

Minute

Orkney Local Licensing Forum

Monday, 21 August 2023, 10:00.

Committee Room 1, Council Offices, School Place, Kirkwall.



Present

- Representative of Holders of Premises Licences and Personal Licences:
 - Malcolm Stout.
- Representative of Persons having functions relating to Health, Education or Social Work:
 - Sara Lewis (via Microsoft Teams).
- Representatives of Persons Resident within the Forum's Area:
 - Barry Cockerham.
- Licensing Standards Officer:
 - Nick Blowfield.
- Representative of the Chief Constable of Police Scotland:
 - Chief Inspector Scott Robertson.
- Representative of Scottish Fire and Rescue Service:
 - David McGroarty, Group Commander (via Microsoft Teams).

Clerk

- Hazel Flett, Service Manager (Governance), Orkney Islands Council.

In Attendance

- Orkney Islands Council:
 - Elaine Sinclair, Legal Clerk.
- Danny Gall, Scottish Fire and Rescue Service.

Observing

- Orkney Islands Area Licensing Board:
 - Kristopher D Leask and Duncan A Tullock (for Items 1 to 4).

Apologies

- Representative of Holders of Premises Licences and Personal Licences:
 - Jean Tulloch.
 - Kelly-Marie McGuigan.

- Representatives of Persons Resident within the Forum's Area:
 - Angela Chambers.
 - Andy McGinn.
 - Bob Mackenzie.

Chair

- Hazel Flett, Service Manager (Governance), Orkney Islands Council (for Item 1).
- Barry Cockerham (for Items 2 to 9).

1. Introduction and Apologies

The Service Manager (Governance), Orkney Islands Council, welcomed everyone to the meeting, and advised that both the Convener and the Depute Convener had intimated their apologies. Accordingly, she asked for nominations for a Chair for this meeting only.

The Forum resolved that Barry Cockerham be appointed Chair for this meeting only.

Barry Cockerham took the Chair for the remainder of the meeting.

2. Minute of Previous Meeting

There had been previously circulated the draft Minute of the Meeting of the Licensing Forum held on 21 April 2023.

The Forum resolved to approve the Minute of the Meeting of the Licensing Forum held on 21 April 2023 as a true record.

3. Matters Arising

3.1. Orkney Street Pastors – Stromness Shopping Week

Barry Cockerham advised that Orkney Street Pastors had one team out patrolling on the Saturday night of Stromness Shopping Week which took priority and therefore there were no patrols in Kirkwall. It was a very different experience from patrolling in Kirkwall, with an ambulance called to one member of the public with a puncture wound to a leg. The Shopping Week marshals had to be admired in that they regularly swept up crushed cans, while the Street Pastors dealt with broken glass and bottles. All in all, it was a good humoured evening, with no adverse events.

Chief Inspector Scott Robertson referred to the invaluable assistance provided by the Street Pastors which was definitely worthwhile from a policing perspective.

3.2. Membership of Forum – Young People

Nick Blowfield advised that he had spoken to the youth representative within Orkney Islands Council and agreed that, rather than a young person being appointed to the Forum, it would be preferable to appoint a representative who could collate the thoughts of young people. There were concerns that appointing a young person could be seen as a "tick box exercise" and that their views may not be valued or heard. Also, without knowing dates of future meetings, they were unsure of the commitment required. Nick Blowfield

asked for the membership form to be provided and stated that he would arrange for the “Jobs for the Forum”, discussed at the previous meeting, to be shared with the youth representative.

Barry Cockerham advised that, as a representative of the Street Pastors, he felt that his views were listened to and that any points he put forward were valued. The Forum was not all “official” representatives, and a youth voice would be a useful addition.

3.3. Chief Constable’s Annual Report

The Legal Clerk, Orkney Islands Council, advised that she had very recently received the Chief Constable’s Annual Report which she would forward to the Clerk for distribution.

As this was his first meeting of the Forum since his appointment, the Clerk introduced Chief Inspector Scott Robertson and advised that the Forum had previously received short updates from various representatives on their work as it related to licensing matters.

Chief Inspector Robertson commented that all licensed premises in Orkney were well run with very little complaints from the public. His colleagues regularly spoke to the local Street Pastors, which was also his previous experience in West Lothian, where good relations were in place with the Street Pastors. Regarding the recent local show week, again, incidents on or near licensed premises were very low, with increased numbers of police officers on patrol, as a visual presence often helped maintain order.

3.4. Regular Report from Health Board

As with Police Scotland above, Sara Lewis, who was deputising for Dr Louise Wilson, asked what type of information the Forum would like to see reported from the local health board. She mentioned the ongoing discussion regarding minimum unit pricing for alcohol.

Nick Blowfield suggested that members consider what information they would like to receive from the health board going forward.

