

Item: 7

Orkney Islands Area Licensing Board: 6 December 2018.

Licensing (Scotland) Act 2005.

Review of Statement of Alcohol Licensing Policy.

Report by Clerk to the Board.

1. Purpose of Report

To consider adoption of a revised Statement of Alcohol Licensing Policy.

2. Recommendations

The Board is invited to note:

2.1.

That, on 28 June 2018, the Board resolved that the Clerk to the Board should undertake statutory consultation in respect of the Board's Statement of Alcohol Licensing Policy.

2.2.

That the statutory consultation process was undertaken during the period 4 July to 6 September 2018, with the outcome detailed in section 6 of this report.

It is recommended:

2.3.

That the Statement of Alcohol Licensing Policy, attached as Appendix 7 to this report, be adopted.

3. Introduction

3.1.

In accordance with the Licensing (Scotland) Act 2005, the Board publishes a Statement of Alcohol Licensing Policy, the current version of which is available from the Related Downloads section of the following Council webpage:

<http://www.orkney.gov.uk/Service-Directory/L/licensing-board-policies.htm>.

3.2.

Previous decisions of the Board regarding review of its Statement of Alcohol Licensing Policy are detailed in Appendix 1 to this report.

4. Background

4.1.

In terms of section 6 of the Licensing (Scotland) Act 2005 (the Act), as amended by the Air Weapons and Licensing (Scotland) Act 2015 (the 2015 Act), the Orkney Islands Area Licensing Board (the Board), required to publish an updated Statement of Alcohol Licensing Policy by November 2018. To enable this to happen, it was anticipated that this report would be presented to the Board on 11 October 2018; unfortunately, due to circumstances outwith the Board's control, that meeting was cancelled.

4.2.

When preparing its Policy, the Board is required to indicate how it will carry out its licensing functions so as to promote the five licensing objectives, which, following amendment in terms of the 2015 Act, are:

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

4.3.

The Statement of Alcohol Licensing Policy requires to set out the policies to be applied by the Board to promote the licensing objectives when determining applications. In addition, regard must be had to Guidance issued by the Scottish Government.

4.4.

Section 7 of the Act requires that each licensing policy statement published by a licensing board must, in particular, include a statement as to the extent to which the board considers there to be overprovision of licensed premises or licensed premises of a particular description in any locality within the board's area. Following amendments in terms of the 2015 Act, the Board may determine that the whole of the Board's area is a locality.

4.5.

The Board has previously determined:

4.5.1.

That the locality to consult on whether or not there was overprovision of alcohol licensed premises or licensed premises of a particular description, shall be Orkney as a whole.

4.5.2.

That there is no overprovision of licensed premises or licensed premises of a particular description within the locality of Orkney defined by the Board.

4.6.

The determinations set out in section 4.5 above do not preclude subsequent alternative findings by the Board. For example, after consideration of evidence received as a result of the consultation on the draft revised Statement of Alcohol Licensing Policy, the Board could determine that a different locality or localities should apply or that overprovision of licensed premises or licensed premises of a particular description exists within that locality or those localities.

5. Consultation

5.1.

The Clerk to the Board undertook the statutory consultation process in respect of the Board's Statement of Alcohol Licensing Policy during the period 4 July to 6 September 2018, with the outcome detailed in section 6 below. The wording of the consultation notification is attached as Appendix 2 to this report.

5.2.

When consulting upon its draft revised Statement of Alcohol Licensing Policy, the Board must consult with the Local Licensing Forum, the relevant health board and the following, in so far as they are not represented in the membership of the Local Licensing Forum:

- Holders of premises licences and personal licences.
- The Chief Constable.
- Persons having functions relating to health, education or social work.
- Young people.
- Persons resident within the Forum's area.
- Such other persons as the Board thinks appropriate.

5.3.

In accordance with previous consultations on the review of the Board's Statement of Alcohol Licensing Policy and following further suggestions from the Board, the following parties were consulted:

- Alcohol Focus Scotland.
- Citizens Advice Bureau (Orkney).
- Community councils.
- Licence holders.
- Local firms of solicitors.
- Local Licensing Forum.

- NHS Orkney.
- Council services in respect of planning, building standards, environmental health, social services, housing and education, including Pupil Councils from Kirkwall Grammar School and Stromness Academy.
- Orkney Alcohol Counselling and Advisory Service.
- Orkney Alcohol and Drugs Partnership.
- Orkney Child Protection Committee.
- Orkney Community Planning Partnership – Community Safety Partnership and Living Well Delivery Group.
- Orkney Health and Care – mental health, social work and substance abuse functions.
- Residents via a public notice on www.orkney.gov.uk.
- Police Scotland.
- Scottish Ambulance Service.
- Scottish Beer and Pub Association.
- Scottish Fire and Rescue Service.
- Scottish Licensed Trade Association.
- Visit Scotland (Kirkwall Office).
- Voluntary Action Orkney.

6. Responses to Consultation

6.1.

Four responses were received as a result of the consultation. These are detailed in sections 6.2 to 6.5 below.

6.2.

A response to the consultation was received from Mr Chris Clark and is attached as Appendix 3 to this report. Mr Clark and Mrs Marion Clark, are the premises licence holders for their off-sale shop at Essaquoy, Rousay. Mrs Clark is the premises manager.

6.2.1.

The submission refers to overprovision of licensed premises on Rousay. However, it is based on an erroneous belief that the premises licence for Pier Restaurant, Rousay, requires “renewal”.

6.2.2.

Although Pier Restaurant has not been selling alcohol recently, the premises licence has not been surrendered. The owner of the premises may arrange to transfer the premises licence and sales of alcohol may re-commence. Accordingly, there would be no net increase in the number of alcohol licensed premises in Rousay.

6.2.3.

It is therefore suggested that the submission has not been substantiated and no amendment to the revised draft of the Board's Statement of Alcohol Licensing Policy has been made.

6.3.

A response to the consultation was received from Alcohol Focus Scotland (AFS) and is attached as Appendix 4 to this report.

6.3.1.

The response from AFS refers to health and crime issues and communications between the Board and other agencies, such as police, health authorities, community planning partners and the Local Licensing Forum.

6.3.2.

As noted at section 5.3 above, the Local Licensing Forum, NHS Orkney, Orkney Alcohol and Drugs Partnership (OADP), Orkney Community Planning Partnership and Orkney Health and Care were consulted on the review of the Board's Statement of Alcohol Licensing Policy. No responses were received from those consultees.

6.3.3.

The Board has previously been made aware of a submission received from the OADP in response to a request for statistical data to assist the Board in identifying localities where there was overprovision of licensed premises, or premises of a particular description, within its area. The response included some health and crime data and concluded that the OADP "was in agreement with that of the Licensing Board's decision in 2013 that Orkney was not overprovided as a whole locality". The organisation has not subsequently flagged up any issues. The response is published at http://www.orkney.gov.uk/Files/Committees-and-Agendas/Licensing-Board/LB2018/03-05-2018/I05_App2_OADP_Response.pdf.

6.3.4.

The response from AFS refers to an "Islands profile (comprising of the Shetland, Western and Orkney Islands)". Representatives from the OADP and NHS Orkney have indicated at meetings of the Local Licensing Forum that the amalgamation of all information regarding the Shetland, Western and Orkney Islands into one profile is unhelpful to those agencies in extracting data. At the meeting of the Local Licensing Forum held on 12 July 2018, the OADP Co-ordinator confirmed that all three island licensing boards were reported as one, therefore it was not considered reliable information to provide a case for overprovision, either within Orkney as a whole or within a certain locality within Orkney. The Public Health Manager, NHS Orkney, advised that they were currently undertaking a mapping exercise of the types of premises to determine whether they were mainly tourist or local population focused.

