewards must: <ul style="list-style-type: none"> <li>• Actively police the premises including fenced area if applicable, to perform all "manned guarding" activity as directed by the event organiser which are in line with their role under the Private Security Act 2001.</li> <li>• Supervise entrance doors/access points at all times.</li> <li>• Identify and refuse entry to drunken persons.</li> <li>• Be aware of the fire safety precautions and procedures.</li> <li>• Be made aware of the drug prevention policy.</li> <li>• Ensure that no fire or other exits are blocked.</li> <li>• Be easily identifiable to those present at the event as an SIA registered steward and display the appropriate identification.</li> </ul>	PCD SPS PPN

Condition	Objective
<ul style="list-style-type: none"> <li>• Not drink alcoholic liquor for the duration of the event.</li> <li>• Ensure that no patron removes glasses, or open or closed vessels from the premises when exiting for any reason.</li> <li>• Be responsible, capable and aware of their duties.</li> <li>• Remain on the premises until the end of permitted hours and all patrons have vacated the premises.</li> </ul>	
5. An adequate number of staff/volunteers/stewards should have knowledge of first aid procedure.	SPS PIPH
6(a) All stewards/staff/volunteers should be aware of their responsibilities under the Licensing (Scotland) Act 2005.	PCD
6(b) Bar staff must be able to identify and refuse service of alcoholic beverages to drunken persons	PCD
7. An accurate and appropriate counting method must be in place to enable the provision of attendee numbers within the event at any particular time	SPS
8. All refreshments to be decanted in to plastic containers at the point of sale	SPS
9. Entry to the event must be by ticket only purchase prior to the date of the event/or by ----- hours on the day of the event (delete whichever inappropriate)	SPS
10. A system must be employed to identify and distinguish between those attending the event that are under or over 18 years of age. Identification by way of a passport or driving licence must be seen as proof of age.	PCD
11. There can be no re-entry to the event if ejected	PCD SPS PPN
12. A separate under 18's bar to be provided where soft drinks only are sold.	PIPH PCD PCFH
13. No glass, cans or other containers allowed to be taken into, licensed area of the event by attendees. Suitable receptacles for these items must be provided at the entrance to the licensed area.	PCFH PCD SPS

#### Key to Licensing Objectives

PCD:	Prevention of Crime and Disorder
SPS:	Securing Public Safety
PPN:	Preventing Public Nuisance
PIPH:	Preventing and improving public health
PCFH:	Protecting Children from Harm

The terms "Licensable activities", "non-licensable activities", "Manned guarding" are defined in the document "Security at Events" Guidance on the Private Security Industry Act 2001 and can be viewed by following this link:-

<https://www.sia.homeoffice.gov.uk/Pages/licensing-events.aspx>