

West Lothian Licensing Board

STATEMENT OF LICENSING POLICY 2018 - 2023

This document is available in Braille,
Tape, Large Print and Community Languages.

Please contact 01506 280000

Clerk of the Licensing Board
Licensing Team
West Lothian Civic Centre, Howden South Road,
Livingston, EH54 6FF
Email: LicensingBoard@westlothian.gov.uk
Tel: 01506 281632

CONTENTS

Section 1 – Introduction	3	
1.1. The statutory background to the licensing of alcohol		4.7 Written Policies and Procedures
1.2. Policy development and purpose		4.8 Effective and Responsible Management of Licensed Premises
1.3. The West Lothian area		4.9 Preventing Crime and Disorder
1.4. Licensing Standards Officers		4.10 Securing Public Safety
1.5. The West Lothian Alcohol Licensing Forum		4.11 Preventing Public Nuisance
		4.12 Protecting and Improving Public Health
		4.13 Protecting Children and Young Persons from Harm
		4.14 Deliveries of alcohol
		4.15 Licences Ceasing to have Effect
		4.16 Annual Fees
Section 2 - Board Business	7	
2.1 Transparency and Equal Treatment		
2.2 Public Register		
2.3 Pre-processing check and application acknowledgement		
2.4 Notification of Applications/Procedures for Making Objections and Representations		
2.5 Hearings		
Section 3 - Information to be considered prior to making a premises licence or major variation application	15	
3.1 What a premises licence contains		
3.2 The overprovision statement which explains if the numbers of premises within West Lothian are restricted		
3.3 Information on what licensed hours the Board considers are generally acceptable for premises within West Lothian		
3.4 Information about licensing outside drinking areas as part of the premises licence		
3.5 Information about the capacity of the premises		
3.6 Information about the level of children and young persons' access which the Board deems to be generally acceptable within premises in West Lothian		
3.7 Information about local conditions which the Board will generally consider applying to particular types of premises		
3.8 Information about Disability and Access Facilities Statements (DAFS)		
3.9 Public safety issues		
3.10 Excluded Premises - garages		
Section 4 - Operating under a Premises Licence - What the Board expects	28	
4.1 Introduction		
4.2 The Licensing Objectives		
4.3 Liaison with Licensing Standards Officer (LSO)		
4.4 Premises Manager		
4.5 Applications under the Licensing (Scotland) Act 2005 in relation to the premises		
4.6 Extended Hours Applications		
		Section 5 - Reviews and Discretionary Conditions
		45
		5.1 Reviews
		5.2 Imposition of Discretionary Conditions
		5.3 Style Conditions
		Section 6 - Occasional Licences to sell alcohol in premises not covered by a premises licence
		53
		6.1 Background
		6.2 Policy on occasional licences
		6.3 Applications for occasional licences
		6.4 Making objections/representations in relation to occasional licences
		6.5 Procedure for determining occasional licence applications
		Section 7 - Members Clubs
		61
		Section 8 - Related Strategies/Contacts
		63
		Appendix 1 - List of consultees
		Appendix 2 – Guidance regarding Alcohol Management Plans
		Appendix 3 - Occasional Licence Applications and Standard Local Conditions
		Appendix 4 – Police Scotland Suggested Drugs Policy for Licensed Premises
		Appendix 5 - Scheme of Delegation of Licensing Functions
		Appendix 6 - Web links/Contacts

Section 1: Introduction

This part of the policy contains background information about alcohol licensing in West Lothian and is broken down into 5 subsections

- 1.1. The statutory background to the licensing of alcohol
- 1.2. Policy development and purpose
- 1.3. The West Lothian area
- 1.4. Licensing Standards Officers
- 1.5. The West Lothian Alcohol Licensing Forum

1.1 The statutory background to the licensing of alcohol

The purpose of the Licensing (Scotland) Act 2005 (the 2005 Act) is to regulate the sale of alcoholic liquor in Scotland and premises on which alcohol is sold. The 2005 Act requires the following five licensing objectives to be upheld, when sales of alcohol are taking place:

- Preventing Crime and Disorder;
- Securing Public Safety;
- Preventing Public Nuisance;
- Protecting and Improving Public Health; and
- Protecting Children and Young Persons from Harm

This statement of licensing 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 is made in the 2005 Act.

All alcohol licences for premises (including outdoor areas) in West Lothian are issued by West Lothian Licensing Board. The current Board, which was formed in May 2017, comprises eight members, all of whom are elected members of West Lothian Council.

1.2 Policy development and purpose

Section 6 of the 2005 Act requires all Licensing Boards to publish a statement of their licensing policy within 18 months of each local government election which takes place every 5 years. This policy will be applied by the Board in exercising its functions under the 2005 Act. It is also open to the Board to publish a supplementary statement of their policy. The purpose of the policy is to promote the licensing objectives and consistency of decision making and to provide applicants with an indication of how the Board is likely to approach certain matters and deal with and determine applications.

There is a presumption that the Board will follow the terms of this policy in its determination of individual applications. It remains open, however, for an applicant to make an application which is contrary to the terms of this policy. In such circumstances, an applicant will be required to satisfy the Board that there are good reasons why this policy should not be followed. The Board encourages applicants to include a written submission in this respect with the application.

The Board recognises that the Council and other bodies are responsible for enforcing and regulating statutory regimes which may directly or indirectly impact on the licensing process, such as health, transport, health and safety at work, fire safety, planning and building control. As such, the Licensing Board is committed to avoiding duplication with other regulatory regimes when exercising its licensing functions.

In preparation for the review of the policy statement the Board carried out a pre-consultation exercise commencing in November 2017. NHS Lothian, Police Scotland, West Lothian Council, the West Lothian Local Licensing Forum and local community councils were all contacted to seek views on any proposed changes to the policy which they wished the Board to consult on.

No responses were received from community councils but responses were received from all other consultees and these assisted the Board in framing the consultation document for the online consultation which took place between 14 May and 14 July 2018.

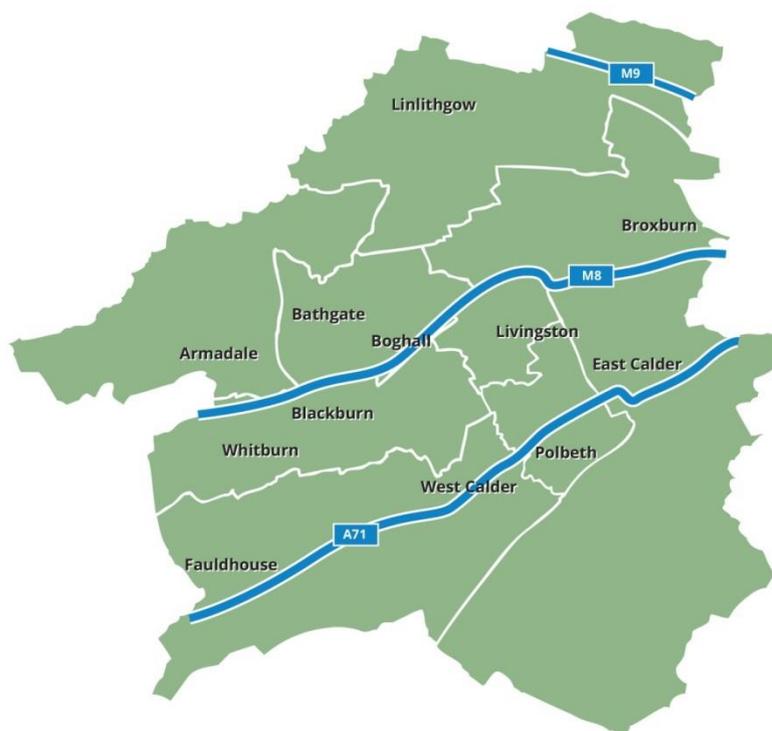
The Board consulted with a range of relevant stakeholders in preparing this policy statement and has had regard to the views expressed and the evidence submitted. A list of the consultees is attached at Appendix 1.

Fourteen responses were received to the online consultation and in addition responses were received separately from the Scottish Grocer's Federation, Aldi Stores, Police Scotland, West Lothian Council and Alcohol Focus Scotland. Additional information was requested where appropriate from consultees who provided their contact details.

1.3 The West Lothian area

West Lothian is an area extending to 427 square kilometres bordered by the City of Edinburgh, Falkirk, North Lanarkshire, South Lanarkshire and Midlothian. The population of West Lothian has been steadily increasing over the last decade. It is currently 180,130 and it is predicted to increase throughout the period to 2035 with the population predicted to be 191,053 (National Records of Scotland 2014 based population projections).

West Lothian has both urban and rural areas. There are five traditional towns, namely Armadale, Bathgate, Broxburn, Linlithgow and Whitburn as well as the former new town of Livingston where the council's administration is based. In addition, West Lothian also has 26 villages, some of which have significantly increased in size in recent years.



1.4 Licensing Standards Officers

West Lothian Council employs a minimum of one Licensing Standards Officer (LSO) as required by the provisions set out in section 13(1) of the 2005 Act. LSOs have a statutory role to provide guidance and information to interested parties; ensure compliance by the holders of premises licences and occasional licences; and to provide mediation to avoid or resolve disputes. The LSO is a statutory member of the West Lothian Alcohol Licensing Forum.

The Council's LSO is fully trained in accordance with the provisions of the 2005 Act and while they have a role in providing the licensed trade, public and any other interested party with information and guidance concerning the operation of the 2005 Act, an LSO may not give legal advice or make applications or objections on behalf of any party.

LSOs are notified of applications for extended hours, occasional licences, personal licences and reviews of premises licences. However, the Board recognises that LSOs can often provide essential background information and for this reason the Clerk of the Licensing Board has been delegated power (see Appendix 5) to request a report from the LSO in relation to any application.

Further details on the role of the LSO can be found on the LSO webpage by using the link at Appendix 6.

1.5 The West Lothian Alcohol Licensing Forum

The Board recognises the importance of the West Lothian Alcohol Licensing Forum (the Forum) in West Lothian and will endeavour to work closely with it. The Board has appreciated the input of the Forum to the consultation process prior to the preparation of this Policy Statement.

The Board will continue to

- take account of the advice or recommendations made by the Forum (where after consideration the Board decides not to follow the advice or recommendations made by the Forum, reasons for the decision will be given in writing to the Forum);
- provide the Forum with any relevant statistical information provided it is easily available within the Clerk's office;
- meet with the Forum at least once per calendar year.

Further details on the role of the Forum can be found by using the link at Appendix 6.

Section 2: Board Business

This part of the policy contains information about the way in which the Board conducts its business and is broken down into 5 subsections

- 2.1 Transparency and Equal Treatment
- 2.2 Public Register
- 2.3 Pre-processing check and application acknowledgement
- 2.4 Notification of Applications/Procedures for Making Objections and Representations
- 2.5 Hearings

2.1 Transparency and Equal Treatment

The Board is committed to conducting its business in an open and transparent manner. As required by section 9A of the 2005 Act, the Board publishes an annual Functions Report, setting out how it exercises its functions in terms of the 2005 Act. The annual Functions report is published on the Board pages of the West Lothian Council (the Council) website. As required by section 9B of the 2005 Act, the Board also publishes an annual Financial Report. A link to both of these reports can be found in Appendix 6 of this policy.

The meetings of the Board are held in public with minutes taken; all minutes are published on the Council's information system (COINS). A link to the Board section on COINS is contained in Appendix 6 of this policy, where further information such as the current members of the Board and dates of scheduled meetings can be found.

In general, meetings of the Board take place on a monthly basis and are held in the Council Chambers within the Civic Centre in Livingston. All meetings of the Board are held in public with a microphone system used to aid the proceedings. Rules are in place setting out the process which will be followed at any hearing which takes place before the Board, a link to the Rules can be found in Appendix 6 of this policy.

The Board would encourage applicants and anyone with an interest in licensing in the West Lothian Board area, to visit the Board pages of the Council's website where regularly updated information and guidance is available. There is a link to the Board webpage at Appendix 6 of this policy. Other pages providing information for specific applications can be accessed from that page.

General guidance is also available from the Licensing Standards Officer (see subsection 1.4) to those who wish to apply for a licence, make representations, object to an application or make an application for a review of a premises licence. Given the complexity of the legislation and the requirement to understand how that is affected by caselaw it is also strongly recommended that any applicant, objector or representor seeks independent legal advice.

A Scheme of Delegation is in place whereby some Board decisions under the 2005 Act are delegated to the Clerk, Convener of the Board or nominee of the Convener. The Board's Scheme of Delegation is attached at Appendix 5 of this policy.

The Board recognises the need to ensure that the licensing process is accessible to all. Reasonable adjustments will be made available on request for those who may require additional support to access any part of the process.

Section 149 of the Equality Act 2010 came into force in April 2011, introducing a new Public Sector Equality Duty. The Public Sector Equality Duty requires public bodies in the exercise of their functions, to have due regard for the need to:

- eliminate unlawful discrimination, harassment and victimisation and other prohibited conduct
- advance equality of opportunity between people who share a relevant protected characteristic and those who do not

- foster good relations between people who share a protected characteristic and those who do not

There is a link to the Licensing Board's Mainstreaming Report and Outcome Plan 2017-2021 in Appendix 6.

The Board consulted on whether this policy could have a positive impact on any of the protected characteristics listed in the Equality Act 2010. A number of responses referred to how this could be achieved through an overprovision policy. However, as explained in section 3.1 of this policy an overprovision policy could not be implemented as the evidence received in this respect was insufficient to meet the statutory test set out in Government guidance.

Information was also submitted that issues arising from overconsumption of alcohol are of a high relevance to all equalities groups. The Board will therefore continue to consider the diverse needs of local communities when exercising its powers under the 2005 Act.

2.2 Public Register

Under the terms of Section 9 of the 2005 Act the Board is required to keep a register containing information relating to applications for premises, personal and occasional licences and details of closure orders in relation to premises. Details of what the register must contain can be found in regulations made under the 2005 Act. A link to the regulations is contained in Appendix 6.

The information contained within the register is available for public inspection as required by the 2005 Act.

Members of the public wishing to inspect documentation should contact the Licensing Team whose details appear on the front cover of this policy to make an arrangement to attend at the Civic Centre in Livingston at a specific time to view the documentation. It is not possible to view documentation without an appointment.

2.3 Pre-processing check and application acknowledgement

All applications received by the Board under the 2005 Act will be subject to a pre-processing check to ensure that the application is legally competent. This check is carried out by the Licensing Team. As part of the pre-processing check the application will be checked to ensure that the appropriate fee has been submitted and that it is accompanied by the necessary supporting documents.

The Board notes that many applications are submitted with new or replacement layout plans which do not comply with the Premises Licence (Scotland) Regulations 2007 (SSI 2007/452). A link to these regulations is contained in Appendix 6. Such applications will not be processed and will result in the application being returned for amendment which will delay the process.

If your application is considered competent it will be accepted for processing and you will receive an acknowledgement. If you can provide an email address you will receive an

acknowledgement quicker and it will also allow the Board to contact you if further information is needed.

As part of the pre-processing check of variation applications under section 29 of the 2005 Act the Licensing Team may invite licence holders to consider including further matters in their application to deal with any anomalies or errors in the licence.

2.4 Notification of Applications / Procedures for Making Objections and Representations

Premises Licence and Major Variation Applications

The Board must give notice of premises licence applications and non-minor (commonly referred to as major) variation applications to

- each person defined by the 2005 Act to be a neighbour, a link to the regulation regarding this is attached at Appendix 6 of this policy;
- any community council within whose area the premises are situated;
- West Lothian Council's Building Standards Team, Environmental Health & Trading Standards Team and the Development Management;
- Police Scotland and the Scottish Fire and Rescue Service;
- the local Health Board

and once the relevant legalisation is brought into effect

- the Home Office (if an entitlement to work in the UK is required)

The Board is required to advertise premises licence applications and major variation applications on its website and in addition applicants are obliged to display site notices at the premises. The timescales for advertising, site notices and receipt of objections and representations are contained within the Procedure Regulations. There are links to the Procedure Regulations and to the webpage where applications are advertised in Appendix 6.

Any person may submit an objection or representation to the Board regarding an application for

- a premises licence;
- a major variation application

There is a link in Appendix 6 to guidance regarding objections and representations.

Occasional licence applications

Occasional licences authorise the sale of alcohol in premises which are not otherwise licensed for periods of up to 14 days. For information about how occasional licences are notified and how objections and representations can be made and considered by the Board please see section 6 of this policy.

Personal licence applications

There is a link in Appendix 6 to information about applying for personal licences, refresher training requirements and renewing a personal licence.

Copies of all personal licence applications are required to be sent to Police Scotland and the Licensing Standards Officer (LSO) for comments. Members of the public do not have a right to object or make representations about personal licence applications.

Legislation to give the Home Office power to comment on personal licence applications is likely to be brought into effect after the publication of this policy.

There are powers contained within the 2005 Act for the Board to consider

- convictions relating to personal licence holders (section 83), and
- any conduct of a personal licence holder while working as such in licensed premises which may be inconsistent with the licensing objectives (section 84)

In relation to applications for personal licences and renewal of a personal licence the following persons may request a statement of reasons:

- the applicant
- the Chief Constable

Statements of reason must be requested by sending a notice to that effect to the Clerk of the Board within 14 days of the decision on the application being notified. A statement of reasons must then be issued by the Clerk within 14 days.

In relation to personal licences the following persons may appeal to the Sheriff against the Board's decision:

Type of decision	Who can appeal
Decision to refuse a personal licence application	The applicant
Decision to make an order under s83(9), 84(7) or 86(3) revoking, suspending or endorsing a personal licence	The applicant

See the link at Appendix 6 to regulations regarding appeals.