6.3.5.

The Council's Strategy Manager, Policy and Community Planning, previously provided information comparing statistical data for Scotland and Orkney with regard to alcohol-related hospital stays and patients, as published by the Information Services Division (ISD) of NHS Scotland. The information is published at http://www.orkney.gov.uk/Files/Committees-and-Agendas/Licensing-Board/LB2018/03-05-2018/I05_App7_Statistics_Hospital_Admissions.pdf.

6.3.6.

It is therefore suggested that the submission has not been substantiated and no amendment to the revised draft of the Board's Statement of Alcohol Licensing Policy has been made.

6.4.

Responses to the consultation were received from a number of community councils in summary form as submitted by the Community Council Liaison Office. These are attached as Appendix 5 to this report. As the submission did not propose any amendment to the revised draft of the Board's Statement of Alcohol Licensing Policy, none have been made.

6.5.

A response to the consultation was received from Police Scotland and is attached as Appendix 6 to this report.

6.5.1.

The response from Police Scotland refers to a proposed Drug Policy to be required in both licensed premises and premises subject to occasional licences.

6.5.2.

Police Scotland use the analogy of the provisions of the Licensing Conditions (Late Opening Premises) (Scotland) Regulations 2007. These are detailed in Appendix 4 to the Statement of Alcohol Licensing Policy, attached as Appendix 7 to this report and are published at http://www.legislation.gov.uk/ssi/2007/336/pdfs/ssi_20070336_en.pdf.

6.5.3.

Police Scotland submit that "Late hours premises tend to be attended by patrons who have also visited licensed premises with standard hours, as such there is no reason why all premises should not have a drug policy in place; furthermore it is almost inconceivable to think that drugs are only prevalent in late hour's premises yet not in a licensed premise with standard hours".

6.5.4.

The Scottish Parliament distinguished between late hours premises and premises operating earlier hours. The additional mandatory conditions which attach to late hours premises only come into effect if the premises open beyond 01:00 and are

further dependent upon the capacity of the premises (aimed at larger premises) and the type of operation. Late hours mandatory conditions specifically apply to premises licences issued in terms of section 27(4) of the Act (licensed premises with operating hours ending after 01:00 any day) and do not apply to premises subject to occasional licences.

6.5.5.

Had the Scottish Parliament been of the view that the late hours mandatory conditions should attach to all licensed premises or to premises subject to occasional licences, it could be argued that the legislation would have been framed accordingly. Police Scotland's suggested course of action would impact on premises (and unlicensed premises) which it arguably was not the intention of Parliament to affect.

6.5.6.

Police Scotland refer to results of inspections within 3 premises which indicated potential drug use. The Board has not previously been informed of issues regarding the operation of licensed premises and no premises licence review applications have been submitted by Police Scotland.

6.5.7.

The response from Police Scotland refers to a proposed Duty of Care Policy to be required in both licensed premises and premises subject to occasional licences.

6.5.8.

Police Scotland refer to an incident which resulted in a Formal Intervention Plan with a premises licence holder. They also refer to "a further 12 recorded issues regarding the duty of care shown by licensing staff towards those who utilise their premises over the last two years within licensed premises in the Orkney Isles which fell below what should be expected". The Board has not previously been informed of issues regarding the operation of licensed premises and no premises licence review applications have been submitted by Police Scotland.

6.5.9.

The Board has not been informed of issues regarding the operation of premises subject to occasional licences.

6.5.10.

At the meeting of the Local Licensing Forum held on 29 August 2018, Chief Inspector Matthew Webb stated that the proposed policies on Drugs and Duty of Care were intended to attach to on-sale premises which were identified as "problem" premises. As stated in sections 6.5.6, 6.5.8 and 6.5.9 above, the Board has not previously been informed of issues regarding the operation of licensed premises and no premises licence review applications have been submitted by Police Scotland. Neither has the Board been informed of issues regarding the operation of premises subject to occasional licences.

6.5.11.

References by Police Scotland to instances of potential drug use and issues with duty of care could arguably be appropriately and proportionately addressed by means of formal reporting to the Board with accompanying premises licence review applications. One of the courses of action available to the Board would be to vary the premises licences by means of attaching specific conditions in order to deal with identified issues at particular premises. Police Scotland's suggested policies on Drugs and Duty of Care could potentially be attached to specific premises licences, which would be arguably more appropriate and proportionate than attaching them to premises licences where no issues are believed to arise.

6.5.12.

It is therefore suggested that the submission has not been substantiated and no amendment to the revised draft of the Board's Statement of Alcohol Licensing Policy has been made.

7. Financial Implications

There are no direct financial implications to the Board arising from the recommendations of this report

8. Legal Aspects

The legal aspects are contained within the body of this report.

9. Contact Officers

Gavin Mitchell, Clerk to the Board, extension 2233, email gavin.mitchell@orkney.gov.uk.

Elaine Sinclair, Legal Clerk, extension 2232, email elaine.sinclair-hill@orkney.gov.uk.

10. Appendices

Appendix 1: Previous Decisions.

Appendix 2: Wording of notification of consultation in respect of the Board's Statement of Alcohol Licensing Policy.

Appendix 3: Consultation response from Mr Chris Clark.

Appendix 4: Consultation response from Alcohol Focus Scotland.

Appendix 5: Consultation responses from community councils.

Appendix 6: Consultation response from Police Scotland.

Appendix 7: Statement of Alcohol Licensing Policy 2018.

Appendix 1.

Licensing (Scotland) Act 2005 – Review of Statement of Alcohol Licensing Policy

1. At its meeting held on 25 January 2018, the Licensing Board noted:

1.1. That the Board's current Statement of Alcohol Licensing Policy, adopted on 5 December 2013, required review during 2018.

1.2. That the Statement of Alcohol Licensing Policy must, in particular, include a statement as to the extent to which the Board considered there to be overprovision of licensed premises or licensed premises of a particular description in any locality within the Board's area.

1.3. That the first stage of the process in updating the Statement of Alcohol Licensing Policy was for the Board to determine the locality or localities for the purpose of consultation on the assessment of overprovision.

1.4. That the locality for the purpose of assessing overprovision could be the whole Board area.

2. The Board resolved:

2.1. That, for the purposes of consultation on the assessment of overprovision of alcohol licensed premises, the locality should be Orkney as a whole.

2.2. That the Clerk to the Board should undertake statutory consultation on whether or not there was overprovision of alcohol licensed premises within the locality determined by the Board, namely Orkney as a whole.

2.3. That the Clerk to the Board should submit a report, to the meeting of the Board to be held on 3 May 2018, on the outcome of the consultation, referred to at paragraph 2.2 above.

3. At its meeting held on 3 May 2018, the Licensing Board noted:

3.1. That, on 25 January 2018, the Board resolved that the Clerk to the Board should undertake statutory consultation on whether or not there was overprovision of alcohol licensed premises within the locality determined by the Board, namely Orkney as a whole.

3.2. That the statutory consultation process was undertaken during the period 30 January to 27 March 2018, with the outcome detailed in section 10 of the report by the Clerk to the Board.

4. The Board resolved:

4.1. That the consultation responses, referred to at paragraph 3.2 above, met the terms of the legislation and guidance issued by the Scottish Government.

4.2. That the outcome of the consultation on overprovision of licensed premises or licensed premises of a particular description had not produced “robust and reliable evidence which suggests that a saturation point has been reached or is close to being reached, always provided that a dependable causal link can be forged between that evidence and the operation of licensed premises in a locality”.