3.5. Guidance on Local Licensing Forums

Nick Blowfield thanked the Clerk for distilling the “Jobs for the Forum” into an easy read template.

3.6. Police Presence at Bridge Street/Harbour Street

Barry Cockerham provided some background information on the request made at the last meeting, in that, when Fusion was in operation, Police Scotland often had three cars watching at the three main junctions. However, things had now moved on to the junction of Bridge Street, with Shore Street and Harbour Street, often with no police presence or just a patrol car passing through.

Chief Inspector Scott Robertson advised that he hoped to have a police presence at closing time and sometimes the area would be monitored remotely depending on other jobs, however he noted the concern of the Forum.

4. Revised Statement of Alcohol Licensing Policy

There had been previously circulated correspondence sent to the Convener advising of the public consultation on the revised Statement of Alcohol Licensing Policy, noting that responses must be received in writing by 25 August 2023.

Nick Blowfield voiced his concerns that there was no response from the Forum to consider, with only four days remaining for responses to be submitted. The Licensing Standards Officer had been contacted directly as a consultee and had provided a response with over 100 comments. He reminded the Forum that its primary job was to ensure the policy was fit for purpose. Given the correspondence was received in June, in his opinion there had been ample time to draft a response for consideration by the Forum, for approval at this meeting. He also referenced the statement on overprovision which again, had been sent to the Convener, who had responded that the Forum had no concerns regarding overprovision, although that had not been discussed at a meeting of the Forum. Therefore, he did not see how the Forum could put forward a meaningful response in four days.

Barry Cockerham shared the concerns raised and suggested that the Forum had lost any opportunity to provide a response.

Nick Blowfield suggested that a separate email be set up for the Forum, which was entirely independent of the Licensing service within Orkney Islands Council, so that any correspondence could be circulated timeously to members of the Forum.

Malcolm Stout advised that, as the only licence holder present, his business was very seasonal, and it was very difficult to attend meetings during June to August in particular.

The Clerk set out the legal status of the Forum, namely a body independent from the local authority, although the local authority did have a duty to provide administrative assistance. The Clerk also set out the current staffing situation with the Committee Services team, with limited resources available, as well as the Convener's current personal circumstances.

Barry Cockerham suggested that the Forum could not provide meaningful comment on the document at this stage. He also suggested that discussions be held with the Convener regarding ongoing administrative support for both himself and the Forum as a whole.

Chief Inspector Scott Robertson commented that Nick Blowfield had done a lot of good work and suggested that, collectively, the Forum could still provide a response, if they were in agreement with Nick's comments.

Nick Blowfield queried whether the Police and the health board would be submitting responses direct, given they were statutory consultees. He also advised that the Forum could let the Board know at any point during the lifetime of the policy statement of any concerns they had – the Forum was not limited to providing a response to the formal consultation on the revised Statement. While Nick could provide the detailed LSO response to the Forum, he was still of the view that the Forum had insufficient time in which to digest and come forward with a response in its own right within the next four days.

David McGroarty enquired whether the Forum could ask for an extension to the deadline, given the circumstances outlined at this meeting. The Legal Clerk advised that, while she would ask the Clerk to the Licensing Board, her view was that, if an extension was provided to one consultee, then it should be offered to all in order to be fair to all parties. The deadline had also been set to tie in with reporting timeframes for the meeting of the Orkney Islands Area Licensing Board to be held on 5 October 2023.

The Forum determined that, given the circumstances outlined, no response be submitted to the Orkney Islands Area Licensing Board in relation to the review of the Statement of Alcohol Licensing Policy.

5. Potential Establishment of National Licensing Forum Group

There had been previously circulated correspondence from the Criminal Law, Practice and Licensing Unit of the Scottish Government regarding the potential establishment of a national licensing forum group.

Nick Blowfield again highlighted the inappropriate use of the generic licensing@orkney.gov.uk email for Forum business and pressed for a separate email to be set up. The Clerk reiterated the current staffing position and the implications of yet another generic email which would require to be monitored and any correspondence dealt with accordingly.

It should be noted, however, that the correspondence from the Scottish Government made it clear that councils/Licensing Boards who received the email should share it with their Local Licensing Forums to ensure that the invitation to attend an online meeting was shared with all relevant people. The Legal Clerk confirmed the correspondence had been shared with the Convener, initially, who had confirmed he would be attending the online event.

6. Orkney Islands Area Licensing Board

There had been previously circulated the Orkney Islands Area Licensing Board's Combined Annual Functions and Financial Report for 2022/23.

The Legal Clerk advised that the document had been considered by the Licensing Board in June 2023, prior to being published in July 2023. The information contained in the report was used by the Scottish Government to provide annual statistics.