Extended hours applications

Premises licence holders can apply to extend the hours during which alcohol can be sold at their premises, on a temporary basis in relation to

- a special event or occasion to be catered for on the premises, or
- a special event of local or national significance.

Extended hours applications are sent to Police Scotland and the LSO for comments. Members of the public do not have a right to object or make representations about extended hours applications.

See section 4.6 of this policy for further information.

MATTERS WHICH CAN BE TAKEN ACCOUNT OF BY THE BOARD IN CONSIDERING OBJECTIONS AND REPRESENTATIONS GENERALLY

The 2005 Act prescribes how Boards must determine different types of applications. The Board encourages persons wishing to make an objection or a representation regarding an application, in particular those who consider they may be affected by the grant of a licence application, to read the guidance regarding this which is available through the link at Appendix 6 or to seek legal advice.

The Board wishes potential objectors to be aware that it can only take into account matters relevant to the licensing objectives, and that any objection must contain factual information rather than assertion or speculation. This means that in deciding whether or not to object members of the public should consider if there is evidence that their concerns about applications are likely to happen rather than just being a possibility.

The extent to which the Board may take an objection and/or representation into account is governed by the 2005 Act and is, in general, subject to:

- receipt of the objection and/ or representation within a prescribed timescale (see the link to the procedure regulations in Appendix 6);
- with regard to its nature, whether the Board considers the objection or representation to be frivolous or vexatious.

The Board recognises that it has the power to recover expenses from a person who submits an objection or representation if it considers it to be frivolous or vexatious. However, the Board wishes to make clear that it will not consider using that power unless there is information before it to suggest that the objection or representation was deliberately frivolous or vexatious rather than submitted on the basis of a genuine misunderstanding of the licensing system.

The Board encourages those who have submitted objections and representations to attend at the Board meeting when the application is heard to speak to their objection or representation. Notice of the Board meeting will be sent to all those who have made an objection or a representation.

2.5 Hearings

All premises licence and major variation applications need to be referred to the Board for a hearing.

Once the certificate of compliance in relation to the site notice is received from the applicant and the objection period has closed the Clerk of the Board will decide which Board meeting

the application will be referred to. This decision will depend on the number of applications which can reasonably be accommodated at one meeting.

A report regarding the application will then be prepared by the Licensing Team. That report will contain:

- details of the application
- copies of any objections or representations received
- any other information relevant to the application
- a summary of the Board's powers

The report is a private one and is circulated to the applicant and the Board members 7 days in advance of the meeting.

The Board may decide to undertake a site visit to the premises. If that is the case the applicant will be contacted by the Licensing Team to arrange this.

Hearings are held in public, they are usually held within the Council Chambers in the Civic Centre in Livingston. All applicants, agents, objectors and members of the public are asked to take a seat in the public area. There is an agenda published six days before each meeting which indicates the order that applications will generally be dealt with.

The Board's Convenor chairs the meeting and will invite applicants and their agents (if any) to come forward and take a seat next to a microphone when their application is being dealt with. The procedure will be explained by the Convenor when an applicant is not represented by an agent who is familiar with the procedures.

A Depute Clerk of the Licensing Board is responsible for clerking the meeting and the provision of any legal advice which is required.

Although all decisions are made in public the Board may retire to discuss the application in private and all persons present will be asked to leave the room and take a seat in the reception area. When the meeting is reconvened and all persons are present the Depute Clerk will reiterate any legal advice given to the Board in private and parties will be asked to comment on that advice before it is confirmed.

In relation to decisions on applications for premises licences (including applications for provisional and temporary premises licences), variations of premises licences and transfer of premises licence the following persons may request a statement of reasons:

- the applicant
- the Chief Constable
- any person who made an objection or representation regarding a premises licence application

Statements of reason must be requested by sending a notice to that effect to the Clerk of the Board within 14 days of the decision on the application being notified. A statement of reasons must then be issued by the Clerk within 14 days.

Appeals

In relation to applications for premises licences (including applications for provisional and temporary premises licences), variations of premises licences and transfer of premises licence the following persons may appeal to the Sheriff Principal against the Board's decision:

Type of decision	Who can appeal
Decision to refuse a premises licence application	The applicant
Decision to refuse a premises licence variation application	The applicant
Decision to refuse an application for transfer of a premises licence	The applicant
Decision to refuse an application under s45(7) to extend the provisional period in relation to a provisional premises licence	The applicant
Decision to refuse an application under s46(4) to confirm a provisional premises licence	The applicant
Decision to refuse an application under s47(2) to issue a premises licence for temporary premises	The applicant
Decision to refuse an application under s47(6) to extend the period for which a temporary premises licence has effect	The applicant

See the link at Appendix 6 to regulations regarding appeals.

Section 3: Information to be considered prior to making a premises licence or major variation application

This part of the policy contains the key aspects which an applicant should consider before making an application for a premises licence or major variation within West Lothian.

The Board is aware that the need to comply with the provisions of the Licensing (Scotland) Act 2005 and its many regulations is extremely onerous and that the legal position is complex. The Board therefore considers that all applicants for premises licences should carefully consider taking specialist legal advice in relation to the operation of the premises before making an application for a premises licence.

This part of the policy is broken down into 10 subsections

- 3.1 What a premises licence contains
- 3.2 The overprovision statement which explains if the numbers of premises within West Lothian are restricted
- 3.3 Information on what licensed hours the Board considers are generally acceptable for premises within West Lothian
- 3.4 Information about licensing outside drinking areas as part of the premises licence
- 3.5 Information about the capacity of the premises
- 3.6 Information about the level of children and young persons' access which the Board deems to be generally acceptable within premises in West Lothian
- 3.7 Information about local conditions which the Board will consider applying to particular types of premises
- 3.8 Information about Disability and Access Facilities Statements (DAFS)
- 3.9 Public safety issues
- 3.10 Excluded Premises - garages

3.1 What a premises licence contains

A premises licence issued by the Board in terms of the 2005 Act is comprised of 4 prescribed documents and plans:

The premises licence

This contains information relating to the holder of the licence, details of the premises manager, the address and description of the premises, the date on which the licence took effect, licensed hours and the licence conditions.

The summary of the premises licence

This contains the premises licence number, the address and description of the premises, the name and address of the licence holder, the name of the premises manager and the licence conditions.

The operating plan for the premises

This sets out how the premises will be operated and contains detailed information on the licensed hours, permitted activities on the premises, children and young persons' access to the premises, the capacity of the premises, details of the premises manager and whether the premises will operate under seasonal variations.

The layout plan for the premises

This shows the physical extent and layout of the licensed premises. It must show all matters required by regulations. See the link at Appendix 6 to the relevant regulations.

It is very important that premises are operated in accordance with the operating and layout plan at all times. For further information regarding operating a premises licence see section 4 for further information.

3.2 The Overprovision Statement

Section 7 of the 2005 Act requires the Board to include a statement on overprovision within this policy. The Board must state the extent to which it considers there to be overprovision of

- (a) Licensed premises; or
- (b) Licensed premises of a particular description in any locality within the Board's area

As part of the pre-consultation exercise which commenced in November 2017 the Board contacted NHS Lothian, Police Scotland and West Lothian Council and requested in terms of Section 6 of the 2005 Act that they provide such statistical or other information which they had about any area or areas within West Lothian where they considered there to be overprovision of licensed premises.

The West Lothian Alcohol Licensing Forum and community councils were also asked to provide similar information.

No responses were received from community councils but responses were received from all other consultees. Thereafter the Board met with the consultees to discuss the responses. At that meeting the Board explained to consultees that whilst some statistical evidence had been submitted, it was insufficient to form a basis for consultation on particular localities. The Board indicated to consultees that no particular localities would be identified in the online consultation and that the Board would be seeking to ingather any evidence of overprovision throughout the whole of West Lothian.

The only statistical evidence submitted following the main consultation period was received from Alcohol Focus Scotland (AFS); this consisted of a joint report by AFS and the Centre for Research on Environment, Society and Health (CRESH). The Board noted from this report that out of 30 local authority areas where alcohol outlet availability had been measured that West Lothian has far less outlets than most sitting 25th in the table. The Board also noted that the report advised that the total number of alcohol outlets locally had decreased between 2012 and 2016 and had decreased further since then. The Board also noted from the report that West Lothian has lower alcohol related death statistics than the Scottish average, its alcohol related hospitalisation statistics are similar to the Scottish average and crime rates are lower than the national average.

The Board considered that this report had to be viewed against the background of a rapidly increasing local population which is projected to continue to rise significantly over the next decade. The Board therefore concluded that the evidence received was insufficient to meet the statutory test set out in Government guidance.

The Board therefore considers that no localities within West Lothian are overprovided for.

3.3 Licensing Hours

The Board recognises that having a clear policy on licensed hours is important for both the licensed trade and the general public. The Board acknowledges that this is a key part of the policy and therefore central to its role in promotion of the licensing objectives. The Board recognises that licensed hours are important not only to individual premises but can have a wider impact for an area for this reason the Board has made a clear distinction between the licensed hours which apply to premises falling within the definition of nightclubs (see definition below) and other premises. The Board considers that in view of the following objectives

- preventing crime and disorder
- securing public safety
- preventing public nuisance

it is important that the only premises which routinely are open for the sale and consumption of alcohol after 1am are larger premises staffed by persons experienced in relation to the late night economy.

The Board consulted on whether change to licensed hours was required and was pleased to note that the majority of responses received agreed with its preliminary view that no significant changes to this part of the policy should be made.

Having considered all the consultation responses the main changes which the Board to licensed hours relate to the festive policy as detailed below.

Policy on Licensed Hours Generally (for applications for extended hours see section 4)

Whilst each application will be considered on its merits, the following paragraphs set out the Board's policy on licensed hours. Applicants who apply for terminal hours (i.e. the latest time that alcohol can be sold) which are outwith the times listed below will be required to demonstrate within their applications that the additional requested hours are appropriate in the circumstances.

Off-Sales Premises

The licensing hours for the sale of alcohol for consumption off the premises (off-sales hours) are 10 am to 10 pm each day. The Board has no discretion to permit licensed hours outwith these times, and if applications are made for the maximum hours the Board can only restrict these if there is information from which the Board can conclude that to grant the hours requested would be inconsistent with one or more of the licensing objectives.

On-Sales Premises

For applications relating to premises licences, the licensed hours for the sale of alcohol for consumption on the premises shall be no earlier than 11 am.

Premises other than Nightclubs

Licensed hours for on-sales premises in particular can have an impact not only within the individual premises but also within the locality in which the premises are situated. Taking into account the five licensing objectives, the presumption against 24 hour drinking, the guidance for Licensing Boards and Local Authorities issued by the Scottish Government and the fact that mandatory conditions specified by regulation do not apply to all premises opening after 1am, the Board considers the terminal hour beyond which alcohol must not be sold on the premises or parts of the premises other than nightclubs (as defined below) to be

- 12 midnight on Mondays , Tuesdays, Wednesdays and Sundays; and
- 1am on Thursdays, Fridays and Saturdays.

Nightclubs

For the purpose of this policy nightclubs are defined as those premises which fall within the definition of Late Opening Premises contained in The Licensing Conditions (Late Opening Premises) (Scotland) Regulations 2007 (SSI 336) i.e.

“Premises (other than premises to which paragraph 3 applies) the capacity of which is at least 250 people and which –

- *will regularly provide at any time between 1am and 5am*
 - *live or recorded music with a decibel level exceeding 85dB;*
 - *facilities for dancing; or*

- *adult entertainment; or*
- *when fully occupied are likely to have more customers standing than seated”*

The Board considers the terminal hour beyond which alcohol must not be sold within nightclubs to be

- 1am on Mondays , Tuesdays, Wednesdays and Sundays; and
- 3am on Thursdays, Fridays and Saturdays

The Board also considers that as stated in the guidance for Licensing Boards and Local Authorities issued by the Scottish Government in general applications for premises wishing to operate for up to 14 hours per day are reasonable and that applicants seeking additional hours will require to demonstrate to the Board that the additional requested hours are appropriate in the circumstances in relation to the premises concerned.

The Board is aware that there are good arguments against allowing later opening of licensed premises particularly in mixed residential and commercial neighbourhoods. In this regard in preparing their operating plans applicants must consider the impact their customers may have after leaving their premises and in particular

- the effect of the grant of a licence for later or earlier hours on crime and disorder, public safety, public nuisance, public health and children and young persons;
- the proposed hours when any music, including incidental music will be played;
- the hours when customers will be allowed to take food or drink outside the premises or be within open areas which form part of the premises;
- the existing hours of licensable activities and the past operation of the premises if any;
- the capacity of the premises;
- the type of use, recognising that premises which sell alcohol, play music for dancing, provide late night takeaway food are more likely to be associated with crime and disorder and public nuisance than restaurants, cinemas or other performance venues

Restricted licensing hours may be appropriate in cases where licensed premises are situated in the vicinity of residential property. Additionally where the trading hours of licensed premises and other businesses in the area may lead to additional public nuisance, disorder or anti-social behaviour, then restricted licensing hours may be appropriate.

Festive Hours Policy

The Board generally deems it permissible for on sales premises in West Lothian to trade for an additional hour on particular days during a specific festive period. However, the Board also recognises that there are some premises in West Lothian which already enjoy the benefit of terminal licensed hours later than those permitted under the Board’s policy.

The Board recognised that since the last policy review it had produced a number of supplementary festive policies following consultation on each occasion. The main change was a move to granting a general extension of licensed hours under section 67 of the 2005 Act, for particular specified dates during the festive period. The reasons for this change were twofold. Firstly, there was recognition that most premises applied for such hours each year

and that no valid reasons to refuse to grant such applications were ever put forward. Secondly the Board recognised that the processing of such applications was resource intensive over a short period of time each year and that application fees were insufficient to recover costs.

For greater clarity each year the Board consulted on refining this policy further to remove the reference to specific dates mapped out over a five year period. The responses received were overwhelmingly in favour of this. No changes were suggested to the policy or good reasons put forward which led the Board to believe that further evidence gathering was required in this respect.

Therefore, the Board makes the following general extension of on sales licensed hours under section 67 of the 2005 Act, for the festive periods from December 2018 to January 2024, for all on sales premises in West Lothian:

The terminal hour for the sale of alcohol to be consumed on the premises is extended for the following days during the period from 1 December to 2 January each year:

- every Friday and Saturday,
- Christmas Eve,
- Christmas Day,
- Boxing Day,
- Hogmanay, and
- New Year's Day

The extended hours during the above days will be until a terminal hour of 4am for all nightclub* premises and 2am for all premises which are not nightclubs

*The definition of nightclub is contained elsewhere within this policy and if the premises are already licensed until the above times no additional hours are being granted under the terms of this general extension.

Licence holders are reminded that they should refer to the definition of nightclub within this policy which explains what premises fall within the category of a nightclub. All on sales premises which do not fall within this category are premises other than nightclubs even though they may be licensed to operate after 1am.

Licence holders who are in any doubt as to their position should take legal advice before advertising or trading during any additional hours on the above festive dates.

Licence holders should note that there is no duty to trade during the extended hours and the Board does not consider that it is necessary for licence holders to have opted to operate according to seasonal demand in their operating plans before taking advantage of this general extension of hours.

For the avoidance of doubt this general extension does not apply to off sales hours which the law provides are a maximum of 10am to 10pm daily.

3.4 Information about licensing outside drinking areas as part of the premises licence

Where applicants propose to provide outside seating, tables and other facilities in any outdoor area (covered or otherwise), regard should be given to the need to ensure that the use of such areas will not cause disturbance or nuisance to the occupiers of premises in the vicinity. The default terminal hour for outside seating areas is 9pm although applicants should be aware that conditions imposed by planning permission may restrict this.

The Board expects an operating plan to include or exclude the use of an outside seating area. If included the licence holder must ensure that effective management controls, supervision and other measures are in place in order that the use of the area by patrons does not have a negative impact on the vicinity during all periods when the outside area is in use.

Depending on the location of the premises, the outside area may require to be delineated by some means such as a wall, bollards, markers or so on. Conditions as determined by the Board relating to the specific circumstances of the premises may be attached to any licence. This may include the exclusion of the use of glassware within the area after a specified time each evening and any of the conditions detailed below at subsection 3.7 (local conditions) which the Board considers are required.

3.5 Information about capacity of the premises

For the purposes of any overprovision assessment, the operating capacity of licensed premises will be particularly important. Therefore, the Board would encourage applicants to pay particular attention to the information contained in this section when addressing capacity in their applications.

The definition of operating capacity for off-sales and on-sales is set out in section 147 of the 2005 Act:

On-Sales

“The maximum number of customers who can be accommodated in the premises at any one time”.

Off-Sales

“The amount of space given over to the display of alcohol for sale”.

In respect of on-sales, the Board will determine capacity in accordance with Building Standards Regulations in consultation with West Lothian Council’s Building Standards Service. Applicants are advised to consult with that service if they are in any doubt as to the capacity of their premises.

Applicants are encouraged to have regard to the document issued by the Scottish Government titled “Practical Fire Safety Guidance for Places of Entertainment and

Assembly” and, in particular, the Technical Annexe referring to occupancy capacity within that document. A link to the document is contained in Appendix 6.

In the light of the Securing Public Safety licensing objective the Board will also consider imposing capacity limits on specific areas within the licensed premises (e.g. function rooms) as appropriate, in consultation with West Lothian Council’s Building Standards Service.

In respect of off-sales, applicants should have regard to the provisions set out in the Premises Licence (Scotland) Regulations 2007 when detailing the frontage given over to the display of alcohol. Applicants should note that the Board requires the capacity figure to be stated in the form of square metres. A link to the regulation is contained in Appendix 6.