4.3. That, as no evidence of overprovision of licensed premises or licensed premises of a particular description existed in the locality of Orkney, the draft statement on overprovision of alcohol licensed premises, attached as Appendix 1 to the Minute, be incorporated within the Board’s draft Statement of Alcohol Licensing Policy 2018.

5. At its meeting held on 28 June 2018, the Licensing Board noted:

5.1. That the Board’s Statement of Alcohol Licensing Policy, which was adopted on 5 December 2013, required review during 2018.

5.2. The draft revised Statement of Alcohol Licensing Policy, attached as Appendix 1 to the report by the Clerk to the Board.

6. The Board resolved:

6.1. That the draft revised Statement of Alcohol Licensing Policy, referred to at paragraph 5.2 above, be approved for consultation.

6.2. That the Clerk to the Board should submit a report, to the meeting of the Board to be held on 11 October 2018, on the outcome of the consultation, referred to at paragraph 6.1 above, together with a final version of the Statement of Alcohol Licensing Policy 2018 for adoption.

Appendix 2.

Orkney Islands Area Licensing Board – Public Consultation.

Licensing (Scotland) Act 2005.

Review of Statement of Alcohol Licensing Policy.

1.

Orkney Islands Area Licensing Board (the Board) is carrying out a review of its Statement of Alcohol Licensing Policy in terms of the Licensing (Scotland) Act 2005 (the Act) during 2018.

2.

The Board must ensure that its Statement of Alcohol Licensing Policy seeks to promote the five licensing objectives specified in the Act, being:

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

3.

The Statement of Alcohol Licensing Policy requires to set out the policies to be applied by the Board to promote the licensing objectives when determining applications. In addition, regard must be had to Guidance issued by the Scottish Government.

4.

The Board's draft revised Policy is available as a Related Download forming part of the relevant public notice on the following Council webpage and paper copies are available on request to the contact details at the end of this document:

<http://www.orkney.gov.uk/Council/P/public-notices.htm>.

5.

Section 7 of the Act requires that each licensing policy statement published by a licensing board must, in particular, include a statement as to the extent to which the board considers there to be overprovision of licensed premises or licensed premises of a particular description in any locality within the board's area. Following amendments in terms of the Air Weapons and Licensing (Scotland) Act 2015, the Board may determine that the whole of the Board's area is a locality.

6.

Section 9 of the draft revised Policy indicates that on 25 January 2018, the Board determined that, for the purposes of consultation on the assessment of overprovision of alcohol licensed premises, the locality should be Orkney as a whole. A copy of the full report is available at <http://www.orkney.gov.uk/Council/C/orkney-islands-area-licensing-board-25-january-2018.htm> and paper copies are available on request to the contact details at the end of this document.

7.

Section 9 of the draft revised Policy also indicates that on 3 May 2018, the Board determined that there is no overprovision of licensed premises or licensed premises of a particular description within the locality of Orkney defined by the Board.

8.

The Board concluded that there was not a dependable causal link between the evidence provided to the Board and the operation of licensed premises, to suggest that a saturation point had been reached, or was close to being reached, within the locality of Orkney defined by the Board. A copy of the full report is available at <http://www.orkney.gov.uk/Council/C/orkney-islands-area-licensing-board-3-may-2018.htm> and paper copies are available on request to the contact details at the end of this document.

9.

Current Guidance issued to licensing boards by the Scottish Government under the Act provides that “the results of all consultation should be evaluated to identify robust and reliable evidence which suggests that a saturation point has been reached or is close to being reached, always provided that a dependable causal link can be forged between that evidence and the operation of licensed premises in a locality”.

10.

The approach set out in sections 6 to 8 above does not preclude subsequent alternative findings by the Board. For example, after consideration of evidence received as a result of the consultation on the draft revised Policy, the Board could determine that a different locality or localities should apply and that overprovision of licensed premises or licensed premises of a particular description exists within that locality or those localities.

11.

However, it should be noted that each application requires to be determined on its own merits and there may be cases where the applicant could demonstrate that the grant of the licence or variation, as an exception to Policy, would not undermine the licensing objectives detailed above. A numerical limit of licensed premises or premises of a particular description in a locality cannot be set.

12.

In Orkney, there are currently:

- 16 on-sales premises with total capacity of 4,597 persons.
- 39 off-sale premises with total alcohol display capacity of 671.5 square metres.
- 46 premises licensed for both on and off-sales with total capacity of 7,159 persons and total alcohol display capacity of 357.12 square metres.

13.

Statistics relating to the geographical distribution of licensed premises in Orkney, including their capacities and operating hours, can be viewed at in conjunction with this public consultation at <http://www.orkney.gov.uk/Council/P/public-notices.htm>. Members' clubs, of which there are 9 in Orkney, are not included in the statistics, in accordance with Scottish Government Guidance. Paper copies of the statistics can be provided on request to the contact details at the end of this document.

14.

The Board would like to hear from you with your views on its draft revised Policy.

15.

You can also submit your views on whether there is overprovision of licensed premises, or premises of a particular description, in Orkney or in any locality or localities within Orkney.

16.

As explained in paragraph 9 above, any suggestion that overprovision exists must be supported by robust and reliable evidence which suggests that a saturation point has been reached or is close to being reached. There must be a dependable causal link forged between that evidence and the operation of licensed premises in a locality.

17.

Responses must be received in writing by **6 September 2018** to the email or postal addresses shown at the end of this Notice. All responses must identify the name and address of the responder.

18.

A report on the outcome of this consultation on the review of the Board's Statement of Alcohol Licensing Policy will be submitted to the Board in October 2018. The revised Policy must be in place by November 2018.

19.

Thank you for taking the time to take part in this consultation and please do not hesitate to contact this office should you wish to discuss the matter further. You can use the email address shown in paragraph 20 below or phone 01856 873535 extensions 2232 or 2229.

20.

The submission addresses referred to at paragraph 17 above are:

By e-mail to: licensing@orkney.gov.uk.

By letter to: The Clerk to the Licensing Board, Council Offices, Kirkwall, Orkney KW15 1NY.

Gavin Mitchell.

Clerk to the Licensing Board.

Corporate Services, Council Offices, Kirkwall, Orkney KW15 1NY.

4 July 2018.

Elaine Sinclair
Legal Clerk

Dear Madam,

Review of Licensing Policy

I refer to your letter of 4th July 2018 on the above subject. This letter is in response to paragraph 14 to 17 inclusive.

Your records will show that the only shop in the 3 Isles is on Rousay. Similarly the only hotel is on Rousay. Both the shop and hotel have a license.

The Rousay, Egilsay and Wyre Development Trust (REWDT) commissioned a survey to find out what residents wanted the REWDT to do for the residents and community at large.

The survey took place from October 2017 through to January 2018. The comment on page 25 (attached) does not offer a measure of support for or against the renewal of a license at the Pier Cafe.

The most recent Register of Electors, dated July 2018, lists 105 Rousay residents, 4 in Egilsay and 2 in Wyre.

Electoral evidence, the comments from the R.E.W.D.T Survey, and the commercial experience of both the shop and hotel indicate that a 3rd licensed outlet would create over-provision on Rousay

Yours faithfully

Chris Clark

To help us plan, what facilities, if any, would you like to see included in the Community owned property.

The majority of residents were keen to give their ideas for this, others weren't sure because they potentially didn't agree it was needed therefore didn't want to give their ideas.

What came out the highest was facilities for indoor and outdoor activities such as squash, football etc. This would mean purpose build rooms to accommodate those sports high ceilings for instance and astro turf.