7. Pubwatch

The Clerk apologised that there was no update on Pubwatch for this meeting, as she had not contacted Senga Flett, the Chair of Pubwatch. Once contact details were received, the Chair would be invited to each meeting to provide an update.

8. Orkney Street Pastors

Barry Cockerham gave a short update on the work of Orkney Street Pastors since the previous meeting.

There were currently nine females and eight males available for the rota, with a team of four on patrol each weekend. In the period since the last meeting, the most notable event was County Show night, which had been very busy for the Street Pastors in clearing up bottles and broken glass. Barry Cockerham also commented on the large amount of bottles and glass being taken out of licensed premises. A window had also been smashed which the Street Pastors reported to the Police who had subsequently attended and dealt with.

Nick Blowfield advised that he would check with Environmental Health who was responsible for keeping the street clean outside premises.

Chief Inspector Scott Robertson advised it was very difficult for bottles to be attributed to specific licensed premises.

9. Licensing Standards Officer

There had been previously circulated a report on the work of the Licensing Standards Officer during the period 1 April to 31 July 2023.

Nick Blowfield referred to the current staffing arrangements in that a designated Licensing Standards Officer had not been in post since 2016. The service continued to act/react to intelligence or complaints received and officers would provide guidance. Recent activity included:

- Drafting the detailed response to the draft Statement of Alcohol Licensing Policy.
- Keeping a watching brief on the new protect duty (Martyn's Law) and how that might impact licensed premises and events.
- Advising on the content of Risk Assessments submitted with applications for occasional licences, whereby a generic example was being used, rather than the applicants undertaking an appropriate risk assessment themselves. This was included in the LSO's response to the draft Statement of Alcohol Licensing Policy.

The Legal Clerk referred to the deadline for comments on licensing applications being missed and the report advising that the Licensing Clerks had been informed that a non-response from the LSO should not be taken as "no comment". The Legal Clerk clarified that deadlines were not moveable and therefore responses should be submitted by that date, otherwise it would be assumed that there was no response from the LSO. Nick Blowfield confirmed that "no response" and "no comment" were two different things; however, the Legal Clerk reiterated that did not matter, given the immovable nature of the deadlines for submission of comments.

10. Public Health

Sara Lewis confirmed she had nothing to report to the Forum in relation to public health matters.

11. Police Scotland

Chief Inspector Scott Robertson advised he now had a copy of the Chief Constable's report (which would be circulated to the Forum in due course) and commented on some highlights:

- Regarding licensed premises checks, officers would enter premises and speak with the person on duty during opening hours.
- Premises where issues were identified were dealt with on a sliding scale as follows:
 - Monitoring – there were none in Orkney at this level, so none were at the next stage(s).
 - Problematic.
 - Request review through the relevant Licensing Board.

12. Scottish Fire and Rescue Service

David McGroarty introduced himself as Group Commander for the Scottish Fire and Rescue Service and confirmed that Danny Gall was present in the room in case of any technical difficulties.

David McGroarty advised that the fire safety enforcement team undertook an audit of premises on an ongoing cycle and there was nothing of note locally to advise the Forum. Any licensed premises with a fire-related incident would be referred to the fire safety enforcement team for follow-up as there would be an assumed failure in the risk assessment. The Scottish Fire and Rescue Service continued to monitor statistics regarding accidental fires to determine any underlying trends, such as the involvement of alcohol, as well as signposting individuals where there were concerns regarding lifestyle.

In response to a query from Barry Cockerham regarding any change in the number of alcohol related fires, David McGroarty confirmed that there were no accidental dwelling fires reported in Quarter 1. Barry Cockerham was assured that monitoring was taking place.

13. Any Other Competent Business

Nick Blowfield advised that there was an open consultation in respect of an enforcement policy for Environmental Health and Trading Standards, which incorporated some licensing matters, which the Forum might wish to respond to, with responses due by 31 August 2023. He had asked that the policy be circulated to the Forum, but this had not appeared to have happened.

Nick Blowfield sought clarification on who would submit the Forum's response to the review of the Statement of Alcohol Licensing Policy, given there was no generic email. The Clerk advised that a consultation response would normally be submitted by the Convener; however, as Barry Cockerham had chaired this meeting, she undertook to draft a suitable response, which would be copied to both the Convener and the Depute Convener, for Barry, as Chair of this meeting, to submit by the deadline.

14. Dates for Future Meetings

It was agreed that the next meeting of the Forum should take place on Friday, 3 November 2023, with the joint meeting with the Licensing Board on the same date.

Dates for quarterly meetings in 2024 would be provided at the next meeting, avoiding school holidays, if possible.

15. Conclusion of Meeting

There being no further business, the Chair declared the meeting concluded at 11:20.