3.6 Information about the level of children and young persons’ access which the Board deems to be generally acceptable within premises in West Lothian

The Board consulted on whether change was required to the times during which children and young persons have access to licensed premises and was pleased to note that the majority of responses received agreed with its preliminary view that no significant changes to this part of the policy should be made.

In relation to children and young persons’ access to outside areas the Board considered that it was no longer necessary to restrict children and young persons’ access to outside drinking areas to 8pm given that the generally accepted terminal hour for outside areas is 9pm and children and young persons’ access to licensed premises is generally 10pm. The Board consulted on this proposal and the majority of responses were in favour of the change and the Board did not consider that there were any good reasons put forward by consultees on which to undertake further evidence gathering in this respect.

The terminal hour for children and/or young persons on licensed premises will generally be 10 pm, on the basis that they are accompanied by a responsible adult and (other than for premises whose primary function is something other than the provision of food and drink, including hotels, theatres, cinemas, family focused entertainment centres, sports centres and museums) that they are on the premises for the purposes of taking a meal. The terminal hour for children and/or young persons in outside seating areas will generally be 9 pm on the same basis as for access to licensed premises generally.

However, where a private function (i.e. where members of the public are admitted by invitation only such as a wedding, anniversary celebration, christening or birthday celebration) is being held within licensed premises and children and/or young persons are to be attending the function, the Board is of the view that it is generally permissible for children and/or young persons to remain for the duration of the function, provided that due regard is had to the licensing objective of protecting children and young persons from harm.

3.7 Information about local conditions which the Board will generally consider applying to particular types of premises

The Board has a number of local conditions which it generally imposes on premises licences where appropriate. These conditions are:

- Children and Young Person's Conditions
- A curfew condition
- Outdoor area conditions

Children and Young Person's Conditions

The Board considers that it is vital that licence holders of premises which have applied to have children and young persons admitted to them understand their key responsibility to ensure that the Protecting Children and Young Persons from Harm licensing objective is embedded in their policies and procedures for operating such premises. In view of this the Board will consider applying the following children and young person's conditions to all licences for premises which will admit children and young persons. At Board hearings to consider premises licence applications applicants will be asked for their views regarding whether these conditions should be imposed before the Board makes a decision regarding this.

Children and Young Person's Conditions (Protecting Children and Young Persons from Harm)

1. The premises licence holder and their staff shall ensure that children and/or young persons are supervised adequately by the adult(s) accompanying them at all times.
2. If the premises licence holder or their staff are not satisfied that children and/or young persons are being supervised adequately, the group of which they are a part will be required to leave the premises.
3. If the premises licence holder or their staff have such concerns about the level of intoxication of the accompanying adults they should not require the group to leave the premises. They should contact the police without delay to report the matter.
4. For the duration of any function held on the premises, a staff supervisor shall be appointed to act as managerial liaison for the premises with the organiser of the function, and to monitor the function to ensure that its operation is consistent with the 5 licensing objectives.

Where children under the age of 5 are permitted access to the premises:

5. Heating facilities with the potential to cause injury in areas of the premises to which children and/or young persons have access shall be protected adequately.
6. A children's menu shall be available at all times when children are permitted to be on the premises or alternatively the main menu shall show that children's portions are available during such times.
7. Baby food and bottle warming facilities shall be available.
8. A minimum of two baby high chairs shall be available.
9. An adequate sized lidded bin shall be provided in any toilets designated for baby changing for the disposal of soiled nappies and the bins should be clearly marked to indicate the purposes for which they are provided.

Curfew condition

A curfew condition restricting access to premises operating after 1am has been a feature of previous policies in West Lothian for many years. The reasons behind the policy were to ensure that members of the public leaving restaurants and pubs which close at 1am make a conscious effort to move to late night premises prior to closing time. Police Scotland advise that this assists in dispersal of customers and reduces congestion in streets around late night premises. It also helps to reduce noise from such premises caused by smokers congregating outside premises. The Board is of the view that smoking areas for late night premises should ideally be created by licence holders in areas which do not require customers to leave the premises to access them. In this way such areas can be effectively stewarded to comply with the Preventing Crime and Disorder and Preventing Public Nuisance objectives.

The Board consulted on whether a change to this policy was required. The majority of consultees were not in favour of any change. In relation to those consultees who disagreed the Board did not consider that there were any good reasons put forward on which to undertake further evidence gathering in this respect.

In view of this the Board will continue to consider applying the following condition to all licences for premises which are licensed to operate after 1am on a regular basis. At Board hearings to consider premises licence applications applicants will be asked for their views regarding whether this condition should be imposed before the Board makes a decision regarding this.

Curfew condition – (Preventing Crime and Disorder, Preventing Public Nuisance)

Where premises are open after 1am there shall be strictly no admittance to the premises after 1am which prevents persons leaving to smoke outwith the premises being readmitted.

Outdoor Area Conditions

Where the outside drinking area utilises an area of footpath outside the premises the Board will attach the following conditions to the licence:

Outdoor Area Conditions (Preventing Public Nuisance, Securing Public Safety)

- Alcohol may only be consumed within the outside area by persons seated at the tables provided
- The barriers, tables and chairs must be removed at the end of the permitted hours for use of the outside area and stored securely in an area off the footpath
- The area must be capable of being monitored by staff either physically or via an approved CCTV system
- No amplified music shall be permitted outside the premises
- The premises licence holder must ensure that the defined area is kept clear of all waste, including cigarette litter, associated with their business
- Access to any fire hydrants and emergency access or egress equipment points in the area must not be obstructed by the operation of the outside area

- An authorised officer of the Council or Police Scotland may temporarily suspend the use of the area for reasons of public safety
- A permit from the Council to occupy the footpath must be obtained (see Appendix 6 for a link to the council's Roads and Transportation Service's webpage which contains information about making an application for a permit)

In addition to the local conditions detailed above the Board may also consider imposing discretionary conditions on a premises licence when such licences are granted or varied. When considering this the Board will generally focus on the likely impact of the activities proposed in the Operating Plan and the locality in which the premises are situated. Such conditions will be considered on a case by case basis and the Board may, where appropriate, consider imposing any of the discretionary conditions. Subsections 5.2 and 5.3 of this policy provide further information on the details of these conditions and the Board's approach to imposing discretionary conditions.

3.8 Information about Disabled Access and Facilities Statements (DAFS)

Applications for both premises and provisional premises licences must be accompanied by a Disabled Access and Facilities Statement (DAFS). The prescribed form is attached to the premises licence application form.

The Scottish Government have published guidance for completing a DAFS; there is a link to that guidance in Appendix 6. The guidance states that the requirement for completion of a DAFS does not compel the premises to provide any specific aids/access for disabled people. Nor does it interfere with your requirement to comply with the Equality Act 2010, to make reasonable adjustments to ensure that a disabled person can use a service as close as it is reasonably possible to get the standard usually offered to persons without a disability. It makes clear that applicants should be aware that failure to comply with the Equality Act 2010 may leave the premises open to a complaint and ultimately enforcement action under that Act.

The Board expects this guidance to be followed by applicants when completing their statements. The Board requires applicants to give detailed consideration to the accessibility of their premises prior to completing the DAFS as statements will be returned if they are incomplete or indicate that the applicant will carry out an accessibility assessment at a future date.

In light of the Protecting and Improving Public Health objective the Board wishes to promote equality of access to all licensed premises within West Lothian. Access to leisure and recreational facilities has direct and indirect impacts on people's physical and mental health. By having accessible premises this will allow people with a disability/long term condition to participate positively and more actively in society.

The Board is aware that each DAFS can only ever be an indication of the level of accessibility of premises at the time it is completed and would recommend that premises provide up to date accessibility information on their own websites in order that potential customers can be kept informed regarding facilities at the premises.

The Board recommends that applicants make use of the link to the Equality and Human Rights Commission's website which is contained in Appendix 6. The Commission provides practical advice and guidance for business, employers and organisations on complying with equality legislation.

3.9 Public safety issues

The Board wishes to promote public safety so that the safety of any person visiting or working on or in the vicinity of licensed premises is not threatened.

The steps premises licence holders should take in order to address matters of public safety will vary according to individual premises and the types of entertainment or facilities on offer. Subject to this, in general the Board expects applicants to have regard to:

- the capacity of their premises;
- the physical layout of their premises;
- their operational practices in terms of both avoidance of risk and response to it, including, for example, fire safety; and
- the meeting of any applicable standards under separate legislation including, for example, Health & Safety, Environmental Health and Building Standards legislation

In particular, prior to commencing operating under a premises licence the Board encourages all applicants to:

- seek advice from the Scottish Fire and Rescue Service about any fire prevention issues with the premises;
- seek advice from the council's Environmental Health & Trading Standards team on noise nuisance prevention, food safety, workplace safety and pollution, see link in Appendix 6 to the council's Environmental Health & Trading Standards webpage;
- be aware of the role of the building standards legislation which affects their premises;
- have regard to Section 8 of this policy.

3.10 Excluded Premises - garages

Section 123 of the 2005 Act provides that neither a premises licence nor an occasional licence can authorise the sale of alcohol on excluded premises. Excluded premises are motorway service stations and premises or parts of premises used as a garage.

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

- a) the retailing of petrol or diesel
- b) the sale of motor vehicles; or
- c) the maintenance of motor vehicles

However, Section 123(5) provides an exception to this. This means that if a premises (or parts of a premises) are used as a garage they can fall outwith the definition of excluded premises **if persons resident in the locality are (or are likely to become) reliant to a significant extent on the premises as a principal source of either fuel or groceries.**

In determining an application for a premises licence in relation to a garage e.g. a petrol/derv station or a premises which is part of such a station the Board expects applicants to provide sufficient information to enable the Board to consider if the above exception applies. In order that the information can be circulated to Board members along with the report in advance of the hearing the information must be submitted to the Licensing Team at least 10 days prior to the Board hearing.

Section 4: Operating under a Premises Licence – what the Board expects

This part of the policy contains information about the way in which the Board expects premises to be operated in terms of the Licensing (Scotland) Act 2005.

This part of the policy is broken down into 16 subsections

- 4.1 Introduction
- 4.2 The Licensing Objectives
- 4.3 Liaison with Licensing Standards Officer (LSO)
- 4.4 Premises Manager
- 4.5 Applications under the Licensing (Scotland) Act 2005
- 4.6 Extended Hours Applications
- 4.7 Written Policies and Procedures
- 4.8 Effective and Responsible Management of Licensed Premises
- 4.9 Preventing Crime and Disorder
- 4.10 Securing Public Safety
- 4.11 Preventing Public Nuisance
- 4.12 Protecting and Improving Public Health
- 4.13 Protecting Children and Young Persons from Harm
- 4.14 Deliveries of Alcohol
- 4.15 Licences Ceasing to have Effect
- 4.16 Annual Fees

4.1 Introduction

This section sets out the Board's expectations as to how licensed premises should be operated. The Board expects all holders of premises licences to be familiar with the expectations in this section and to have due regard to them at all times in the operation of their premises. The Board considers that the operating plan is a crucial document and licence holders must ensure that premises are managed and operated in accordance with the operating plan and layout plan at all times, as well as in accordance with the mandatory, local and discretionary conditions of the licence. This means that the operating plan and layout plans should be working documents which all members of staff are aware of.

The Board expects premises licence holders to be aware of the provisions of the Licensing (Scotland) Act 2005 and its many regulations which apply to their businesses. In view of the complexity of the legislation the Board considers that all premises licence holders should carefully consider taking specialist legal advice in relation to the operation of the premises when the need arises.

The Board highlights to all licence holders that compliance with the provisions of the 2005 Act and associated regulations, including, in particular, the mandatory conditions contained in Schedule 3 of the 2005 Act, is fundamental to premises being operating in a manner consistent with each of the five licensing objectives. Details of these provisions and regulations will have been covered in the mandatory training regime and the Board expects all those working in licensed premises to be aware of their responsibilities as set out in the 2005 Act and associated regulations.

Guidance regarding the role of premises manager and associated legal requirements can be accessed on West Lothian Council's website, see link at Appendix 6.

4.2 The Licensing Objectives

Through this policy the Board seeks to promote the licensing objectives set out in the 2005 Act, namely:

- Preventing Crime and Disorder;
- Securing Public Safety;
- Preventing Public Nuisance;
- Protecting and Improving Public Health; and
- Protecting Children and Young Persons from Harm

The Board expects licence holders and all staff working within licensed premises to have regard to these objectives in the operation of licensed premises to promote an environment which is safe and welcoming for all within licensed premises in West Lothian. The Board expects all licence holders to familiarise themselves with the objectives and this policy.

4.3 Liaison with Licensing Standards Officer (LSO)

Guidance on best practice regarding operating under a premises licence is available from the Council's LSO. The LSO can assist with guidance and information on Board policy and provide a link to the Council's Licensing Team and other relevant agencies. Further information regarding the role of the LSO can be found at section 1.4 of this policy.

4.4 Premises Manager

With the exception of members clubs operating under the special provisions in Section 125 of the 2005 Act licensed premises are required to have a named individual designated in the operating plan as the premises manager (commonly referred to as the designated premises manager). The named individual must be the holder of a Personal Licence issued by a Licensing Board within Scotland. In terms of the 2005 Act and associated regulations the premises manager has an important role to play in the operation of licensed premises.

The Board considers it key to the proper operation of premises that premises managers ensure that they are fully aware of their responsibilities with regard to the sale of alcohol at the premises in terms of the legislation, including complying with the legal requirement that they complete refresher training every five years. Premises managers should have a detailed knowledge of the terms of the premises operating plan and the mandatory and other conditions of the licence.

The Board expects the premises manager to have the day to day responsibility for running the premises and to be present on the premises on a regular basis when alcohol is being sold. The Board considers that it is good practice that the premises manager has experience commensurate with the size, capacity, nature and style of the premises.

What should I do if my Premises Manager is leaving/leaves?

The Board expects that all licence holders and premises managers are fully aware of the requirements of section 54 of the 2005 Act which requires premises licence holders to give the Board notice within seven days of events that mean that the premises manager can no longer continue in the role. The Board's experience is that many licence holders fail to comply with this requirement and this has led to the Board having to take action to stop premises selling alcohol until the situation is resolved.

4.5 Applications under the Licensing (Scotland) Act 2005

When required by changes, or proposed changes, to the operation of the premises or to the information in the licence including changes relating to the premises manager the Board expects that all premises licence holders shall timeously make the necessary application to the Board under the 2005 Act. This includes applications for -

- variation of premises licences;
- extended licensing hours for licensed premises (see subsection 4.6 below)
- transfer of premises licences;
- occasional licences (see section 6 for further information)

The Board will only accept applications that are made using the most up to date version of the application forms which are available from the Board's licensing webpages, see the links at Appendix 6. Out of date versions of application forms will not be accepted and such applications will be returned which may significantly delay the application.

The Board expects all licence holders and premises managers to be aware that all applications in relation to their premises must be made by the licence holder rather than the

manager unless signed written authority to make applications on their behalf is given by the licence holder. The Board requires such authority to be specifically provided to the Board in relation to each application made. Applications received without specific signed written authority will not be processed by the Board.

4.6 Extended Hours Applications

The Board is aware of the variety of public events which occur in West Lothian and the significance of these to residents of West Lothian. However, the Board does not consider that the holding of such events should serve as automatic justification for extended licensed hours through which the consumption of alcohol may be increased. The Board expects applicants to be able to identify in the information supporting their application the reason for any extended hours applied for and the connection to the event concerned.

The Board considers that regular and recurring events within licensed premises should be covered by the operating plan rather than regular applications for extended hours.

Who can apply?

The holder of a premises licence in respect of any licensed premises may make an application to extend the licensed hours for:

1. a special event or occasion to be catered for on the premises, or
2. a special event of local or national significance.

Applications in relation to their premises must be made by the licence holder rather than the premises manager unless signed written authority to make applications on their behalf is given by the licence holder and the premises manager clearly signs the application as agent for the licence holder. The Board requires authority to be specifically provided to the Board in relation to each application made. Applications made without specific signed written authority will not be processed by the Board.

How are applications made?

Applications require to be made on the most up to date version of the form which is available from the extended hours webpage, there is a link to that page in Appendix 6. Out of date versions of the form will not be accepted.

The applicant should provide the Board with sufficient detailed information in their application to enable a decision to be made. This must include -

- the hours sought;
- why the event or occasion cannot take place within the on-sales hours specified in the operating plan;
- a description of the special event or occasion (if the application relates to 1 above);
- what activities are proposed to take place in the premises during the hours sought;
- when each activity will take place;

- | |
|--|
| <ul style="list-style-type: none">• why the event or occasion is considered to be special (if the application relates to 2 above); |
|--|

Where the applicant does not address all of the required points listed above, the application will be returned with an explanation that the Board has not accepted it for processing. Licence holders should ensure that application forms are fully and properly completed. If a particular part of the form is not relevant, this should be indicated by stating "not applicable" or "N/A" in the relevant box rather than being left blank.

The Board wishes to emphasise that it is not the role of the Licensing Board to seek information in the case of badly completed application forms. Such forms will be returned to the applicant for proper completion which will cause delay and may cause difficulties for the applicant if as a result they are not able to lodge the application in time.

The Board must consider whether it is appropriate to grant the application and can extend the licensed hours by the period specified in the application or such other period as it considers appropriate. In either case the period must not exceed one month.

Where the hours sought fall outwith the on-sales hours specified in subsection 3.3 above, the applicant will have to demonstrate the hours requested are appropriate in the circumstances. As stated in that subsection the Board considers that in general applications for premises wishing to operate for up to 14 hours per day are reasonable and that applicants seeking additional hours will be required to demonstrate to the Board that the additional requested hours are appropriate in the circumstances in relation to the premises and event concerned.