Moving local amenities to the community centre such as fuel and the shop were mentioned and moving things from the school to enable the school to be just that.

Accommodating groups such as the triangle club, craft hub etc. were suggested and also building new REWDT office space, this could mean the centre was staffed regularly meaning it could be open to residents and the public more regularly.

A café that doesn't serve alcohol was also mentioned a few times by residents; somewhere residents and tourists can go.

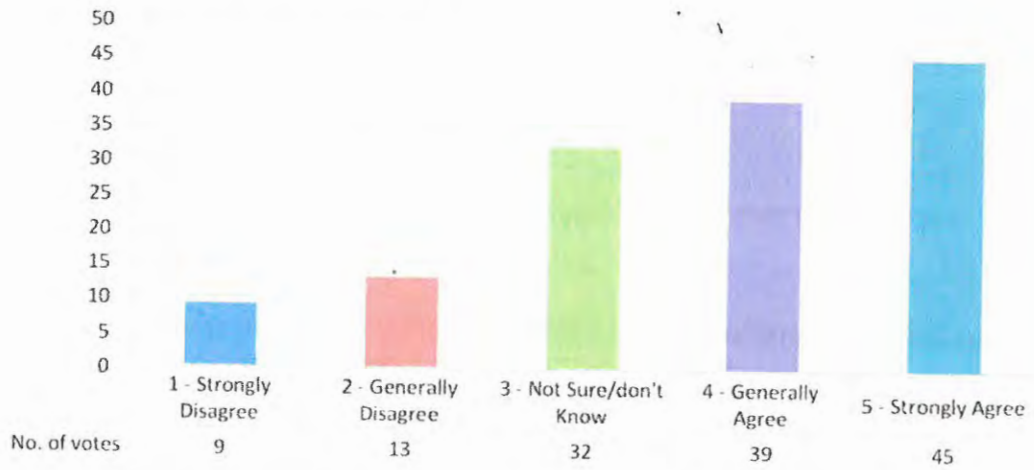
Several residents suggested ensuring that local heritage material is kept safe in a museum at the new community centre.

For the children space for the teenagers to hang out, and an outdoor space for the older and younger children. A climbing wall was suggested which could be indoor or outdoor.

The associated diagram for this question is found in appendix 4.

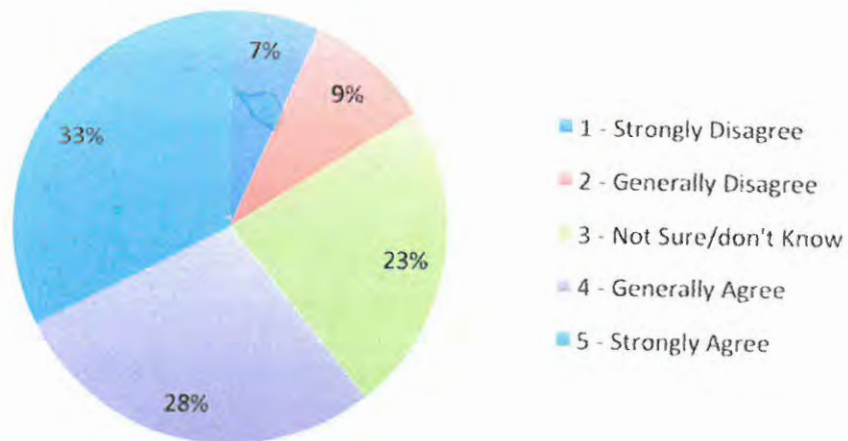
2b) Community Services

Youth Centre/ Café - should we develop one?



Combined 60.4% of adults surveyed said a Youth Centre or café would be a good idea, however there were comments about how its important for the children to have somewhere to go and that location of this could be anywhere because they rely on being dropped off by parents in most cases.

Some negative comments surrounded this question with responses such as that the current youth club isn't being used enough, another café could be detrimental to other businesses on the island and that some teenagers wouldn't use it.





AFS RESPONSE TO ORKNEY ISLANDS AREA LICENSING BOARD'S LICENSING POLICY STATEMENT CONSULTATION (AUGUST 2018)

Alcohol Focus Scotland (AFS) welcomes the opportunity to comment on Orkney Islands Area Licensing Board's Statement of Licensing Policy (SLP). This response builds upon our previous submission to the Board's consultation on overprovision - submitted in March 2018. It provides an update on recent developments and suggestions regarding the sections of the draft policy that we believe may warrant particular scrutiny.

Links with other strategies

AFS welcomes that the Board believes that it is important that it does not operate in isolation, and commits to give due regard to the policies and decisions of the Council. However, licensing activities should be aligned to the work of a much broader range of local partners to bring about improvements for individuals and communities. In particular, it will be important that the new policy recognises the value of linkages with other bodies interested in alcohol regulation, and specifically references the policies and strategies that are most relevant to the work of the Board.

As such, AFS is particularly pleased that the policy makes clear that the Board will maintain effective communication with the Orkney Alcohol and Drugs Partnership, and highlights the importance of such cooperation as part of the wider alcohol agenda. The work undertaken by the Orkney Alcohol and Drug Partnership will continue to be of particular significance, and the new policy could signpost people to where they can access a copy of the ADP's Strategy and Delivery Plan. AFS would also recommend that the new policy references relevant strategies of the Health and Social Care Partnership (HSCP).

The alcohol licensing regime provides a locally led system for regulating the sale of alcohol and is one of the key mechanisms by which availability can be controlled at a local level. As alcohol licensing is the responsibility of licensing boards, it will be essential that boards can identify where they share similar objectives to Community Planning Partners, and understand how they can best support each other towards these ends. In many respects, licensing boards and CPPs are already working towards shared goals and stand to benefit from more collaborative approaches. It will therefore be important that the new policy aligns with community planning Local Outcome Improvement Plans (LOIPs).

The policy currently highlights that the Board will have regard to any strategy of the Scottish Government designed to address the social, health and crime and disorder issues raised by the misuse of alcohol. Scotland's alcohol strategy 'Changing Scotland's relationship with Alcohol a Framework for Action' is of key relevance to the policy and should be specifically referenced. This established a whole population approach to reducing alcohol harm and identified action on availability as one of three key mechanisms - alongside price and marketing - to achieve this. The Scottish Government's consultation on the strategy, published in 2008, recognised that the main mechanism for controlling alcohol availability was licensing legislation.

The policy also recognises that the Board has responsibilities under the Equality Act 2010 and the Human Rights Act 1998, and it is helpful that links to the Board's equality data and outcomes have been included. Action on human rights in Scotland is currently being driven through Scotland's National Action Plan for Human Rights (SNAP) and there a range of links between alcohol-related harm and the realisation of human rights in Scotland.

The Board should continue to take into account the views of local partners, the Forum, communities, and other strategies and plans that have relevance to alcohol when developing and implementing their new policy. The Licensing Scotland Act (2005) and accompanying guidance should inform the Boards approach to how this can best be achieved, for example by responding to the recommendations of the Local Licensing Forum. In this regard, it is useful that policy currently outlines the role of the Local Licensing Forum and includes links to where information about the Forum is published.

Transparency, accessibility and participation

A lack of effective public engagement in licensing can prevent proper transparency and accountability. During a series of regional licensing seminars, hosted by AFS in 2016, a lack of public participation in licensing was reported across the country. Barriers to participation can relate to poor accessibility of licensing processes, but inconsistencies in policy and practice can also prevent meaningful engagement.

AFS is therefore pleased that the policy includes a commitment that the Board will conduct its business in an open and transparent manner. It is also greatly welcomed that the policy includes information about the Board's various reporting functions, publication scheme, membership and diary of meetings, and includes links to where the information available to the public can be accessed. However, the new policy could provide more detail about the means by which the Board's processes and procedures will provide for increased accessibility, transparency and accountability for communities, for example by requiring:

- a set of published standing orders;
- board papers and minutes being published on time;
- board minutes recording the names of board members voting for/against a decision; and
- details to be made available of what people can expect when attending meetings and the supports available to them.

The new policy could also have an increased focus on supporting public engagement and participation. The current policy states that guidance will be made available to those persons who wish to apply for a licence, to make representations or to lodge objections. However, communities may not currently be aware of the various ways in which they can get involved or the types of information/supports available to enable them to participate. The new policy should more clearly signpost the general public to where they can find guidance to support them to get involved, including by making objections and representations, or this could be included as an Appendix e.g. the [Alcohol Licensing in Your Community Toolkit](#).¹ The current section of the policy outlining the

¹ Alcohol Focus Scotland (2015). *Alcohol Licensing in Your Community How You Can Get Involved*. Glasgow: Alcohol Focus Scotland: <https://www.alcohol-focus-scotland.org.uk/media/133477/Community-licensing-toolkit.pdf>

role of the Licensing Standards Officer could also be expanded to include more detail about the assistance they are able to offer to the public.

It is welcomed that the policy includes a commitment that hearings will be conducted in as informal a manner as possible. This can be particularly important for many community members, who may feel intimidated by overly formal processes and environments. It is also helpful that the policy outlines the procedure to be followed at hearings. The new policy could help further support public participation by reassuring communities that the Board will endeavour to make any proceedings as user-friendly as possible, and that people should feel comfortable to ask for additional information, guidance and support if needed.

In addition, policy statements should be easily understood by all licensing stakeholders, including by members of the public without technical expertise. Ensuring that the new policy is written in plain, accessible language could help facilitate the involvement of a wide range of stakeholders.

It is helpful that the policy includes a list of consultees. However, the new policy could include more detail and explanation of the evidence considered by the Board in developing the policy. The Board should be explicit and demonstrate within the policy how it has been informed through consultation, with the material considered by the Board being published and links to this material being included in the policy itself. Stating this in the policy further demonstrates the board's responsive approach to consultation.

Further details about accessibility and participation in licensing can be found in AFS's 2017 report *Taking Stock*.² This report analyses experiences of progress within the alcohol licensing system in Scotland since the Licensing (Scotland) Act 2005 was implemented in 2009. Informed by the views of over 170 licensing stakeholders, it also identifies learning and challenges and makes recommendations for improvement, many of which may be of interest to the Board.

Promotion of the licensing objectives

As s.6 of the Licensing Scotland Act (2005) makes clear, the policy statement must seek to promote the licensing objectives. For all objectives, AFS would suggest the following format:

1. State the licensing objective.
2. Give a statement as to what the licensing board is trying to achieve with this objective.
3. List concerns in the area relating to this objective – identify what evidence was used to identify these concerns.
4. List what the licensing board intends to do. Note that this could include declaring overprovision, controlling licensed hours, or applying certain conditions – referring to the relevant section/s in the policy.
5. List any suggested actions the licensing board would like to see the licensed trade in the area undertake to meet this objective.

For all the licensing objectives, the Board has usefully defined its intended outcomes, the influencing factors on the achievement of the objectives, and the control measures that applicants and licence holders can put in place. However, this could be strengthened by providing more detail about - and

² Alcohol Focus Scotland (2017). *Taking Stock: Views and experiences of alcohol licensing in Scotland in 2016/17*. Glasgow: Alcohol Focus Scotland: <http://www.alcohol-focus-scotland.org.uk/media/287043/Taking-Stock-Report.pdf>

building upon - the measures and conditions the Board can/will apply in relation to each of the objectives, or signposting to where within the policy this information can be found.

AFS has produced a Licensing Resource Pack³ that provides resources to support the collection of evidence on local alcohol-related harm, and provides examples of research which demonstrates the impact of particular licensing conditions on harms. This may be particularly useful to the Board when developing its new policy: <http://www.alcohol-focus-scotland.org.uk/media/291077/afs-licensing-resource-pack.pdf>

It would also be beneficial to provide more of the Orkney Islands context in relation to each objective e.g. relevant statistics or evidence of the current situation, identification of any issues that are a particular concern, measures that have had an impact etc. We would suggest including both statistical and expert opinion, as well as any available local data, on what the issues are in the Orkney Islands. There should then be a clear line of reasoning from the evidence to the conclusions in the policy.

AFS would recommend that the policy sets out a clear expectation that applicants address the five objectives in their operating plan, and also supply a written statement detailing how they will promote the objectives. This approach is already adopted in other board areas, with several providing a 'Supplementary Information' document for applicants to submit alongside their application - asking them to set out exactly how they will comply with the objectives. Having a statement of licensing objectives attached to their licence could help to focus applicants' attention on the objectives and ensure that they are afforded proper consideration in any proceedings. In addition, it is appropriate that the Board should go further and look to the evidence in respect of each of the five licensing objectives, also expecting applicants to provide evidence that suitable measures will be implemented and maintained.

Specific to the objective of Preventing Crime and Disorder, the proportion of alcohol now bought to consume at home or in other private dwellings (73% of all alcohol sold being purchased in off-sales⁴) underlines the need for the new policy to reference the importance of licensing for preventing crime and disorder in private spheres as well as the public.

Specific to the objective of Protecting and Improving Public Health, AFS welcomes that the policy suggests licence holders make available information with regard to sensible drinking. The intention behind this is admirable and this approach should continue. However, AFS would recommend that the Board avoid using terms like 'sensible' drinking in its new policy, and instead make clear that any information provided should be based on the Chief Medical Officer's (CMO) low risk guidelines. The Board might also wish to consider providing materials to licensees that is independently produced. The World Health Organisation has stated categorically that the alcohol industry should not be involved in health promotion, and the Government has a duty to ensure access to information and advice on alcohol is based on the best available scientific evidence and is impartial. NHS Inform is the best website in Scotland for impartial health advice: <https://www.nhsinform.scot/healthy-living/alcohol>

³ Alcohol Focus Scotland (2017). *Licensing Resource Pack*. Glasgow: Alcohol Focus Scotland: <http://www.alcohol-focus-scotland.org.uk/media/291077/afs-licensing-resource-pack.pdf>

⁴ Giles, L., & Robinson, M. (2017). *Monitoring and Evaluating Scotland's Alcohol Strategy: Monitoring Report 2017*. Edinburgh: NHS Health Scotland

AFS is pleased that the Board will have particular regard to the views of the relevant bodies responsible for, and interested in, the protection and improvement of public health in the Islands Area. We believe that such an approach is essential to enable the meaningful consideration of the impact of alcohol, and the measures required locally to ensure the protection of public health.

In relation to the objective to protect children and young people from harm, the Board may wish to give consideration as to whether it will apply the same policy to young persons or should have a different policy from that applied to children. AFS would be interested to hear the views of children and young person's and their representative organisations on this issue; however, it would seem sensible to apply the same policy for the purposes of alcohol licensing.

The policy states that the Board wishes to see family friendly premises thriving in the Islands Area. AFS fully appreciates that some Boards wish to encourage applications for licensed events and venues which are family friendly and safe for children. However, evidence shows that children and young people are influenced by the behaviour of adults they observe and this should be taken into account when considering the appropriateness of licensing applications. It will also be important that the new policy addresses the broader impact of alcohol on children and young people, including the impact of parental drinking.