When must applications be made?

Applications for extended hours must be submitted at least 35 days prior to the date of the proposed event/occasion in order to allow sufficient time for processing the application and to ensure timescales are met for the requisite consultations.

Late applications

The Board is concerned at the number of applications which are lodged within 35 days of the proposed event/occasion leaving insufficient time to comply with the consultation periods. There is a clear onus on the part of premises licence holders seeking to extend their licensed hours to ensure that applications are lodged in good time.

The Board will however consider late applications for emergency and unforeseen events only on a minimum of 72 hours notice being given.

Licence holders should note that late applications for extended hours must contain the information outlined above and be accompanied by a completed "Emergency and Unforeseen Events" form (available to download from the alcohol licensing webpage on the Council's website – see link at Appendix 6) explaining clearly why the application is late. The Board considers applications for unforeseen events such as funerals or where an event has to be relocated following damage to premises as examples of events which may fall within this category. Applications which have been lodged late as a result of a failure by the

applicant or their staff to meet the deadline would not be considered under this exception, unless the event was unforeseen or relocated due to an emergency.

For the avoidance of doubt the only late applications which will be processed will be those where, after the “Emergency and Unforeseen Events” form has been considered, the Board considers that the event falls into the unforeseen or emergency category as defined above. That decision will be made by the Convenor of the Board or their nominee under delegated powers. Otherwise all other late applications will be returned to applicants with an explanation that the Board has not accepted these for processing.

Procedure for determining extended hours applications

Notice of any application for extended hours must be given to the Chief Constable and the Licensing Standards Officer (LSO) for the area within 7 days of receipt of the application. Both the Chief Constable and LSO have 10 days following receipt of the notice to set out their comments on, or objections to, the application. The Board must take into account any notice or report made by either of these persons when determining the application.

Decisions regarding extended hours applications which

- attract adverse comments, or
- are for hours outwith this policy

will be made by the Convenor of the Board, or in their absence a nominated member of the Board in terms of the scheme of delegation which can be found in Appendix 5.

Decisions regarding extended hours applications which

- do not attract adverse comments, and
- where the hours applied for are within the licensed hours permitted in the Board’s policy,

will be made by the Clerk of the Licensing Board in terms of the scheme of delegation which can be found in Appendix 5.

There may be some circumstances where the Convenor or their nominee may elect to hold a hearing for the purposes of determining an application for extended hours. Where a hearing is to be held, the Board must hold that hearing no later than 42 days after the date the application is received. If a decision is made to refer the application to the Board, the applicant will be notified of the date and time of the Board meeting at which the application is to be considered. The applicant will be sent a copy of a report on the application and they or their representative will be given the opportunity to attend the meeting and to address the Board in support of the application.

On granting an extended hours application, the Board may make a variation to the conditions of the licence if it considers it “necessary or expedient” for the purposes of any of the licensing objectives. Any such conditions imposed by the Board can only have effect during the period the licensed hours are extended, and would not affect the hours already contained within the operating plan for the premises.

If the Board refuses an application for extended hours the licence holder has a right of appeal to the Sheriff Principal. If you are considering an appeal you must first request a statement of reasons

4.7 Written Policies and Procedures

While the production of written policies and procedures are not required as part of the licensing process it is good practice to have these in place so the Board has an expectation that all holders of a premises licence will have adopted and implemented relevant written policies and procedures in relation to the safe and responsible operation of their business with regard to the sale of alcohol and other activities taking place on their premises. Licence holders should ensure that staff within the premises will receive proper training and, where appropriate, refresher training on these written policies and procedures.

The types of policies required will depend on the types of activities taking place within a premises. Written policies and procedures should be specific to the premises and to the activities intended to be carried on in those premises in terms of its operating plan, taking account of the licensing objectives, the proposed licensed hours, the location of the premises, the individual style and characteristics of the premises and the anticipated number of persons who will be on the premises.

As part of the consultation process Police Scotland submitted a document entitled “Drugs Policy for Licensed Premises”. This document is attached at Appendix 4 to this policy and it contains information and guidance designed for premises licence holders and their staff in relation to illegal drugs and powers of search. The Board would encourage licence holders to have due regard to this guidance and to consider seeking legal advice if required with regard to the premises arrangements in relation to the prevention of offences under misuse of drugs legislation.

4.8 Effective and Responsible Management of Licensed Premises

The Board considers that effective and responsible management of licensed premises is key to upholding the licensing objectives. In respect of each licensing objective, the Board has detailed below at 4.9 to 4.13 a range of issues, measures or practical arrangements which it commends to applicants and licence holders as worthy of consideration in seeking to secure consistency with the objectives. These measures are intended to assist licence holders but are not exhaustive. Some issues or measures apply to more than one licensing objective. Failure to implement these measures, or being able to demonstrate that you have shown due regard to the issues highlighted, may make licence holders vulnerable to review proceedings under the 2005 Act if complaints about the operation of the premises are received. See section 5 for further information regarding reviews of premises licences.

Because of the variety of premises and activities to which this policy statement may apply the measures or issues stated at 4.9 to 4.13 are not exhaustive but are representative only. Licence holders will know their own premises best and will be expected to address all aspects relevant to the individual style and characteristics of their premises and the licensable activities for which they have obtained authorisation. Additional measures may be necessary on an occasional or specific basis such as when a special event is planned which is intended to, or likely to, attract larger audiences or audiences of a different nature.

As part of the consultation on this policy concerns were raised by Police Scotland regarding events involving combat sports taking place within licensed premises. The Board expects that licence holders planning such events will firstly check their licences to identify if they are permitted to have such activities within their premises. Prior to any such events being arranged within premises the Board expects licence holders to carry out specific detailed risk assessments to identify which special measures such as stewarding, the use of plastic glassware and the provision of medical staff are required to ensure the safety of all within the premises. In carrying out such assessments the Board expects licence holders to seek advice from Police Scotland's Licensing Officers regarding this type of event. Police Scotland's Licensing Officers can be contacted by calling 101.

The Board considers that operating in a manner consistent with each of the five licensing objectives requires a proactive approach from licence holders. The Board recognises that the operation of licensed premises in a manner consistent with the five licensing objectives is often a 'front to back' exercise across the premises involving the employment of a number of different categories of staff. The Board also recognises that the operation of the 'door' or 'front of house' – which is also the public face of the premises – or, indeed, any key entry and exit point to and from the licensed area within the premises, is often a vital component in this exercise.

As such, the Board strongly encourages all premises licence holders to give careful consideration, in view of factors including, but not limited to, the operation and capacity of their premises, to the resources they require in order to operate in accordance with the five licensing objectives. The Board recognises an increasing trend towards the utilisation of SIA door stewards (stewards licensed by the Security Industry Authority), and that SIA door stewards can have an important role to play for a variety of premises. The Board wishes to remind premises licence holders that the employment of such stewards is not necessarily limited to late night entertainment premises, and can be appropriate for a multitude of premises, occasions and events.

Licence holders should consider carefully the practical arrangements necessary for their premises to ensure it is operated in accordance with the five licensing objectives. The Board expects licence holders to show due regard (and be able to demonstrate this due regard) to all the issues identified below at 4.9 – 4.14 in the operation of the premises and be proactive in identifying measures required to ensure premises are operated consistently with the licensing objectives.

Licence holders arranging large scale events at their premises should note that West Lothian Council may convene a Safety Advisory Group (SAG) meeting to discuss particular risks which may be associated with that event. Notice of events involving in excess 500 persons should be given to the council's Events Co-ordinator. Licence holders will then be contacted by the Events Co-ordinator if a SAG meeting is required. The email address for the Events Co-ordinator is contained in Appendix 6.

The Board expects applicants to co-operate with the SAG process and comply with any additional requirements suggested through that process.

4.9 Preventing Crime and Disorder

The Board wishes to ensure that West Lothian is a safe place to work, live in and visit, and recognises that it is widely acknowledged that the consumption of alcohol can be a significant contributory factor in late night crime and disorder and in certain types of antisocial behaviour. Gender based violence issues also have strong associations with alcohol consumption (domestic abuse, sexual violence, human trafficking, commercial sexual exploitation and exploitation of vulnerable persons). While licensing alone cannot directly address these they are nonetheless significant issues within the crime and disorder, health, community safety and child protection agendas. The Board, in partnership with Police Scotland and other local agencies, is committed to playing its part in helping to reduce alcohol related crime and disorder and antisocial behaviour problems.

The Board recognises that licensing is not the primary mechanism for the control of criminal behaviour, public nuisance and antisocial behaviour once individuals have left licensed premises. Nevertheless the Board considers that licensing plays a key role in both preventing and controlling alcohol related crime and disorder and antisocial behaviour through the promotion of the licensing objectives and the monitoring of licensed premises.

As such, the Board is committed to carrying out its statutory role in such a way as to improve the quality of life for the people in the area by ensuring that licensed premises are licensed to operate in such a way so as not to contribute to crime and disorder. The Board expects that licence holders and applicants should have regard to the need to implement, in relation to their premises and vicinity, effective management practices to address the (non-exclusive) problems of:-

- underage drinking;
- agent purchase;
- drunkenness on premises;
- illegal possession, supply, and/or use of drugs;
- violent behaviour; and/or anti-social behaviour;

The Board expects premises licence holders to co-operate and liaise with Police Scotland where required to ensure that consistency with this licensing objective is upheld in the operation of the premises at all times. Applicants are encouraged to discuss crime prevention procedures in their premises with Police Scotland.

The Board expects that premises licence holders shall consider the following issues and measures when operating their premises to ensure consistency with the Preventing Crime and Disorder licensing objective:

- A written crime prevention strategy;
- Staff training in respect of the prevention of crime and disorder;
- Crime prevention measures such as security patrols, advice notices/signs and/or other material demonstrating anti-theft messages/strategies, regular toilet checks demonstrated by the existence and operation of these measures by way of documented check sheets;

- Regular security briefings for staff to be carried out and appropriate records kept for inspection. Periodic reviews of policies and procedures to be undertaken no less than every 18 months and amendments made as deemed necessary;
- Demonstrating their commitment to preventing crime and disorder on a wider community basis, for example by membership of the PubWatch Scheme and liaising where required with Police Scotland;
- Police Scotland's suggested drugs policy for licensed premises (see Appendix 4);
- Having a written violence reduction strategy document available for inspection. This could include matters such as a glassware policy, anti-violence awareness patrols by staff in premises, toilet supervision and dispersal policy at the end of core hours. Periodic reviews of that document should be undertaken no less than every 18 months and amendments made as deemed necessary;
- Having an incident book or register at the premises which lists incidents where staff and management have dealt with a situation by preventing it escalating into a more serious incident;
- The provision of conflict management training for staff and the keeping of appropriate records in this regard for inspection by appropriate officers of the Council/ Police Scotland;
- Providing adequate seating. The Board recognises that establishments with minimal seating results in vertical drinking which is known to increase consumption of alcohol;
- The use of CCTV systems and ensuring that such systems are kept in good working order at all times in order that premises can co-operate promptly with Police Scotland and the LSO to make available footage from such systems when required;
- Staff awareness of crime scene preservation procedures.
- Promoting anti drink-driving materials and measures such as providing soft drinks and non-alcoholic beverages, promoting awareness of campaigns such as designated driver schemes and offering free soft drinks to designated drivers

The Board acknowledges the potential for public disorder and nuisance at or immediately after the closing time of on-sales premises. Premises licence holders for on-sales premises should ensure that they and their staff have sufficient measures in place to minimise the impact of closing time, and to ensure patrons exit the premises as quickly as possible in good order and as quietly as possible.

The Board expects premises licence holders to implement the following practical measures or be able to demonstrate that they have given consideration to the need for these measures to ensure the potential for disorder and nuisance is minimised:

- Limiting the amount of alcohol sold just before the terminal hour (e.g. only permitting a group to purchase one round, not two);
- Making sure all patrons know well in advance the last time for purchasing alcohol is approaching;
- Covering bar taps once the terminal hour has passed;
- Raising the lighting level;
- Reducing the level of music noise and altering the type of music played (e.g. slow ballads), all of which will assist in reducing patron boisterousness; and
- Inspecting all parts of the premises for patrons (e.g. toilets).

4.10 Securing Public Safety

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

The Board expects premises licence holders to consider the following issues and measures when operating the premises to ensure consistency with the Securing Public Safety licensing objective:

- How premises occupancy will be managed at any given time particularly with regard to maximum capacity and mechanisms for keeping count of patrons;
- All licensed premises, other than those premises open for the main purpose of providing a meal, should have an effective glass management policy, which will include regular clearing of all glassware; and, with the exception of premises which have dedicated outside drinking areas, prohibition of patrons taking glassware outside the premises;
- A written policy on how to deal with customers who may become incapacitated or vulnerable due to drink or drugs;
- The provision of first aid facilities and an area in which incapacitated persons can be placed pending the attendance of emergency services;
- A written fire evacuation policy and be able to demonstrate training and test evacuations.

4.11 Preventing Public Nuisance

The Board wishes to protect and maintain the amenity of residents and occupiers of businesses in West Lothian, and recognises that the operation of licensed premises can on occasion interfere with the peaceful enjoyment or amenity of the wider community, either in the vicinity of licensed premises or more generally. The Board reminds licence holders that public nuisance can occur in a variety of forms including, but not limited to noise, light, odour, waste, fumes, vibration and littering. The Board would encourage licence holders to contact the council's Environmental Health team regarding public nuisance issues, see link in Appendix 6 to the council's Environmental Health and Trading Standards team.

The Board recognises that public nuisance can be attributable to licensed premises in a variety of forms, and is not exclusive to premises with outside areas or those premises in immediate proximity to residential accommodation (although these features may be indicative of premises presenting a higher level of risk of nuisance requiring particular arrangements to mitigate possible nuisance).

The Board reminds premises licence holders that failure to take adequate steps both to proactively introduce and to maintain appropriate operational arrangements for their

premises in order to prevent public nuisance may have adverse consequences regarding their licence.

However, the Board also recognises that licensing law is not the primary mechanism for the general control of nuisance and antisocial behaviour by individuals once they are no longer on the licensed premises and beyond the direct control of the licence holder.

The Board expects premises licence holders to consider the following issues and measures when operating the premises to ensure consistency with the licensing objective of preventing public nuisance:

- For licensed premises open after 11pm a policy on minimising noise pollution, which should include having all servicing and deliveries undertaken at times suitable to the local community.
- The implementation of a written noise management plan to actively prevent and manage entertainment noise affecting its neighbourhood after 11pm;
- Control of designated smoking areas;
- The placing of notices to request customers to leave the premises quietly and not allowing queues to develop outside of premises late at night;
- Glass bins which are only filled or emptied between 0900 hours and 2100 hours to avoid sleep disturbance;
- Provision of double doors to create an 'acoustic lobby';
- Windows to remain closed and alternative means of ventilation;
- Use of noise limiting devices;
- Direction of speakers;
- An array of speakers rather than a few large ones;
- In-house music systems which can be more effectively managed than externally supplied amplification;
- Ensuring music noise is not audible within neighbouring residential premises after 11pm;
- Demonstrating their commitment to a cleaner environment in and around their premises whilst ensuring that the disposal of waste is carried out at responsible times;
- Provision of waste receptacles for smokers' litter where external smoking takes place;
- Provision for segregation of waste to minimise waste to landfill;
- Ensuring contracts are in place for waste management services;
- Ensuring a contract is in place for responsible disposal of any used cooking oil or fat.

4.12 Protecting and Improving Public Health

The general position in West Lothian reflects the national picture that Scotland's relationship with alcohol is complex. The Board recognises the link between consumption of alcohol and public health and will continue to work with the relevant authorities responsible for the protection and improvement of public health to safeguard and promote the health and wellbeing of the West Lothian population.

The Board is fully supportive of all initiatives to address harmful alcohol consumption and alcohol dependency in West Lothian, however the Board also wishes to remind all stakeholders that the Board is not in a position to apply the 2005 Act more widely to address this issue than the recognised parameters and requirements it contains, and has been said by the courts to extend to.

The Board expects premises licence holders to consider the following issues and measures when operating the premises to ensure consistency with the licensing objective of protecting and improving public health:

- Promoting the availability of meals, as appropriate;
- Providing a good range of reasonably priced low alcohol drinks, soft drinks and non-alcoholic beverages including alcohol free beer and wine;
- Providing a range of reasonably priced low calorie non-alcoholic drinks;
- Monitoring levels of alcohol consumption by customers;
- An established workplace alcohol policy in order to raise awareness, minimise harm and ensure that staff are able to access help without fear of losing their job if a problem arises;
- Making available information with regard to consumption of alcohol and its effects and external contact points where assistance can be obtained for alcohol problems;
- Provision and promotion of posters, beer mats, notices and other materials regarding consumption of alcohol which includes information on units of alcohol in the context of recommended guidelines

The Board has provided links in Appendix 6 of this policy to external sources of information and promotional materials to aid licence holders in considering the measures above.

Smoking

The health risks associated with smoking and passive smoking continue to be well publicised. Premises licence holders should be aware of their own statutory responsibilities, public opinion generally, the expectations of their customers and the legislation concerning smoking in public places.

In relation to smoking outside licensed premises, premises licence holders should have measures in place to address issues such as noise nuisance, litter, disorder and smoke drifting into neighbouring premises

The Board acknowledges that smoking is not a licensing matter and is regulated under other legislation. However the Board will ensure, so far as possible that its policies reflect current good practice on smoking.

The Board expects that premises licence holders will have regard to good practice. It is their responsibility to ensure that customers do not create a nuisance or disturbance for residents living nearby. This includes any noise nuisance arising as a result of customers smoking outside the premises and any associated littering of the area. Where appropriate the Board may impose conditions requiring premises licence holders to provide litter bins in the vicinity.