It is wholly appropriate that any on-licensed premises to which families with children have access give careful consideration of their responsibilities to protect children from harm, and AFS would recommend that the Board requires applicants in these circumstances to demonstrate how they will promote this objective, including by providing a written statement as suggested above.

The draft policy gives examples of control measures that could be put in place to protect children and young people from harm, however it could set out in much greater detail the conditions that the Board may impose relative to children and young people, and under what circumstances. The new policy could also set out the general expectations of the Board with regards to factors like when children be allowed entry, including the ages of children to be allowed entry, and types, times and parts of the premises to which children will have access. In general, AFS would expect that premises that do not offer food of any description are highly unlikely to be a suitable environment for children.

During the series of Regional events hosted by AFS in 2016, concerns were also expressed across Scotland regarding occasional licences being granted for events mainly or exclusively targeted at families where children would be present. As such, AFS would recommend that the policy contains a presumption against granting occasional licences where the event predominantly involves children. The Board would still maintain its full discretion and flexibility to grant a licence in these circumstances, if minded to do so based on the merits of a particular application.

Overprovision

AFS notes that - following consultation - the Board has concluded that there is no overprovision within the locality of Orkney as defined by the Board. However, as the Board is still seeking views on overprovision, we would refer to the points raised in our response to the Board's consultation on overprovision (submitted in March 2018); in particular, that alcohol-related harm is not evenly distributed across the Orkney Islands and there is scope to adopt a different overprovision stance in relation to areas with higher levels of harm, such as Kirkwall.

Subsequently to responding to the Board's overprovision consultation, AFS worked with the Centre for Research on Environment, Society and Health (CRESH) at the Universities of Edinburgh and Glasgow to publish further evidence of the links between alcohol availability and harm in Scotland.

Detailed local information on alcohol availability and harm at neighbourhood level can be found using the [CRESH WebMap](#). In addition, profiles containing information about the levels of alcohol availability and related harm (at both a national and local level) can now be accessed via our website: www.alcohol-focus-scotland.org.uk/campaigns-policy/availability-and-licensing/alcohol-outlet-availability. We have also sent a copy of the Islands profile (comprising of the Shetland, Western and Orkney Islands) to accompany this response.

Perhaps unsurprisingly, given the geography and demographics involved, the CRESH data shows that the Islands are ranked 30th out of 30 local authority areas for alcohol outlet availability in Scotland. The Islands have an alcohol outlet availability lower than Scotland as a whole; neighbourhoods have an average of 4.8 alcohol outlets within 800m of the population centre, compared to the Scottish average of 16.8 outlets. However, a significant 12% of neighbourhoods in the Islands do have a total outlet availability higher than the Scottish average.

When considering links to harm, a statistically significant relationship was found in the Islands between alcohol outlet availability crime rates. Specifically, crime rates in the neighbourhoods with the most alcohol outlets were 6.9 times higher than in neighbourhoods with the least. This link was found even when other possible explanatory factors, such as age, sex, urban/rural status and levels of income deprivation, had been taken into account.

In addition, the Islands were shown to have an annual average of 17.7 alcohol-related deaths for those aged 20 and over (from 2011-2016). This is equivalent to 24.5 deaths per 100,000 adults, which is 12% higher than the Scottish rate of 21.8 deaths per 100,000 adults. The local authority areas have an average hospitalisation rate ratio for neighbourhoods of 142.5, which is 42% higher than the ratio for Scotland of 100.

AFS would recommend that the Board use the CRESH webmap to indicate areas where levels of availability and/or harm are sufficiently high to cause concern, and which may indicate that overprovision would be an appropriate response. The webmap can be used to compare areas against the Scottish average for outlet availability, compare alcohol outlet availability between neighbourhoods *within* the local authority, and also identify corresponding rates of harm (e.g. alcohol-related hospitalisations, crime rates, and alcohol mortality).

As a national organisation, we do not have sufficient local knowledge of the Orkney Islands area to enable us to comment in detail on some of the specific localities and premises concerned. However, an initial analysis using the CRESH webmap indicates that there are a number of neighbourhoods in the Orkney Islands that have higher availability than the Scottish average and high levels of alcohol-related harm. This includes neighbourhoods within West Kirkwall, East Kirkwall, Stromness, Sandwick and Stenness.

When considering off-sales in particular, however, the Board may wish to consider that 73% of alcohol sold in Scotland is bought from off-sales premises, and people now travel further to buy alcohol. As such, should the Board be considering overprovision for off-sales, a policy over a wider area may be more effective in helping to reduce and prevent levels of alcohol consumption and harm.

Licensed hours

Again, we are not in a position to comment on local experiences, but can offer comment on the impact of licensed hours more generally and the evidence available to support this.

AFS has identified over 50 research studies published since 2000 that find an association between the total number of licensed premises and opening hours in a locality, and levels of alcohol harm. Localities examined include cities, states, provinces and countries and several studies have specifically investigated the links between temporal availability and alcohol harm. This includes a 2017 systematic review of literature (published between 2000-2016) studying the impact of policies regulating alcohol trading times on alcohol related harm, which found that policies regulating times of alcohol trading can contribute to reductions in injuries, alcohol-related hospitalisations/ emergency department visits, homicides and crime.⁵

Extended hours increase availability of alcohol, which in turn is linked to increased consumption and increased harm. With regards to off-sales hours, the current approach of the Board is to generally permit off sales hours from 10am until 10pm - the maximum allowed by law. AFS believes that the maximum permitted off-sales hours should be the exception and not the norm, particularly in areas of high-rates of alcohol harm.

AFS shares the Boards belief that, in many cases, events and festivals can be appropriately accommodated within normal licensing hours and should not be regarded as routinely in need of extended licensed. The Board may wish to further clarify within the policy what would and would not fall within the definition of a 'special event or occasion' for the purposes of extended hours. AFS would also recommend that should the Board decide to allow additional hours, this should be on limited days only and for not more than one extra hour. The operation of the premises should also be closely monitored to ensure that alcohol-related public nuisance and harm is minimised and conditions attached to licences if necessary.

Occasional Licences

AFS has identified that occasional licences are causing concern in some areas of the country, with licensing stakeholders reporting that this as an area where 'loopholes' in the legislation are being regularly exploited. People have reported to us that occasional licences are significantly increasing alcohol access and availability (although they were not being taken into account in overprovision assessments) and in some cases are being used to circumvent the requirement to have a premises licence to sell alcohol. In addition, as the updated policy identifies, although members clubs are premises that are not generally open to the public, occasional licenses can be obtained by members clubs in order to sell alcohol to the general public.

AFS would therefore recommend that the Board require a hearing where it identifies that an applicant has made repeated occasional licence applications. The Board could also adopt a policy whereby a certain number of back-to-back occasional applications (exceeding a set threshold) be automatically referred to the Board for a decision. Licensing boards may wish to choose their own thresholds for referring decisions to the Board, based on local circumstances. For example, the proposed approach in the Perth and Kinross Licensing Board draft policy is that *"the Board considers it reasonable for occasional licences covering up to 30 days (including into the following mornings) to be granted in any one calendar year for a single premise. Where more than 30 days are sought, the Board expects a premises licence application to be submitted. Failure to do so may result in all*

⁵ Sanchez-Ramirez DC, Voaklander D (2018). The impact of policies regulating alcohol trading hours and days on specific alcohol-related harms: a systematic review. *Injury Prevention* 2018;24: 94-100.

further occasional licence applications being submitted to the Board for consideration rather than being dealt with under delegated powers.”