Every business has a duty to ensure that waste is disposed of securely and to keep their premises clear of all litter generated by staff and customers. The Board expects licence holders to be aware of their responsibilities and of the possibility of statutory street litter control notices in the case of non-compliance.

4.13 Protecting Children (aged 0-15) and Young Persons (aged 16 & 17) from Harm

The Board considers that it is vital that licence holders of premises which have applied to have children and young persons admitted to them understand their key responsibility to ensure that the Protecting Children and Young Persons from Harm licensing objective is embedded in their policies and procedures for operating such premises. The Board wishes to encourage and promote the availability of family friendly licensed premises in West Lothian subject always to licence holders ensuring that:

- the health and wellbeing of all customers, particularly children and young persons is safeguarded at all times;
- there are sufficient policies and procedures in place for all staff to comply with the local children and young persons conditions detailed at subsection 3.7;
- the activities which take place within the premises are considered suitable for premises which admit under 18s

The Board is committed to protecting children and young persons from harm and, as such, considers it both necessary and appropriate to include in this policy its general expectations regarding the operation of premises in respect of the access of children and/or young persons to licensed premises.

The Board expects that licence holders should be able to demonstrate, if required, how they address this objective in the running of the premises. The Board expects licence holders to demonstrate an understanding of the additional responsibilities placed on them when children and/or young persons are on the premises, and to demonstrate that suitable and sufficient measures are in place to protect children and/ or young persons from harm.

The Board expects premises licence holders to consider the following issues and measures when operating the premises to ensure consistency with the licensing objective of protecting children and young persons from harm:

- | |
|---|
| <ul style="list-style-type: none">• A written policy in regard to preventing sales of alcohol to persons under the legal age;• The use of a refusals register where all refusals of service are recorded;• All premises licence holders must comply with the statutory age verification policy in relation to the sale of alcohol on their premises. The law has set a minimum age of 25 years for the policy where it appears to the person selling the alcohol that the customer may be under the age of 25 years. As a result, customers in any premises licensed for the sale of alcohol, including pubs, clubs, restaurants, supermarkets, shops and any venue licensed under an occasional licence should be asked to produce proof of age identification where they appear under the age of twenty five to prove that they are over the age of eighteen and can lawfully purchase alcohol;• Stewarding for parties where the age demographic is 15 to 20; |
|---|

- Doors to which children have access should be either held open or shut or be fitted with hinge area protection devices. This should be considered relating to prevention of finger trapping in the hinge areas of doors which both open and to which children have access. These injuries are potentially life changing for a young child and are inexpensive to prevent;
- Adequate protection for heating facilities that have the potential to cause injury to a child.

The Board emphasises the responsibility of accompanying adults, premises licence holders and their staff, in their respective roles, for children and/or young persons in their collective care. The Board takes very seriously the issue of underage drinking and expects all applicable statutory safeguards to be complied with by all premises licence holders and their staff at all times.

While the Board does not consider it feasible to restrict in this policy the access to licensed premises by adults of any age as an “accompanying adult”, the Board emphasises in the strongest terms that the onus is on accompanying adults, premises licence holders and their staff, in their respective roles, to ensure that accompaniment by an adult is observed meaningfully at all times, for its purpose – namely adult supervision consistent with each of the five licensing objectives. The Board also wishes to remind all licence holders that failure to do so may give rise to circumstances which are among the most serious envisaged under the 2005 Act, namely conduct inconsistent with one or more of the five licensing objectives and/or the committing of a criminal offence.

4.14 Deliveries of Alcohol

The Board is aware of the increased demand for delivery of alcohol from premises licensed to sell alcohol off the premises.

The Board encourages premises licence holders and applicants for premises licences to be aware of a number of provisions in the 2005 Act which apply to deliveries of alcohol following an online, telephone, or in store sale at the premises.

- Section 104A and 104B of the 2005 Act, set out the circumstances that make it an offence to supply alcohol to a child or young person.
- Section 108 of the 2005 Act further describes offences relating to delivery of alcohol and the steps a person can take to prove due diligence when making deliveries of alcohol following a sale.
- Section 119 of the 2005 Act, sets out the information a premises licence holder must keep in a day book when delivery of alcohol is a service they provide.
- Section 120 of the 2005 Act, provides the hours which deliveries of alcohol cannot take place and the Board would wish to make applicants and licence holders aware that these hours are between midnight and 6am.

All of the sections of the 2005 Act mentioned above can be found following the links at Appendix 6.

In addition to the obligations set out in the 2005 Act above and in order for the Board to be satisfied that

- licence holders are complying with the mandatory condition of their licences regarding age verification, and
- alcohol will not be delivered in such a way that it may be given to persons who should not receive it,

the Board encourages premises licence holders and applicants for premises licences, to have in place written policies and procedures in relation to the delivery of alcohol that set out, in detail, how they intend to operate.

Policies should cover, but not be restricted to, subjects such as;

- training of persons concerned in the delivery of alcohol;
- age verification policies extending to persons delivering alcohol;
- the hours of operation for deliveries;
- procedures on what to do with an alcohol delivery if the requirements for the delivery are not met and;
- any other measures the licence holder deems appropriate to uphold the licensing objectives.

The Board also wishes to remind licence holders who use third parties such as courier firms to deliver alcohol on their behalf, that it is the premises licence holder's responsibility to ensure any such delivery firm has policies in place which would satisfy the standards expected by the Board.

In particular given the need to undertake age verification the Board expects that

- sufficient questions will be asked by the licence holder's staff at the time of the telephone sale to identify what documentation will be provided in relation to the age verification check, and
- details of the documentation expected will be passed to the delivery person and examined by that person prior to the alcohol being handed over, and
- if the person receiving the alcohol does not pass the age verification check that the sale is cancelled and the alcohol returned to the premises from which it had been dispatched.

4.15 Licences Ceasing to have Effect

Section 28 of the 2005 Act details the period of effect of a premises licence. A premises licence ceases to have effect on the occurrence of certain events

A premises licence may cease to have effect in terms of section 28(5)(b) – that is when the premises in respect of which the licence was issued, cease to be used for the sale of alcohol. There is no statutory definition of “cease to have effect” or “ceases to be used for the sale of alcohol”. It is therefore necessary for the Board to set out how it proposes to deal with this situation. The Board has considered the status of a licence which has ceased to have effect under section 28(5)(b) and has concluded that the licence no longer exists and cannot be resurrected by a transfer application. Each case will depend on its own facts and circumstances and it is a matter for the Board to determine at what point the premises cease to be used for the sale of alcohol. Where the facts need to be determined before a

judgement can be reached the Board will hold a hearing and will afford those who have an interest in the matter an opportunity to be heard

Because of this provision the Board must be made aware when premises are about to, or have, closed to the public. The Board recognises that there may be a wide variety of reasons why premises might close on a temporary basis and that closure does not necessarily mean that the premises have ceased to be used for the sale of alcohol. However, should it be the case that premises are to close for a period of more than 30 days, the Board will expect the premises licence holder to advise the Clerk of the Board in writing, within a further 14 days, of the closure, giving the reasons for doing so and the estimated length of closure. If the closure is temporary, the Board will also expect the premises licence holder to advise it when the premises have reopened.

Where premises have been closed for a period of 6 months, without a reason having been given for the prolonged closure, the Board will instigate a review of the premises licence to ascertain that reason and decide if the licence has ceased to have effect. Where the Board makes a finding that a licence has ceased to have effect in these circumstances the only way to reinstate a licence is to apply for a new premises licence.

4.16 Annual Fees

Unless a premises licence has been surrendered the premises licence holder is required to make payment of an annual fee in relation to each premises licence even if the licence is suspended. First annual fees are due 30 days after the date on which the licence takes effect and then annually by 1 October each year. The Board will give premises licence holders notice of the amount of fee payable. That notice will be sent to the premises licence holder's address as provided to the Board and not to the premises. The Board will not issue invoices and the premises licence holder is responsible for ensuring that payment is made by 1 October each year as payment of the fee is a mandatory condition of the Premises Licence.

Failure to make payment of the fee by 1 October may result in the Board undertaking a review of the Premises Licence. At such a review the Board will take into account any previous failure by the premises licence holder to pay the annual fee on time. Following a review the Board may take any of the following steps:

- issue a written warning;
- make a variation of the premises licence;
- suspend the premises licence;
- revoke the premises licence.

• **Section 5: Reviews and Discretionary Conditions**

This part of the policy covers the Board's approach to carrying out reviews of premises licences and contains details of how the Board will impose discretionary conditions if it deems these necessary or appropriate in terms of the licensing objectives including a list of style conditions that the Board has at its disposal.

This part of the policy is broken down into 3 subsections:

- 5.1 Reviews
- 5.2 Imposition of Discretionary Conditions
- 5.3 Style Discretionary Conditions

5.1 Reviews

Review of a premises licence is a formal legal process that requires the time and involvement of the person who has applied for review and the licence holder. Any person considering applying for review of a premises licence is encouraged to read all of the information in this policy before making an application.

The Board considers that licence holders should generally be given the opportunity to demonstrate that they can operate their premises in accordance with the licensing objectives. However, the Board recognises that if a ground for review is established it has a range of powers including the power to vary licences and impose conditions to ensure that the premises will operate effectively under the legislation.

It is not necessary to make an application for review to raise concerns you have regarding the operation of licensed premises. Before considering applying to the Board for review of a premises licence you should raise any such concerns you have with either the council's Licensing Standards Officer (LSO) or Police Scotland. There is a link to the Board's premises licence review webpage in Appendix 6 which contains contact details.

Review proceedings can be commenced in one of three ways:

1. Any person may apply to the Board for review of a premises licence;
2. An LSO can make an application on any of the competent grounds for review and if they have issued a notice to a licence holder identifying that a condition of the licence is not being complied with and the licence holder has failed to comply with that notice within a specified timescale;
3. The Board itself may initiate review proceedings.

The grounds on which a review application can be made by any person are prescribed under the 2005 Act and are together referred to as 'grounds for review', and applicants must explain in their applications how they consider that these grounds exist.

In relation to any review application the Board must consider:

- whether, with regard to its content, the application discloses any matter relevant to any ground for review; and
- whether, with regard to its nature, the Board considers the application to be frivolous or vexatious.

The Board would encourage any member of the public wishing to make a premises licence review application to use the form which has been prepared to assist applicants and which is attached to the guidance regarding reviews of premises licences which is available on the premises licence review webpage of the Council's website. A link is attached in Appendix 6.

The Board recognises that it has the power to recover expenses from an applicant for a premises licence review if it considers the application to be frivolous or vexatious. However, the Board wishes to make clear that it will not consider using that power unless there is

information before it to suggest that the application was deliberately frivolous or vexatious rather than submitted on the basis of a genuine misunderstanding of the licensing system.

The Board wishes to emphasise the seriousness of review proceedings for both premises and personal licence holders in terms of the potential consequences should the Board find grounds for review established and decide to exercise any of the powers available to it under the 2005 Act.

If the Board are satisfied that a ground for review is established it has the power to take the following steps in relation to a Premises Licence:

- to issue a written warning to the licence holder;
- to make a variation of the licence;
- to suspend the licence for such period as the Board may determine;
- to revoke the licence;

The power to make a variation of the licence includes imposing additional discretionary conditions on the licence in light of issues raised during the review hearing. Subsections 5.2 and 5.3 of this policy provide further information on the details of these conditions and the Board's approach to imposing discretionary conditions.

In relation to personal licence holders the Board has the power to make a finding in the course of a premises licence review hearing that a personal licence holder while working in the premises concerned acted in a manner which was inconsistent with any of the licensing objectives. This could potentially result in the personal licence being revoked, suspended or endorsed at a further hearing by the Board or another Licensing Board in Scotland.

The Board reminds all parties that applications for review which are received and considered by the Board will, unless considered to be frivolous or vexatious or not to contain a ground for review, result in a review hearing at which it is of the utmost importance that parties are fully equipped and prepared, both evidentially and legally, to present their case.

The Board has agreed Rules governing its procedures for review hearings which are available on the alcohol licensing webpage of the Council's website, there is a link to that in Appendix 6.

Following a premises licence review hearing, in relation to decisions made by the Board under Section 39(1) the following persons may request a statement of reasons:

- the premises licence holder, and
- the person who made the review application

Statements of reason must be requested by sending a notice to that effect to the Clerk of the Board within 14 days of the decision on the review application being notified. A statement of reasons must then be issued by the Clerk within 14 days.

In relation to action taken by a Board following a premises licence review hearing both the licence holder and the person who made the review application can appeal to the Sheriff Principal against the Board's decision.

Following an unsuccessful application under section 40 of the 2005 Act by a premises licence holder to have a variation or suspension of their licence revoked the premises licence holder has a right of appeal to the Sheriff Principal against the Board's decision.

See the link at Appendix 6 to regulations regarding appeals.

5.2 Imposing Discretionary Conditions

The Board may decide to impose discretionary conditions on the licence as they consider necessary to promote the licensing objectives and to give effect to the provisions of this policy. The decision whether to impose any discretionary conditions will be made on an objective basis, taking account of any representations and any other relevant information available to the Board. The discretionary conditions detailed below at subsection 5.3 are for indicative purposes only and are not exhaustive. In each case, conditions will be tailored to the individual characteristics of the premises concerned and if applicable any issues identified during the course of a review hearing.

The Licensing Board's power to impose discretionary conditions is subject to some limitations. They cannot be inconsistent with the mandatory conditions, nor with any pool conditions set by the Scottish Ministers. They must also not have the effect of making any of the pool conditions or mandatory conditions more onerous or more restrictive, nor may they relate to a matter regulated by another enactment.

In order to avoid duplication with other regulatory regimes, conditions will only be attached to Premises Licences by the Licensing Board if they are necessary to promote one or more of the licensing objectives and the effect of that condition is not covered by other legislation. The Board will only seek to impose conditions that are proportionate and which are not unduly burdensome. In meeting these principles, the Board does not intend to design and implement standard conditions but instead will attach conditions as appropriate given the individual size, style and characteristics of the premises and activities taking place there.

Conditions imposed by the Board may include limitations or restrictions on the licence holder requiring them to take or refrain from taking action in certain circumstances. More stringent conditions relating to the licensing objectives may be applied where relevant objections or representations have been received in relation to an application for a Premises Licence or a variation of a Premises Licence, or where a licence has been reviewed by the Licensing Board and has raised concerns regarding compliance with the licensing objectives.

5.3 Style Discretionary conditions

Condition	Relevant Licensing Objective
The premises licence holder shall make provision for the prominent display at the entrance to the premises, or at a suitable alternative location agreed with the LSO, of any drug prevention or awareness literature provided to the premises licence holder by NHS Lothian, West Lothian Council, Police Scotland or any other body authorised for this purpose by the Board.	Preventing Crime and Disorder, Securing Public Safety, Protecting and Improving Public Health
The premises licence holder shall implement a system of searching all/or a specified percentage of customers at	Preventing Crime and Disorder, Securing Public Safety

the point of entry to the premises using appropriate and effective search techniques.	
The premises licence holder shall ensure that regular checks are carried out by either management or stewards to establish that no illegal drugs or other harmful articles or substances have been brought into or are being used on the premises.	Preventing Crime and Disorder, Securing Public Safety, Protecting and Improving Public Health
In addition to those checks by management and stewards referred to above, the premises licence holder should, at least once per annum, employ the services of and obtain a report from independent professional security advisers, to assess the effectiveness of procedures in place for preventing and detecting any drug misuse and the presence or use of other harmful articles or substances on the premises and provide a copy of the said report to the Board within seven days of its receipt.	Preventing Crime and Disorder, Securing Public Safety
Entertainment in the licensed premises shall not, with the knowledge of the Premises Licence Holder, be promoted, advertised or conducted in such a way which could reasonably be construed as condoning the supply, use or possession of illegal drugs.	Preventing Crime and Disorder, Securing Public Safety, Protecting and Improving Public Health
The premises licence holder at all times when the premises are open to the public during the permitted hours shall:- (a) Operate a mechanical or electronic counting system which is capable of accurately recording the number of persons entering and leaving the premises and any area of the premises having a separate occupant capacity; and (b) operate such counting system themselves or appoint another person or persons for that purpose.	Securing Public Safety
In relation to the said counting system, the premises licence holder or person or persons appointed by the premises licence holder for that purpose shall at any time, upon a request being made by a police constable, an LSO, or any member of or person authorised in writing by the Board, immediately provide accurate information on the number of persons within the premises and any area of the premises having a separate occupant capacity.	Securing Public Safety
During the licensed hours when the premises are open to the public, the premises licence holder shall have present on the premises, stewarding personnel, licensed by the Security Industry Authority, to provide for the maintenance of public order and the proper management, control, safety and general well-being of customers on the premises.	Preventing Crime and Disorder, Securing Public Safety
The premises licence holder shall prepare a risk assessment for stewarding personnel in terms of the Management and Health and Safety at Work	Preventing Crime and Disorder, Securing Public Safety

<p>Regulations 1999, in respect of the premises, which shall make detailed provision for the presence of the requisite number of stewarding personnel on the premises and if appropriate, the gender balance of and functions and duties allocated to those personnel. Said risk assessment for stewarding personnel shall be produced on request to a Police Constable, LSO or such other person authorised for the purpose by the Council.</p>	
<p>The number of such stewarding personnel present on the premises shall at no time be less than the requisite number provided in said risk assessment and if appropriate, the gender balance of and functions and duties of those personnel shall be in accordance with said risk assessment.</p>	<p>Preventing Crime and Disorder, Securing Public Safety</p>
<p>Empty glasses and bottles from the premises are regularly cleared from areas to which the public have access. Any receptacles provided on the premises for the collection, or disposal by customers, of empty bottles shall be of solid construction, emptied regularly by staff and designed so that bottles already deposited therein cannot be retrieved by customers. No glasses or bottles shall be permitted in cloakrooms, toilets or on dance floors located on the premises. Sufficient shelves, ledges, tables and counters shall be provided on the premises to accommodate glasses and bottles before collection.</p>	<p>Preventing Crime and Disorder, Securing Public Safety</p>
<p>At any location within the areas after mentioned, the following minimum levels of lighting shall be maintained at all times:-</p> <ul style="list-style-type: none"> • Corridor/stairs - 150 lux • Toilets - 150 lux • Offices - 500 lux • Bar counters - 300 lux 	<p>Preventing Crime and Disorder, Securing Public Safety</p>
<p>Except where the said risk assessment referred to above provides for the permanent presence of a steward within the sanitary accommodation during the licensed hours when the premises are open to the public, the premises licence holder shall ensure that the sanitary accommodation is regularly inspected by staff to ensure that the facilities and all parts of the accommodation are kept clean and in good condition.</p> <p>In order to satisfy this requirement, a check of the sanitary accommodation shall be made at least once an hour to ascertain if servicing is required or if the accommodation is being used for an improper or unlawful purpose. There shall be prominently displayed in the sanitary accommodation, a notice containing the following information: (a) the frequency of inspections of the sanitary accommodation, (b) the date and time when the sanitary accommodation was last inspected in terms hereof and (c) the names of the members of staff who carried out each inspection.</p>	<p>Preventing Crime and Disorder, Securing Public Safety, Protecting and Improving Public Health</p>
<p>A refusal register shall be maintained in the premises</p>	<p>Preventing Crime and Disorder,</p>

recording all incidences of refused sales, including the date and time, the reason for refusal and the member of staff refusing the sale. The refusal register should be inspected and signed by the Designated Premises Manager, or their nominated representative, at least on a weekly basis. The refusal register should be made available for inspection by Police Scotland and LSO on request.	Securing Public Safety, Protecting and Improving Public Health
The refusal register may be kept in electronic form, in which event the obligation to make it available for inspection by Police Scotland and LSO may be discharged by making available for inspection as aforesaid a printed copy of the refusal register's entries.	Preventing Crime and Disorder, Securing Public Safety, Protecting and Improving Public Health
A fully operational CCTV system which complies with all current legislative requirements covering all areas of the premises to which the public have access, including entrances, exits and till areas, is fitted and maintained in full working order in accordance with guidance provided by the Information Commissioner and to the satisfaction of the Chief Constable of Police Scotland.	Preventing Crime and Disorder, Securing Public Safety, Preventing Public Nuisance, Protecting and Improving Public Health, Protecting Children and Young Persons from Harm
Throughout the licensed hours a member of staff fully trained on the operation of the CCTV is present on the premises and CCTV footage is made available to Police and LSO promptly on request.	Preventing Crime and Disorder, Securing Public Safety, Preventing Public Nuisance, Protecting and Improving Public Health, Protecting Children and Young Persons from Harm
A noise limiter shall be installed on the premises and a noise level set in conjunction with dialogue with the council's Environmental Health team to ensure amplified music noise does not cause an impact on the amenity within neighbouring residential premises.	Preventing Public Nuisance
Amplified music shall not be audible after 11pm within any neighbouring residential property.	Preventing Public Nuisance
Amplified music noise after 11pm shall not cause an impact on amenity within any neighbouring residential property.	Preventing Public Nuisance
Alternative means of ventilation shall be installed to prevent the need for windows to be open for ventilation.	Preventing Public Nuisance
Windows shall remain closed during times when amplified music is being played.	Preventing Public Nuisance
Double doors shall be installed to the entrance to form an acoustic lobby.	Preventing Public Nuisance
Entrance doors shall be manned to prevent unnecessary amplified music breakout noise.	Preventing Public Nuisance
Emptying of bottles shall not occur between the hours of 21.00-09.00.	Preventing Public Nuisance
Smoking only take place in those areas approved by the Licensing Board.	Preventing Public Nuisance
All waste and recycling must be stored in appropriate and sufficient waste receptacles.	Preventing Public Nuisance, Protecting and Improving Public Health

Contract(s) must be in place for waste management services which ensure sufficient waste receptacles and frequency of emptying relative to the storage space available.	Preventing Public Nuisance, Protecting and Improving Public Health
Provide bins for smokers' litter where smoking takes place.	Preventing Public Nuisance, Protecting and Improving Public Health
In order to prevent or minimise the threat of illegal drugs or other harmful articles or substances being brought into or used on the premises, the premises licence holder shall prominently display at the entrance to the premises, or at a suitable alternative location agreed with the LSO, the notice below:	Preventing Crime and Disorder, Securing Public Safety, Protecting and Improving Public Health

WARNING DRUGS AND OFFENSIVE WEAPONS

Under no circumstances will the use of illegal drugs or the carrying of offensive weapons be permitted on these premises.

As part of our commitment to our customers and to achieve a safe and drug-free environment, all persons entering these premises are liable to be asked, as a condition of entry, to submit to a search. If you are found in possession of drugs or offensive weapons, these will be taken from you and the Police will be informed

Section 6: Occasional Licences to sell alcohol in premises not covered by a premises licence

This part of the policy contains the key aspects of the policy which an applicant should consider before making an application for an occasional licence within West Lothian.

This part of the policy is broken down into the following 5 subsections

- 6.1 Background
- 6.2 Policy on occasional licences
- 6.3 Applications for occasional licences
- 6.4 Making objections/representations in relation to occasional licences
- 6.5 Procedure for determining occasional licence applications

6.1 Background

The Board considers that as occasional licences authorise the sale of alcohol in premises which are not otherwise licensed for periods of up to 14 days without having to go through the detailed requirements associated with an application for a premises licence, it is appropriate to have a policy setting out the terms on which such applications will normally be granted.

Applicants for occasional licences for events should be aware that they may require additional licences for their event. Since 2016 public entertainment licences have been required for any public entertainment falling within the council's resolution regardless of whether an occasional licence is in place. There is a link to the council's webpage which provides information on licences and permissions required for events at Appendix 6.

This part of the policy has been framed to ensure that applicants for occasional licences understand that they are required to uphold the licensing objectives at all times during their events. They are required to ensure that all present during the licensed hours are safe, that the event does not result in nuisance to the public or crime or disorder and that those under the age of 18 present at the event are protected from harm. The Board expects that applicants for occasional licences will have carried out a risk assessment in relation to the event and identified how any identified risks will be managed effectively.

In particular applicants for occasional licences should understand that they are responsible for all sales of alcohol which take place under those licences. The mandatory conditions which apply to all occasional licences include the following:

- restrictions on the pricing of alcohol;
- restrictions on promotions;
- restrictions on price variations; and
- age verification

A link to the mandatory conditions which apply to all occasional licences is contained in Appendix 6. The Board recognises that compliance with these conditions is a complex matter. Therefore the first local standard condition which the Board will impose on all licences (see 6.2 below) is that the licence holder must be familiar with the legal requirements of selling alcohol under the occasional licence and shall ensure that all persons selling or serving alcohol are aware of their duties and responsibilities in terms of the Licensing (Scotland) Act 2005 and any relevant regulations.

Applicants for occasional licences to sell alcohol at large events should note that West Lothian Council may convene a Safety Advisory Group (SAG) meeting to discuss particular risks which may be associated with that event. You will be contacted by the council's Events Co-ordinator if a SAG meeting is required. The email address for the Events Co-ordinator is contained in Appendix 6.

Such meetings may result in additional conditions being suggested by advisors as discussed in subsection 6.2 below. The Board expects applicants to co-operate with the SAG process and understand that any delay in that process will inevitably delay the determination of their application for a licence.

6.2 Policy on Occasional Licences

Licensed Hours for occasional licences

The Board considers that for occasional licences

- alcohol sales should start no earlier than 11am
- alcohol sales should cease at 12 midnight on Monday - Wednesday and on Sundays; and at 1am on Thursday – Saturday

Where an application requests licensed hours which are outwith these hours, the Board requires applicants to provide clear and detailed justification as to why the additional requested hours are appropriate and necessary in the particular circumstances of the event.

Application of the Protecting Children and Young Persons from Harm Objective

The Board expects applicants to recognise that there are additional responsibilities placed on them when children (aged 0-15 years) and/or young persons (aged 16 and 17 years) are allowed on the premises. Applicants must ensure that suitable and sufficient measures are in place to protect children and young persons from harm during the period of the licence.

The latest time when children and young persons will be permitted on premises licensed by way of an occasional licence will generally be 10pm, subject to the condition that they are accompanied by a responsible adult.

However, where a private function (i.e. where members of the public are admitted by invitation only) is the reason an application has been made, the Board is of the view that it is generally permissible for children and young persons to remain for the duration of the licence, provided that due regard is had by the applicant to the licensing objective of protecting children and young persons from harm and that the applicant ensures that all reasonable steps are taken to protect the children and young persons present at the event from harm.

Where an application requests access for children and young persons which is outwith the access requirements stated in the box above, the Board requires applicants to provide clear and detailed justification as to why the requested access is appropriate and necessary in the particular circumstances of the event.

Standard Local Conditions for Occasional Licences

During the policy consultation process the Board asked for comments on its proposal to attach a number of local standard conditions to occasional licences. All consultees who responded to this question were in favour of this proposal and some stakeholders suggested additional conditions which have been added to the list.

The Board will therefore attach the standard conditions contained in Appendix 3 to all occasional licences unless there is a request from the applicant that any of these conditions should be disapplied. Applicants should provide reasons in their applications as to why any of the standard conditions should not be applied.

In addition, having regard to the details in the application form and arrangements for the sale of alcohol the Board may consider it necessary to impose additional conditions in order to uphold the licensing objectives. Any proposed non-standard conditions will be notified to the applicant in order that their comments can be considered before a decision as to which conditions should be imposed will be made.

Decisions shall be taken by the Board's Convenor or the Convenor's nominee regarding the imposition of conditions following consideration of all comments received unless the applications are referred to the Board for determination by the Convenor.

6.3 Applications for occasional licences

Who can apply?

Applications can be made for occasional licences to authorise the sale of alcohol on premises which are not licensed premises. In terms of Section 56 of the 2005 Act such applications may only be made by:-

- (i) the holder of a premises licence
- (ii) the holder of a personal licence;
- (iii) a representative of any voluntary organisation

The Board notes that many issues with lodging applications for occasional licences arise from confusion as to who can make applications on behalf of the persons listed above. The Board recognises that this is a complex issue and has compiled a table which is contained in Appendix 3 to assist applicants in making competent applications.

The holders of premises licences or personal licences may make unlimited applications.

There are restrictions on the number of applications a voluntary organisation can make. In any 12 month period, the Board may not issue more than 4 licences each lasting 4 days or more, and not more than 12 licences each lasting less than 4 days; and during that period the total number of days on which occasional licences have effect must not exceed 56.

The 2005 Act does not provide a definition of what constitutes a voluntary organisation. The Board recognised that the definition of voluntary organisation contained in its previous policy required to be amended as a number of organisations who had previously been able to apply for such licences were now excluded due to changes in their legal status. Accordingly during the consultation process for this policy statement the Board proposed an alteration to the definition of voluntary organisation. Almost all consultation responses received were in favour of the change but one consultee made the point that the proposed wording required clarification. Following consideration of the responses the Board made a slight change to the original wording which had been proposed for clarification purposes.

The definition which will now be applied by the Board in considering occasional licence applications is as follows:

“Voluntary organisations are formally constituted, non-profit making bodies which consist of a group of volunteers who do not get paid or employ staff. The main aim of a voluntary organisation is to deliver social benefit in a variety of forms, rather than to generate profit for distribution to its members.”

In order for the Board to be satisfied that the applicant meets the definition, in the case of all applications from voluntary organisations the application must be accompanied by:

- a copy of the organisation's constitution, and
- a letter from the Chair or Secretary confirming that the applicant is authorised to make this application.

Applications which do not contain this information will be returned to applicants as incomplete. Applicants should note that this will cause delay and may lead to applications being unable to be processed if they remain incomplete within 35 days of the event.

How are applications made?

Applications require to be made on the most up to date version of the form which is available from the occasional licences webpage (a link to that webpage can be found at Appendix 6). Out of date versions of the form will not be accepted.

Applications should be accompanied by a completed additional information form to provide details of the event as well as a layout plan clearly showing the area to be licensed by the occasional licence. If the premises is part of a larger building the plan must make clear which area is to be licensed. If the premises does not have a postal address a plan showing the exact location of the premises must be enclosed. Plans must be submitted with each application regardless of whether previous licences have been applied for in relation to the premises. For applications which include off-sales display areas must be clearly marked on the plan.

When must applications be made?

The Board continues to be concerned at the number of occasional licence applications lodged with insufficient time to comply with the consultation periods. The Board recognises that many community events are organised and advertised well in advance and considers that if it is important that there is a licence to sell alcohol at the event there is a clear onus on the part of licence holders, other applicants and organisers of events taking place on non-licensed premises to ensure that applications are lodged in good time to allow them to be processed.

In order to allow sufficient time for processing the application and to ensure timescales are met for the requisite consultations, an application for an occasional licence must be submitted **at least 35 days prior to the date of the proposed event** with all the required information and the fee to allow it to be processed. For applications to licence open air events and temporary structures the Board recommends that applications are lodged at least 4 months prior to the event in case they need to be referred to the board for determination (see below).

Incomplete applications i.e. those which are submitted without all required information and fee cannot be processed and this will cause delay. This may ultimately lead to applications not being able to be processed at all if the application remains incomplete within 35 days of the event. Applicants should have regard to the guidance notes attached to the application forms regarding the lodging of applications.

Late applications

Late applications will only be accepted if they are for emergency and unforeseen events and a minimum of 72 hours notice must be given. Late applications must be accompanied by a completed “Emergency and Unforeseen Events” form (available to download from the occasional licence webpage, see link in Appendix 6). The form must clearly explain why the application relates to an emergency or unforeseen event.

The Board considers that funerals and events which have had to be relocated following damage to premises are examples of events which may fall within this category. An application which has been lodged late as a result of a failure by the applicant to meet the deadline or the event being organised at short notice would not be considered under this exception, unless the event was unforeseen or relocated due to an emergency.

For the avoidance of doubt the only late applications which will be processed will be those where, after the “Emergency and Unforeseen Events” form has been considered, the Board determines that the event falls into the unforeseen or emergency category as defined above. That decision will be made by the Convenor of the Board or the Convenor’s nominee under delegated powers in terms of the scheme of delegation which is attached at Appendix 5. Otherwise all other late applications will be returned to applicants with an explanation that the Board has not accepted these for processing.

Applications to licence temporary structures and open air events

The Board will not routinely grant occasional licences in respect of open air events and temporary structures. The Board will consider applications for occasional licences in respect of events involving the sale and/or consumption of alcohol within or partly within outdoor areas or temporary structures on a case by case basis.

Applicants will have to demonstrate fully how they will comply with the 2005 Act and the five licensing objectives. The area to be licensed must be capable of being completely contained to ensure only authorised access is gained.

The Board expects any outside drinking area to be clearly cordoned off with durable barriers of at least 3ft in height and that the application will detail what stewarding arrangements will be in place to ensure that alcohol is only consumed within the licensed area. Barriers should be of sufficient structure so as to be physically capable of preventing adults, children and young persons from entering and exiting the area other than via the designated entrances and exits.

During the consultation process for this policy statement, the Board proposed that all occasional licence applications in respect of open air events should be accompanied by an Alcohol Management Plan (AMP), the majority of responses were in favour of this proposal. The purpose of the AMP is to reassure the Board that applicants for occasional licences have carried out risk assessments and identified how any risks identified will be managed effectively.

Therefore the Board expects applications for this type of event to be accompanied by an AMP. Guidance on the matters the Board considers should be addressed in an AMP is attached at Appendix 2.

Applications for temporary structures and open air events which do not have an AMP accompanying the application will be referred to the Board to determine and will not be dealt with under delegated powers. The Board may require an AMP to be lodged prior to the application being determined and this will significantly delay the processing of the application.

In addition to an AMP, all applications lodged in connection with outdoor events must be accompanied by a layout plan of the event space clearly showing the area to be licensed and its location with reference to the nearest street, in order that the exact location of the area to be licensed can be determined.

6.4 Making objections/representations in relation to occasional licences

In terms of regulations made under the 2005 Act the Board must within 7 days of receipt of occasional licence applications give notice of the application to

- the Chief Constable, and
- the Licensing Standards Officer (LSO) for the area

In addition to the above notification the Board must, on the same day, publish details of the application on its website and these details are to remain on the website for a continuous period of 7 days to allow for any person other than the Chief Constable or LSO to make an objection or representation.

There are links to the regulations and to the webpage where applications are advertised in Appendix 6.

Grounds for refusal

The Board has power to refuse an application for an occasional licence on the following grounds:

- that the premises to which the application relates are excluded premises
- that the application must be refused for one of the following reasons
 - in the case of a voluntary organisation the granting of the occasional would exceed the number allowed in any period of 12 months
 - that the application would allow 24 hours a day drinking
 - that in the case of off sales it would allow sales outwith the hours of 10am to 10pm
- that granting the application would be inconsistent with one or more of the licensing objectives
- that having regard to
 - the nature of the activities proposed to be carried on in the premises
 - the location, character and condition of the premises, and
 - the persons likely to frequent the premises,

the Board considers that the premises in question are unsuitable for the sale of alcohol.

Any person may object on one of the above grounds or make a representation regarding an occasional licence application. A representation can include support for the application or

suggest conditions which the person considers should be imposed on the occasional licence.

Where the Board receives a notice of objection or representation, it must give a copy of the notice to the applicant for the occasional licence within 7 days, and must have regard to the objection or representation when determining the application.

6.5 Procedure for determining occasional licence applications

An application for an occasional licence can only be granted by the Clerk using delegated powers if there are no objections or representations from any of the Board's advisors or members of the public regarding it.

If there is any objection or representation received in relation to the application, in accordance with the Board's scheme of delegation, the application will be considered by the Board's Convener or their nominee, after the applicant has been asked for written comments on the objection or representation. The Board Convener or their nominee may either determine the application based on the all the documentation received or refer it to the Licensing Board.

If the Convener or their nominee grants the application, the occasional licence will be issued accordingly. If the application is refused the applicant will be notified along with any person who made the objection or representation. If a decision is made to refer the application to the Board, the applicant will be notified of the date and time of the Board meeting at which the application is to be considered. The applicant will be sent a copy of a report on the application and they or their representative will be given the opportunity to attend the meeting and to address the Board in support of the application. Any person who has made an objection or representation will be notified of the date and time of the Board meeting and will be given to be given the opportunity to attend the meeting and to address the Board regarding the details of their objection or representation.

In relation to applications for occasional licences the following persons may request a statement of reasons:

- the applicant
- the Chief Constable
- any Licensing Standards Officer (LSO) for the area in which the premises are situated
- any person who made an objection or representation

Statements of reason must be requested by sending a notice to that effect to the Clerk of the Board within 14 days of the decision on the application being notified. A statement of reasons must then be issued by the Clerk within 14 days.

In relation to applications for occasional licences the applicant and any person who made an objection or representation can appeal to the Sheriff Principal against the Board's decision. See the link at Appendix 6 to regulations regarding appeals.

Section 7: Members Clubs

This part of the policy relates to members clubs which operate under the special provisions contained in Section 125 of the 2005 Act

7.1 Members Clubs

Section 125 of the 2005 Act contains special provisions for certain clubs which satisfy the requirements within The Licensing (Clubs) (Scotland) Regulations 2007. In order to take advantage of the special provisions each club must be non-profit-making with a written constitution and rules covering a number of specific requirements in the regulations. The key difference between a members club and other licensed premises is that non-members cannot be supplied with alcohol unless they are invited by a member and are accompanied by that member or are a member of another similar club (unless an occasional licence is in effect). Any club in submitting an application for a premises licence should submit a copy of its current constitution and supply the Board with a copy of any revised constitution within 14 days of any changes to the constitution.

As qualifying members clubs enjoy certain privileges such as reduced fees and no requirement to have a premises manager they are restricted in their operation and cannot operate freely like other premises. Clubs should give careful consideration to this when advertising events within the club to the general public. Any such events must be run for the benefit of the club and be covered by an occasional licence if they are to be open to the public and not restricted to members and their guests. Some clubs have chosen to vary their licences to be able to sell alcohol to the public. The LSO can provide guidance regarding this.

The Board notes that there is no definite answer to the question of how many people a member can sign in if this is not provided for in the constitution. The Board expects that in these circumstances the natural limit would be the number of people that the member can reasonably accompany. It is not acceptable for example for members to sign a blank visitors' book and leave anyone and everyone to simply sign their names underneath. The entries within the book should be clearly legible and should include the full name of the member accompanying the visitor, the member's signature, the visitor's name and full address. If a member is inviting a guest the Board would expect that the member should know everyone who he is signing in and accompany them during their time within the club. The club shall maintain a register of those people admitted to the premises as members of other registered clubs

Following their Annual General Meeting each year clubs are required to provide the Clerk of the Board with an updated list of office bearers, their addresses and telephone numbers within 14 days. Only current office bearers are able to make applications for extended hours or occasional licences on behalf of the club so it is important that the Board has up to date information in this regard.

Clubs must also ensure their membership list, constitution, accounts and entry book are available for inspection by an LSO and officers of Police Scotland at all reasonable times.

If a complaint is made about a club not operating in accordance with their constitution the Board may after investigating the complaint undertake a review of the licence which could result in the licence being suspended or revoked.

Section 8 – Related Strategies/Contacts

In formulating this policy the Board had regard to the strategies listed below as well as all the comments and evidence obtained as part of the consultation exercises.

In particular the Board consulted on what improvements could be made to the policy in relation to transport issues. The only issues raised related to an need to increase late night travel options and protect residents parking areas from being used by patrons of licensed premises. The Board recognised that it did not have power to resolve these issues.

The Board also consulted on suggested improvements to the policy to assist tourism. Many suggestions made such as encouraging family friendly premises, increasing the terminal hour for outside areas for children and young persons to 9pm and encouraging high standards of health and safety and accessibility have been included in this policy.

It was suggested that

- the Board should only grant licences where premises offered food in addition to alcohol;
- the Board should look favourably on any applications which presented a clear opportunity to increase tourism in the area; and
- licences should only be granted if there was “ a gap in the market” .

The Board recognised that in view of the limited grounds for refusal and the lack of evidence to support an overprovision policy it did not have power to include these matters within the policy.

In relation to equalities there is information about the consultation responses regarding this at subsection 2.1.

Links to Strategies

West Lothian Local Outcome Improvement Plan -

<https://www.westlothian.gov.uk/article/3893/Local-Outcomes-Improvement-Plan>

West Lothian Health and Social Care Partnership Strategic Plan

<http://www.westlothianhsc.org.uk/IJB-strategic-plan>

Scotland’s Alcohol Strategy

www.gov.scot/Topics/Health/Services/Alcohol

West Lothian ADP (Alcohol and Drug Partnership) webpage to request a copy of the ADP

Delivery Plan: <http://www.westlothianhsc.org.uk/article/4061/West-Lothian-ADP>

The Integrated Joint Board who the ADP report to: <http://www.westlothianhsc.org.uk/hsci>

Scotland’s National Action Plan for Human Rights (SNAP)

<http://www.snaprights.info/what-is-snap>

Equality and Human Rights Commission – Guidance: www.equalityhumanrights.com/en/advice-and-guidance

Visit West Lothian

<https://visitwestlothian.co.uk/>

West Lothian Council – travel and transport: <https://www.westlothian.gov.uk/travel-and-transport>

Appendix 1: List of Consultees

- West Lothian Alcohol Licensing Forum
- West Lothian Council, Chief Executive
- NHS Lothian
- Community Councils
- Chief Constable
- Scottish Fire and Rescue Service
- Alcohol Focus Scotland
- All Premises Licence Holders within West Lothian
- All Licensing agents who regularly make applications
- West Lothian Alcohol and Drug Partnership
- The Scottish Licensed Trade Association
- Scottish Beer and Pub Association
- Scottish Prison Service
- Health & Social Care Partnership
- West Lothian Drug and Alcohol Service
- West Lothian Chamber of Commerce
- Local Tourist Board
- West Lothian Voluntary Sector Gateway
- VOCAL West Lothian
- Local Pubwatch Schemes
- Local Area Committees
- Senior Peoples Forum
- West Lothian College
- SLLP (Scottish Licensing Law and Practice)
- Scottish Grocer's Federation (SGF)
- Security Industry Authority (SIA)

Appendix 2: Guidance Regarding Alcohol Management Plans

The Board requires all applicants for occasional licences for events involving the sale and or consumption of alcohol within or partly within outdoor areas to enclose with their applications an Alcohol Management Plan which provides details of the following matters -

1. The maximum number of persons to be at the event and whether tickets are to be sold or persons can pay on entry.
2. Information as to whether children (0-15 years) and young persons (aged 16 and 17) will be in attendance at the event and if so a statement of steps being taken to uphold the licensing objective relating to the protection of children and young persons from harm and an indication of how many attendees are likely to be aged under 18.
3. The level of training of staff and numbers of trained staff who will be present.
4. Stewarding arrangements including how many stewards will be volunteers and how many will be SIA licensed.
5. Details of how outside drinking areas will be cordoned off. See Section 6.3.
6. Any special arrangements for the operation of bars e.g. use of plastic glasses and restrictions on the purchase of alcohol.
7. Details of how persons will be prevented from bringing alcohol into the event area and taking purchased alcohol out of the event area.
8. First Aid arrangements, including how many first aiders will be present.

Appendix 3: Occasional Licence Applications and Standard Local Conditions

Who can submit applications?

Applicant Type	Who can sign as Applicant?	Who can sign as Agent?
Premises Licence holder is an individual	If you sign the application as applicant you must be the individual named as the premises licence holder	If you sign the application as agent you will require written authority from the individual named as premises licence holder to make the application on their behalf
Premises Licence holder is a partnership or a company	If you sign the application as the applicant you must be named as a connected person* in terms of the partnership or company that holds the premises licence	If you sign the application as agent you will require written authority from a connected person* in terms of the partnership or company that holds the premises licence
Premises Licence (Club)	If you sign the application as applicant you must be named as a connected person* in terms of the premises licence holder	If you sign the application as agent you will require written authority from a connected person* in terms of the premises licence holder
Personal Licence	If you sign the application as applicant you must be the holder of the personal licence the occasional licence is being applied under	If you sign the application as agent you will require written authority from the holder of the personal licence
Voluntary Organisation	If you sign the application as applicant you must be an office bearer of the organisation and provide <ul style="list-style-type: none"> • a copy of the constitution of organisation, and • written authority from either the Chair or Secretary of the voluntary organisation in question to make the application on their behalf 	If you sign the application as agent you will require written authority from either the Chair or Secretary of the voluntary organisation in question to make the application on their behalf and provide a copy of the constitution of organisation

* Section 147 of the 2005 Act defines connected persons as follows;

- in the case of a partnership, a partner
- in the case of a company, a director or has control of the company
- in the case of a Club, is an office bearer of the Club
- in any other case, is concerned in the management or control of the body

STANDARD LOCAL CONDITIONS FOR OCCASIONAL LICENCES

In accordance with Section 6 of this policy the Board will impose the following conditions will on the granting of occasional licences unless the Convenor, the convenor's nominee or the Board determines that they should not be applied:

1. The holder of the occasional licence must be familiar with the legal requirements of selling alcohol under the occasional licence and shall ensure that all persons selling or serving alcohol are aware of their duties and responsibilities in terms of the Licensing (Scotland) Act 2005 and any relevant regulations.
2. In respect of occasional licences granted for the sale of alcohol solely for consumption off the premises, alcohol must only be displayed in accordance with the areas identified on the accompanying layout plan.
3. The licence holder shall ensure that there are sufficient measures in place to ensure that persons leaving the premises to smoke behave in a quiet and orderly manner so as to prevent any public nuisance.
4. The licence holder is required to have signs to be displayed in a suitable place (to ensure they can be easily read by persons purchasing alcohol) within the premises outlining the conditions of the licence, and that signage should refer to :
 - a) The 'Challenge 25' requirements. (A downloadable version of a suitable poster is available in the premises pack on the occasional licence webpage via the link at Appendix 6).
 - b) The times during which alcohol will be sold as stated in this licence.
 - c) The Drinkaware "DrinkCompare calculator". (A downloadable version of this poster is available in the premises pack on the occasional licence webpage via the link at Appendix 6).
5. Any music or live performance must cease at least fifteen minutes prior to the time when sales of alcohol are required to end as stated in this licence.
6. The licence holder shall ensure that all reasonable requests made by Police Scotland or council Officers are complied with to include terminating any music or live performance where
 - noise is seriously impacting on the amenity of neighbouring noise sensitive premises, and
 - informal intervention has so far failed to resolve the problem satisfactorily.
7. The licence holder must ensure that the premises are not overcrowded. In assessing this the capacity of the premises shall not exceed the figure calculated in accordance with the Technical Annex referring to occupancy capacity of premises contained within the document entitled "Practical Fire Safety Guidance for Places of Entertainment and Assembly" issued by the Scottish Government and available on the Scottish Government's website or any replacement document.

8. The licence holder shall ensure that the point of contact named in the application shall be present throughout the event to liaise with any relevant official should the need arise.
9. If the licence holder has stated in the application for this licence that there will be a curfew then the following curfew will apply :
 - No one shall be permitted entry to the event after <insert curfew time stated in application>.
10. If the licence holder has stated in the application for this licence that there will be a first aider present the following condition will apply:
 - The licence holder will ensure that a person trained in administering first aid is present on the premises during the event until all attendees have dispersed.
11. If the licence holder has stated in the application for this licence that there will be a specific number of stewards present on the premises the following condition will apply:
 - The licence holder shall ensure that (a) there are a minimum of <insert number> stewards (licensed by the SIA if appropriate) working at all times during the event until all attendees have dispersed, and (b) stewards are clearly identified by badges, armbands or a recognisable uniform.
12. If the licence holder has stated in the application for this licence that there will be children and young persons (aged 0-17 years) present on the premises the licence holder will ensure that children and young persons are accompanied by a responsible adult and that they do not remain within the premises after 10pm unless it is a private family event (i.e. where members of the public are admitted by invitation only). If the licence holder has stated in the application for this licence that there will be no children and young persons (aged 0-17 years) present on the premises the licence holder will ensure that this is the case.
13. The licence holder shall ensure that staff, committee members or stewards working within the premises during the event do not consume alcohol at the premises either during or at the conclusion of the event.
14. Bar staff must carry out regular checks of the premises to ensure that all empty glasses and bottles are collected.
15. The licence holder shall ensure that no alcohol purchased in the licensed area is allowed to be taken out of the licensed area.
16. The licence holder shall take all reasonable steps to ensure that noise from the premises is not audible outwith the premises so as to prevent public nuisance.

Appendix 4: Police Scotland Suggested Drugs Policy for Licensed Premises

Everyone in every community has a part to play in tackling drug misuse. It is important to tackle the 'drug problem' and to ensure that licensed premises in West Lothian remain 'drug free'. Illegal substance must not be allowed to be supplied or consumed within licensed premises.

The contents of this Drug Policy should allow all staff employed in licensed premises to have a better understanding of the law in relation to drugs and drug related incidents. It will provide systems and procedures to ensure that all drugs related incidents are dealt with consistently and safely.

We will work towards achieving this through:

- communication with our customers;
- providing our employees with guidance, information, training and procedures to assist them in identifying drugs, the effects of taking them and appropriate action;
- complying with our legal responsibilities;
- working closely with local authorities and Police Scotland.

Classes of Drugs

The Misuse of Drugs Act 1971, classifies drugs as follows:

Class 'A'

Includes Cocaine, Crack Cocaine, Heroin, Ecstasy (powdered and crystal MDMA), Cannabis Oil (Class B) and LSD

Class 'B'

Includes Cannabis, Cannabis resin, Cannabis Shatter (Honey Butane Oil), Amphetamine, M-Kat and Ketamine.

Class 'C'

Generally tend to be prescribed drugs which are abused, the most popular include Temazepam, Diazepam, Steroids, Etizolam, Alprazolam (Xanax).

The Law

The Misuse of Drugs Act 1971 creates a number of offences to control the misuse of illegal drugs. It is not an offence to possess Steroids, Dihydrocodeine or New Psychoactive Substances (NPS).

Common Offences Possession

It is an offence for a person to have a controlled drug in his/her possession.

Possession with Intent to Supply

It is an offence for a person to have a controlled drug in his/her possession whether lawfully or not with intent to supply it to another.

Supply

It is an offence for a person to supply or offer to supply a controlled drug to another person.

Concerned in the Supply

It is an offence for a person to be concerned in the supply of a controlled drug to another person.

Section 8 of the Misuse of Drugs Act 1971

It is the responsibility of the licensee and staff of licensed premises to prevent drug dealing and the use of controlled drugs within licensed premises.

To knowingly permit or suffer any drug related activity on the premises is an offence.

Searching

All licensees should introduce the use of searches as a condition of entry to their premises.

Signs required to be clearly displayed regarding this and a 'Zero Tolerance' Policy in relation to drugs within licensed premises.

Power of Search

Only the Police have power to search people without their consent.

Can a customer wishing to enter the premises be searched?

Yes, if it is clearly advertised as a condition of entry that customers are required to allow a search of their person.

Searches can only take place with the permission of the person concerned. A witness should always be present during any search to provide corroboration and prevent any allegations. If they decline to be searched, entry can be refused.

Always remember your rights to refuse entry or to ask someone to leave your licensed premises. If an individual refuses, the Police should be contacted for assistance.

What can be searched?

The search should be restricted to outer clothing or pockets and should include bags etc. Great care must be taken whenever you are searching a person in relation to drugs. Never put your hand straight into someone's pocket without first asking the person if they have any sharp objects and patting the outside of the pocket. It may be preferable to ask the person to empty their own pockets and show you the contents. You should then ask if the pocket is empty and pat it from the outside. This may be sufficient to establish if there is anything in the pocket. Great care must be taken so that an exposed needle for example, does not cause injury. You should also ask the individual to empty any bags and watch carefully whilst this is done. Again this may be sufficient to establish whether any drugs are present. Obviously if the premises in which you are, are particularly busy, you do not want to take too long to carry out your search. Thoroughness should not however be sacrificed for speed. You should attempt to put your customer at ease and make them as comfortable as possible in these circumstances.

Can a customer within the premises be searched?

Yes, however, it is not recommended. If a customer is searched prior to entry, there should be no need to do a further search. However, if it is still felt necessary to carry out a further search once on your premises, a sign should be clearly displayed setting out the Search Policy. It is of vital importance that licensees and staff are aware of the limitations on their power of search. Searches can only take place with the permission of the person concerned to be searched. The search should not take place in a public area of the premises. Again, corroboration during searches is essential.

If the individual does not agree to a search, you have no legal powers to do it. If a subject withdraws consent during a search, you have no legal powers to continue, you must stop immediately and consider contacting the Police. Again you also have the right to require someone to leave your licensed premises.

Can a male search a female?

No. A male should only search a male and a female should only search a female to prevent allegations of indecency/sexual assault. A witness should always be present to provide corroboration and help to prevent any allegations. The witness can be either male or female. If possible, carry out the search within the range of CCTV cameras if you have them.

What to do if drugs are found whilst searching a customer?

The person who has agreed to being searched and who has agreed to remain with you must be handed over to the Police as soon as possible. However, you have no power to force them to remain with you. If you find something which you think is a controlled substance, you should keep this safe and contact the Police immediately.

Can force be used to search a customer?

No. The customer must always grant permission to be searched. There are no circumstances in which force may be used to carry out the search.

Power of Detention

You have no power to detain a person for offences under the Misuse of Drugs Act 1971. The person(s) must agree to remain with you and must be handed over to the Police as soon as possible. If a person commits a Common Law offence such as an assault on a customer or member of staff, or is committing a Breach of the Peace on the premises, then he/she can be detained but only for the Common Law offence. Again the Police should be notified as soon as possible.

Drugs Seized or Found on the Premises

If you find anything that appears to be an illegal drug, put it in a plastic bag or envelope and seal it: This must be signed by the finder and witnessed by another member of staff; Enter the details of the drugs found in the appropriate drugs register; If any member of staff or management finds drugs on the premises, they must immediately inform the most Senior Manager on duty. The Police must be advised at the earliest opportunity (be cognisant of the statutory defence under MDA 1971 and the requirements to comply).

Drugs Information

Do not automatically think that because you know, the Police will know too. The Police can only act if they have information/intelligence to act upon. YOUR information may be the key to success. If you have any information about drug activities you should notify the Police immediately.

Be aware of NPS legislation (not an offence to possess). Persons might use NPS packaging to hold controlled drugs therefore any such item recovered/seized should be treated as if it were a controlled substance.

Appendix 5: Scheme of Delegation

Number	Function delegated	Convenor / Convenor's nominee	Clerk of the Board
	LSO reports		
1	Power to request a report from the Licensing Standards Officer in relation to any application made under the 2005 Act		✓
	Functions/Financial reports		
2	Preparation and publication of an Annual functions report under section 9A(1) of the 2005 Act including the power in section 9A(4) of the Act to request such information from the council as the Board may reasonably require for the purpose of preparing the said report.		✓
3	Preparation and publication of an Annual financial report under section 9B(1) of the 2005 Act including the power in section 9B(4) of the Act to request such information from the council as the Board may reasonably require for the purpose of preparing the said report.		✓
	Antisocial behaviour report		
4	A decision to request the Chief Constable for an antisocial behaviour report under section 24A.	✓	
	Minor variation applications		
5	Determination of applications for minor variations under sections 30 and 31 of the 2005 Act.		✓
	Transfer applications		
6	Determination of applications for transfer of premises licences under section 33 or section 34 of the 2005 Act where the Board has received a notice from the Chief Constable stating that neither the transferee nor any connected person has been convicted of any relevant or foreign offence and containing no recommendation that it is necessary for the purposes of any of the licensing objectives that the application be refused.		✓
7	Determination as to whether an application for transfer of a premises licence made under section 34 of the 2005 Act (application for transfer made by someone other than the licence holder) is competent	✓	
	Reviews		
8	Decisions as to whether to reject any premises licence review application under section 36(6) of the 2005 Act which the Clerk to the Board brings to the Convenor's attention as potentially being vexatious or frivolous or potentially not disclosing any matter relevant to any ground of review.	✓	
9	Decision to make a premises licence review proposal under section 37 of the 2005 Act	✓	

Number	Function delegated	Convenor / Convenor's nominee	Clerk of the Board
10	Arrangement of hearings under section 38 of the 2005 Act in relation to premises licence review applications which are not referred to the Convenor as being potentially vexatious or frivolous, or potentially not disclosing any matter relevant to any ground for review.		✓
11	Exercise of the power in section 39B(3) of the 2005 Act to extend the 28 day period pending the determination of a relevant application.		✓
	Notice of conviction of premises licence holder		
12	Decision on whether to make a premises licence review proposal or take no further action under section 44(7A) of the 2005 Act.	✓	
	Provisional premises licences		
13	Granting of applications for confirmation of provisional premises licences under section 46 of the 2005 Act where the Clerk of the Board is satisfied under section 46(4) of the 2005 Act that since the provisional licence was issued or if, since that time, an application for variation of the licence has been granted under section 30 of the 2005 Act, since the last such application was granted, there has been no variation (other than a minor variation) made to the operating or layout plan for the premises.		✓
14	Determination of applications for extension of provisional premises licences under section 45(7) of the 2005 Act by such period as the Convenor considers appropriate, if satisfied that completion of the construction or conversion of the premises to which the licence relates has been delayed, and the delay has been caused by factors outwith the licence holder's control.	✓	
	Variation to remove premises manager		
15	Variation of a premises licence so that there is no longer any premises manager specified in the licence: (a) under section 54(6) of the 2005 Act; or (b) when evidence has been received by the Board that the premises manager has not worked at the premises for over 7 days	✓	
	Occasional licences / extended hours applications		
16	Refusing an application for an occasional licence in terms of section 56(6)	✓	
17	Deciding whether late applications for occasional licences and extended hours should be accepted for processing after consideration of an Emergency or Unforeseen Events form	✓	

Number	Function delegated	Convenor / Convenor's nominee	Clerk of the Board
18	<p>Granting of applications for occasional licences under sections 59 and 60 of the 2005 subject to the Board's standard conditions for occasional licences where:</p> <ul style="list-style-type: none"> • the Board has not received any report from a Licensing Standards Officer under section 57(3) of the 2005 Act, and • the Board has not received any notice of objection or representation under section 58(1) of the 2005 Act, and • the hours sought are outwith the licensed hours permitted in the Board's policy and • the sections of the 2005 Act referred to in section 59 under which the application must be refused do not apply, and • the applicant has not requested that any of the Board's standard conditions are disapplied 		✓
19	<p>Determination of applications for occasional licences under section 59 of the 2005 Act where:</p> <ul style="list-style-type: none"> • the Board has received any notice of objection or representation under section 58(1) of the Act; or • the Board has received a report from a Licensing Standards Officer under section 57(3) of the 2005 Act; or • the applicant has made adverse comments regarding any licence conditions proposed by the policy or otherwise; or • the hours sought are outwith the licensed hours permitted in the Board's policy 	✓	
20	<p>Determination of extended hours applications under section 70 of the 2005 Act where</p> <ul style="list-style-type: none"> • the hours applied for in the application are within the licensed hours permitted in the Board's policy, and • no notice of objection has been received from the Chief Constable under section 69(2) of the 2005 Act; and • the applicant has not made any adverse comments on any licence conditions proposed by the Licensing Standards Officer in a report provided under section 69(3) of the 2005 Act. 		✓

Number	Function delegated	Convenor / Convenor's nominee	Clerk of the Board
21	Determination of extended hours application under section 70 of the 2005 Act where <ul style="list-style-type: none"> • a notice of objection has been received from the Chief Constable under section 69(2) of the 2005 Act; or • the applicant has made any adverse comments on any licence conditions proposed by the Licensing Standards Officer in a report provided under section 69(3) of the 2005 Act; • or the hours sought are outwith the licensed hours permitted in the Board's policy 	✓	
Personal licence applications			
22	Granting of applications for personal licences under section 74 of the 2005 Act and renewal of personal licences under section 78 of the 2005 Act where <ul style="list-style-type: none"> • the relevant conditions referred to in section 74(2) of the 2005 Act are met; • and the Board has received a notice from the Chief Constable stating that, so far as they are aware, the applicant has not been convicted of any relevant or foreign offence, and containing no recommendation that it is necessary for the purposes of any of the licensing objectives that the application be refused. 		✓
23	Determination of applications for personal licences (including renewals) under section 74 and 78 of the 2005 Act where the relevant terms of paragraph 22 above are met and any issue arises regarding the personal licence training certificate(s) held by the applicant.	✓	
24	Determination of applications for personal licences under section 74 of the 2005 Act where the relevant terms of paragraph 22 above are met and a personal licence held by the applicant has either expired or was surrendered within the period of 3 years ending on the day on which the application was received.	✓	
25	Decision on whether to hold a hearing or take no further action under section 83(7A) of the 2005 Act.	✓	
26	Decision on whether to hold a hearing in relation to a report received from a Licensing Standards Officer under section 84B of the 2005 Act	✓	

Number	Function delegated	Convenor / Convenor's nominee	Clerk of the Board
27	Revocation of personal licences under section 87(3) of the 2005 Act due to the licence holder not having complied with the training requirements prescribed in section 87(1) of the 2005 Act.	✓	
28	Carrying out the duties in section 89 of the 2005 Act, where they are capable of being delegated by the Board in terms of paragraph 10 of Schedule 1 of the 2005 Act, to amend personal licences following on from the occurrence of events specified in section 89 of the Act.		✓
29	Exercise of the power under section 89(8) of the 2005 Act to require a holder of a personal licence to produce it to the Board within 14 days of the notification of the requirement on the licence holder.		✓
29	Exercise of the power contained in section 135 of the 2005 Act to relieve any applicant or other party to proceedings before the Board of any failure to comply with any procedural provision if the failure is due to mistake, oversight or other excusable cause when considered appropriate to relieve the failure	✓	

Appendix 6 – Web Links/Contacts

West Lothian Licensing Board's landing page from which all other alcohol licensing webpages can be accessed.

<https://www.westlothian.gov.uk/article/2011/Alcohol-Licences>

Section 1 links

1.4

West Lothian Council Licensing Standards Officer:

<https://www.westlothian.gov.uk/article/3705/Licensing-Standards-Officer-LSO>

1.5

West Lothian Local Licensing Forum webpage:

<https://www.westlothian.gov.uk/wl-licensing-forum>

Section 2 links

2.1

Functions report:

https://www.westlothian.gov.uk/media/21219/West-Lothian-Licensing-Board-Functions-Report-2017-18/pdf/Functions_Report_2017-18.pdf

Financial report:

https://www.westlothian.gov.uk/media/21220/West-Lothian-Licensing-Board-Financial-Report-2017-18/pdf/Financial_Report_2017-18.pdf

Minutes of Board meetings:

<http://coins.westlothian.gov.uk/coins/committee.asp?bodyid=17&bodytitle=West+Lothian+Licensing+Board>

Board rules:

<https://www.westlothian.gov.uk/media/1043/West-Lothian-Licensing-Board-Rules/pdf/boardrules.pdf>

Links to Board's Mainstreaming Report and Outcome Plan:

https://www.westlothian.gov.uk/media/1040/Licensing-Board-Mainstreaming-Report-and-Outcome-Plan-2017-2021/pdf/Licensing_Board_Mainstreaming_Report_and_Outcome_Plan_2017-2021.pdf

2.2

Link to licensing register regulations -SSI 2007/33 and SSI 2018/267

http://www.legislation.gov.uk/ssi/2007/33/pdfs/ssi_20070033_en.pdf

http://www.legislation.gov.uk/ssi/2018/267/pdfs/ssi_20180267_en.pdf

2.3

Premises Licence (Scotland) Regulations 2007 (SSI 2007/452):

http://www.legislation.gov.uk/ssi/2007/452/pdfs/ssi_20070452_en.pdf

2.4

Neighbour notification, Procedure Regulations SSI 2007/453:

http://www.legislation.gov.uk/ssi/2007/453/pdfs/ssi_20070453_en.pdf

Board webpage where adverts for current applications are displayed:

<https://www.westlothian.gov.uk/article/3075/Adverts-for-Current-Alcohol-Licence-Applications>

Regulation regarding appeals SSI 2010/416:

http://www.legislation.gov.uk/ssi/2010/416/pdfs/ssi_20100416_en.pdf

Personal licence webpages:

- <https://www.westlothian.gov.uk/article/3085/Personal-Licence>
- <https://www.westlothian.gov.uk/article/2820/Personal-Licence-Refresher-Training>
- <https://www.westlothian.gov.uk/article/31097/Renewing-Your-Personal-Licence>

Board webpage on personal licences:

<https://www.westlothian.gov.uk/article/3085/Personal-Licence>

Board webpage on refresher training:

<https://www.westlothian.gov.uk/article/2820/Personal-Licence-Refresher-Training>

Board webpage on personal licence renewal:

<https://www.westlothian.gov.uk/article/31097/Renewing-Your-Personal-Licence>

Regulation regarding appeals SSI 2010/416:

http://www.legislation.gov.uk/ssi/2010/416/pdfs/ssi_20100416_en.pdf

Guidance to making an objection or representation:

https://www.westlothian.gov.uk/media/1026/Objections-or-Representations/pdf/How_To_Object_To_Or_Make_A_Representation_Regarding_A_Premises_Licence_Application_Or_Premises_Licence.pdf

Regulation for objection and representation timescales:

http://www.legislation.gov.uk/ssi/2007/453/pdfs/ssi_20070453_en.pdf

2.5

Regulation regarding appeals SSI 2010/416:

http://www.legislation.gov.uk/ssi/2010/416/pdfs/ssi_20100416_en.pdf

Section 3 links

3.1

Premises Licence (Scotland) Regulations 2007 (SSI 2007/452):

http://www.legislation.gov.uk/ssi/2007/452/pdfs/ssi_20070452_en.pdf

3.5

[SFRS Guide on Fire Safety](#)

https://www.firescotland.gov.uk/media/1173445/sfrs_advice_on_fire_safety.pdf

Guide to “practical fire safety guidance” on capacity:

<https://www.gov.scot/Resource/0041/00418076.pdf>

Premises Licence (Scotland) Regulations 2007 (SSI 2007/452):

http://www.legislation.gov.uk/ssi/2007/452/pdfs/ssi_20070452_en.pdf

3.7

West Lothian Council webpage regarding permits for use of the public road/footway:

<https://www.westlothian.gov.uk/article/22651/Tables-and-Chairs-permit-application-and-conditions---Section-59>

3.8

Disability Access Facilities Statement, Scottish Government non-statutory guidance:

<https://beta.gov.scot/publications/licensing-scotland-act-2005-guidance-completing-disabled-access-facilities-statement/>

Equality and Human Rights Commission webpages:

<https://www.equalityhumanrights.com/en/advice-and-guidance>

3.9

West Lothian Council Environmental and Trading Standards webpage:

<https://www.westlothian.gov.uk/environmental-health>

Section 4 links

4.1

Guidance regarding the role of premises manager and associated legal requirements:

<https://www.westlothian.gov.uk/article/3394/Designated-Premises-Manager-DPM>

4.5

Application forms:

<https://www.westlothian.gov.uk/article/3064/West-Lothian-Licensing-Board>

4.6

Extended Hours application form:

<https://www.westlothian.gov.uk/article/3062/Extended-Hours>

[Emergency and Unforeseen Circumstances form:](#)

<https://www.westlothian.gov.uk/media/1035/Extended-Hours--Occasional-Licences---Emergency--Unforeseen-circumstances-form/pdf/UnforeseencircumstancesformSept2017.pdf>

4.8

Email address for West Lothian Council's Events Co-ordinator:

Events.Westlothian@westlothian.gov.uk

4.11

West Lothian Council Environmental Health and Trading Standards webpage:

<https://www.westlothian.gov.uk/environmental-health>

4.12

Chief Medical Officer's safer drinking guidelines:

<https://www.gov.scot/Topics/Health/Services/Alcohol/safer-drinking>

Drinkaware campaign:

<https://www.drinkaware.co.uk/>

4.14

Sections of the 2005 Act relevant to delivery of alcohol:

Section 104A:

<http://www.legislation.gov.uk/asp/2005/16/section/104A>

Section 108:

<http://www.legislation.gov.uk/asp/2005/16/section/108>

Section 119:

<http://www.legislation.gov.uk/asp/2005/16/section/119>

Section 120:

<http://www.legislation.gov.uk/asp/2005/16/section/120>

Section 5 Links

5.1

Premises licence review webpage:

<https://www.westlothian.gov.uk/article/12080/Premises-Licence-Review>

Board rules:

<https://www.westlothian.gov.uk/media/1043/West-Lothian-Licensing-Board-Rules/pdf/boardrules.pdf>

Regulation regarding appeals SSI 2010/416:

http://www.legislation.gov.uk/ssi/2010/416/pdfs/ssi_20100416_en.pdf

Section 6 Links

6.1

Public Entertainment Licences and Permissions webpage:

<https://www.westlothian.gov.uk/article/2012/Entertainment>

Link to list of mandatory conditions (needs to be published on website first)

West Lothian Council occasional licence page:

<https://www.westlothian.gov.uk/article/2958/Occasional-Licence>

Email address for West Lothian Council's Events Co-ordinator:

Events.Westlothian@westlothian.gov.uk

[Emergency and Unforeseen Circumstances form:](#)

<https://www.westlothian.gov.uk/media/1035/Extended-Hours--Occasional-Licences---Emergency--Unforeseen-circumstances-form/pdf/UnforeseencircumstancesformSept2017.pdf>

Board webpage where adverts for current applications are displayed:

<https://www.westlothian.gov.uk/article/3075/Adverts-for-Current-Alcohol-Licence-Applications>

Regulation for objection and representation to occasional licences:

http://www.legislation.gov.uk/ssi/2007/453/pdfs/ssi_20070453_en.pdf

Regulation regarding appeals SSI 2010/416:

http://www.legislation.gov.uk/ssi/2010/416/pdfs/ssi_20100416_en.pdf