AFS commends the Board for requiring that all applications for occasional licences be accompanied by an assessment of how the application complies with the licensing objectives, and for including a Licensing Objectives Risk Assessment as an Appendix. We are aware that other Boards have adopted a similar approach, with several requiring applicants to complete an ‘Occasional Licence Supplementary Information Form’ to demonstrate how they will promote the objectives, and provide practical examples of how they plan to comply with each.

Alcohol deliveries and internet sales

Alcohol deliveries and internet sales are an emerging area of concern and should be considered as part of the policy development process. Remote alcohol sales and distribution across wide geographical areas have the potential to undermine local efforts to control the availability of alcohol and reduce alcohol-related harm. Online sales are not a new issue but are a continuously evolving and expanding area of retail; applications from large online retailers represent what AFS considers to be a considerable advancement of the online market for alcohol.

There is a distinct lack of information available about the business operations of online retailers, or the extent to which they contribute to alcohol sales and availability. For example, there is no data available pertaining to their distribution areas, or the volumes and types of alcohol they sell.

A further concern relates the potential impact of on-line sales to children and young people. It is unclear how age verification can and will be effectively implemented when alcohol is being purchased on-line, or delivered to people’s homes. Unlike supermarkets, which employ their own delivery staff, on-line alcohol retailers may rely on various contract carriers, who may not receive any instruction in this regard. This has the potential to make alcohol much more readily accessible to young people, and could undermine progress made in meeting the licensing objective to protect children from harm.

AFS is therefore urging all boards to set out their approach to online retailers within their new policies. For example, it could be specified that when making an alcohol delivery certain checks should be carried out such as Challenge 25. In addition, the policy could require that orders cannot be left in nominated safe places, and that staff delivering alcohol must be trained to the same level as staff who sell or supply alcohol in licensed premises. The Board could also explore the possibility of placing conditions on online retailers to request details of sales and distribution areas, as well figures on delivery refusal rates.

Alcohol Outlet Availability and Harm in the Islands

April 2018

This document sets out the findings from research by Alcohol Focus Scotland (AFS) and the Centre for Research on Environment, Society and Health (CRESH), which investigated whether alcohol-related health harm (hospitalisations and deaths) and crime rates across Scotland were related to the local availability of alcohol outlets. The relationship between income deprivation and alcohol outlet availability was also examined.

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Key findings

- The Islands are **ranked 30th out of 30 local authority areas for alcohol outlet availability** in Scotland.
- **Crime rates in the neighbourhoods with the most alcohol outlets were 6.9 times higher** than in neighbourhoods with the least.
- The link between alcohol outlet availability and harm was **found even when other possible explanatory factors**, such as age, sex, urban/rural status and levels of income deprivation, **had been taken into account**.
- The **total number of alcohol outlets in the Islands increased by 4 (1.1%)** from 354 in 2012 to 358 in 2016.

Introduction

Alcohol availability refers to the ease of access to alcohol, whether to drink on the premises (e.g. pubs, clubs or restaurants) or to drink off the premises (e.g. shops and supermarkets). Alcohol availability includes the number, capacity and opening hours of alcohol outlets. Studies from other countries have consistently found an association between alcohol availability and alcohol-related problems, particularly outlet availability (the number of alcohol outlets in a given area). [Previous research](#) carried out in 2014 by this research team (the Centre for Research on Environment, Society and Health at the Universities of Edinburgh and Glasgow) suggests that this relationship is also true for Scotland. This profile provides a summary of the updated analysis for the Islands. A Scotland profile is also [available](#).

Information was gathered on the number of places selling alcohol, health harms and crime rates within neighbourhoods across the whole of Scotland and for each local authority area. Researchers compared data zones (small areas representing neighbourhoods that have between 500 and 1000 residents) to see if there was a relationship between the number of alcohol outlets in a neighbourhood and the rates of alcohol-related deaths and hospitalisations. The profiles also consider, for the first time, the relationships between alcohol outlet availability and crime and deprivation rates.

Alcohol Outlet Availability in the Islands

Alcohol outlet availability within neighbourhoods

Alcohol outlet availability was calculated by measuring the number of outlets within 800m (approximately a ten minute walk) of each data zone (neighbourhood)'s population centre. There are 95 neighbourhoods in the Islands. The average number of outlets for each neighbourhood was calculated to obtain ranks for outlet availability for all local authority areas within Scotland (with the area ranked 1st having the highest availability and 30th the lowest availability).

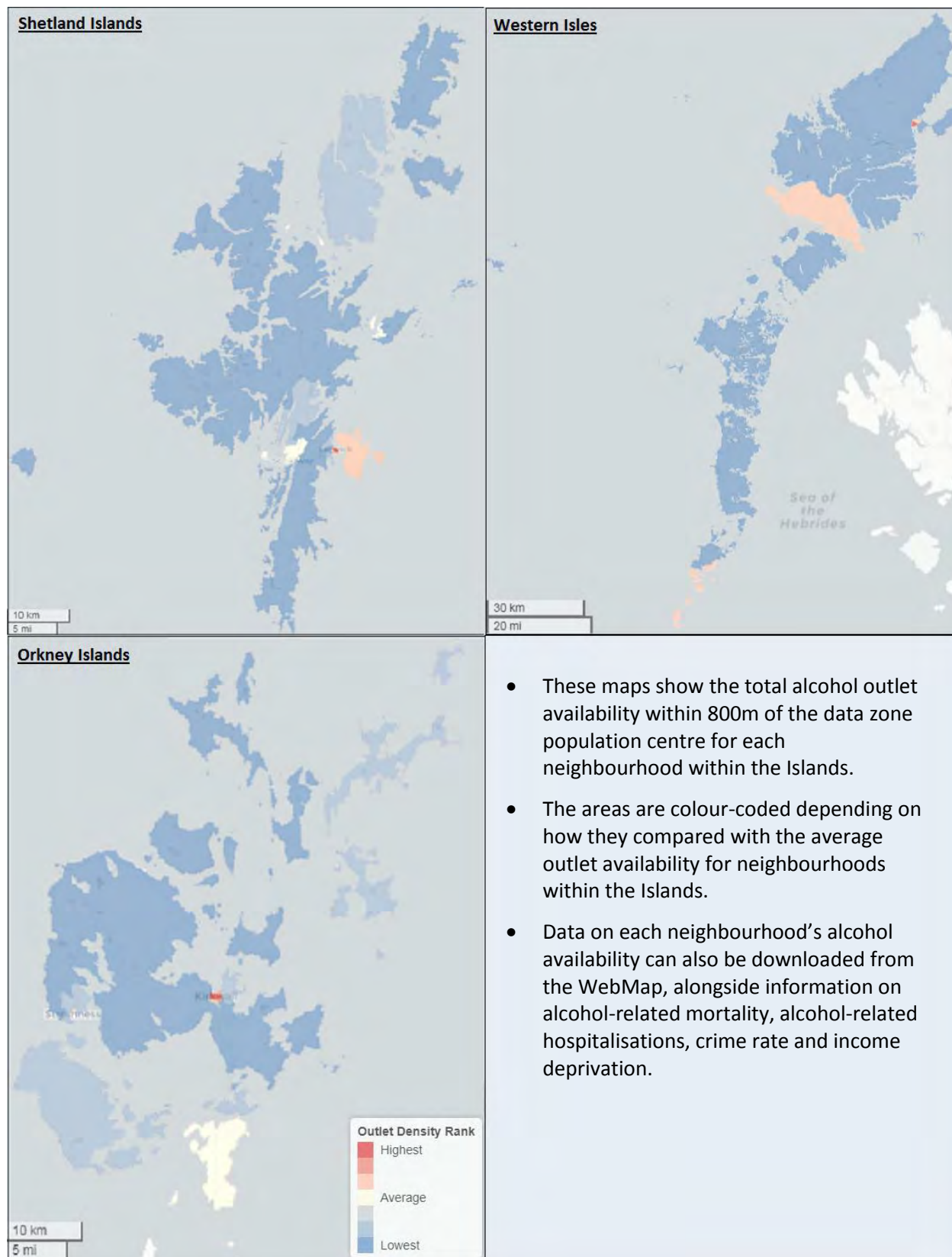
The Islands is **ranked 30th out of 30 local authority areas for alcohol outlet availability** in Scotland. In the Islands, in 2016:

- There were **358 alcohol outlets: 241 on-sales and 117 off-sales outlets**.
- Neighbourhoods had **between 0 and 33** alcohol outlets within 800m of the population centre.
- Neighbourhoods had an average of **4.8 alcohol outlets** within 800m of the population centre, compared to the Scottish average of 16.8 outlets. **12% of neighbourhoods had total outlet availability higher than the Scottish average.**
- Neighbourhoods had an **average of 3.3 on-sales outlets** within 800m of the population centre, compared to the Scottish average of 11.4 outlets. **11% of neighbourhoods had on-sales outlet availability higher than the Scottish average.**
- Neighbourhoods had an **average of 1.5 off-sales outlets** within 800m of the population centre, compared to the Scottish average of 5.4 outlets. **7% of neighbourhoods had off-sales outlet availability higher than the Scottish average.**

The Islands have an **alcohol outlet availability lower than Scotland as a whole**. For a more complete picture, it is also useful to compare alcohol outlet availability between neighbourhoods *within* the local authority. This can be done by using the [CRESH WebMap](#), as demonstrated in the next section.

The Islands Outlet Availability Map

Using the WebMap available at <https://creshmap.com/shiny/alcoholtobacco/>, alcohol and outlet availability (or 'density') can be mapped for data zones across Scotland. This can be done for on-sales, off-sales, and total outlets. Options are to compare against the Scottish average, the rural/urban average, local authority average or deprivation average for each data zone.



Alcohol outlet availability in the Islands from 2012 to 2016

The change in the number of alcohol outlets within the local authority area was examined.

- The **total number** of alcohol outlets **increased by 4 (1.1%)** from 354 in 2012 to 358 in 2016. This is a **smaller increase than that found across Scotland as a whole (2.9%)**.
- The **number of on-sales outlets decreased by 2 (0.8%)** from 243 in 2012 to 241 in 2016. This is **in contrast to the 1.5% increase found across Scotland as a whole**.
- The **number of off-sales outlets increased by 6 (5.4%)** from 111 in 2012 to 117 in 2016. This is a **smaller increase than that found across Scotland as a whole (6.4%)**.

To take account of any changes in population over time, changes in alcohol outlet availability were calculated per 10,000 adult population:

- The **total number** of alcohol outlets per adult population **increased by 0.5%**. This is **similar to the 0.6% increase found across Scotland as a whole**.
- The **number of on-sales outlets per adult population decreased by 1.4%**. This is **similar to the 0.8% decrease found across Scotland as a whole**.
- The **number of off-sales outlets per adult population increased by 4.7%**. This is **similar to the 4% increase found across Scotland as a whole**.

Alcohol-Related Health Harm and Crime in the Islands

The study looked at the relationship between alcohol outlet availability and alcohol-related deaths, alcohol-related hospitalisations and crime.

- The Islands have an **annual average of 17.7 alcohol-related deaths** for those aged 20 and over (from 2011-2016). This is equivalent to **24.5 deaths per 100,000 adults**, which is **12% higher than the Scottish rate** of 21.8 deaths per 100,000 adults.
- The local authority areas have an **average hospitalisation rate ratio for neighbourhoods of 142.5**, which is **42% higher than the ratio for Scotland** of 100.
- The Islands' **average neighbourhood crime rate is 204.4 crimes per 10,000 population**, which is **38% lower than the Scottish average** of 331.2 per 10,000 population.

Alcohol-Related Death Rates and Alcohol Outlet Availability

In the Islands, **alcohol-related deaths were higher in neighbourhoods with the most places to buy alcohol compared to neighbourhoods with the least.** None of these relationships were found to be statistically significant.

When looking at areas smaller than the whole of Scotland, a number of factors can influence if a statistically significant relationship is found. In addition, deaths are rare events that are particularly difficult to analyse in areas with relatively small populations (see [Interpreting the Findings](#) for more detail).

Crucially, the Scotland-wide association between alcohol outlet availability and alcohol-related deaths was statistically significant, with alcohol-related deaths rates in neighbourhoods with the most outlets double those in neighbourhoods with the least.

Alcohol-Related Hospitalisation Rates and Alcohol Outlet Availability

In the Islands, **alcohol-related hospitalisations were higher in neighbourhoods with the most places to buy alcohol compared to areas with the least.** None of these relationships were found to be statistically significant.

When looking at areas smaller than the whole of Scotland, a number of factors can influence if a statistically significant relationship is found (see [Interpreting the Findings](#) section for more detail).

Crucially, the Scotland-wide association between alcohol outlet availability and alcohol-related hospitalisations was statistically significant, with alcohol-related hospitalisation rates in neighbourhoods with the most outlets almost double those in neighbourhoods with the least.

Crime Rates and Alcohol Outlet Availability

In the Islands, a **statistically significant relationship was found between alcohol outlet availability and crime rates**: neighbourhoods with more places to buy alcohol had higher crime rates than neighbourhoods with the least.

The data used was from the Crime Domain of the Scottish Index of Multiple Deprivation, which includes crimes of violence, sexual offences, domestic house breaking, vandalism, drug offences and common assault. The data however does not record whether the perpetrators of crime had consumed alcohol and excludes some offences which are commonly associated with alcohol consumption, such as breach of the peace, or anti-social behaviour.

Crime rates were associated with the number of all types of alcohol outlets (total, on-sales and off-sales):

- Crime rates in the **neighbourhoods with the most alcohol outlets were 6.9 times higher** than in neighbourhoods with the least.
- Crime rates in the **neighbourhoods with the most on-sales outlets were 6.7 times higher** than in neighbourhoods with the least.
- Crime rates in the **neighbourhoods with the most off-sales outlets were 6.5 times higher** than in neighbourhoods with the least.

The above relationships were found even when other explanatory factors were accounted for, namely urban/rural status of the neighbourhoods and level of income deprivation. This means that **the association between outlet availability and crime rate is not explained by more crime being committed in more urban or deprived areas**.

Income Deprivation and Alcohol Outlet Availability

The Islands have an **average income deprivation rate for neighbourhoods of 7.9%**. This is **37% lower than the Scottish average** of 12.5%. Data for income deprivation were obtained from the Scottish Index of Multiple Deprivation 2016 Income Domain, which is represented as a percentage of the total population in receipt of benefits. More information on this measure is available in the [Methodology](#) section.

In the Islands, **the most deprived neighbourhoods had more places to buy alcohol than the least deprived neighbourhoods**. None of these relationships were found to be statistically significant.

When looking at areas smaller than the whole of Scotland, a number of factors can influence if a statistically significant relationship is found (see [Interpreting the Findings](#) section for more detail).

Crucially, the Scotland-wide association between alcohol outlet availability and income deprivation was statistically significant, with 40% more places to buy alcohol in the most deprived neighbourhoods than in the least deprived neighbourhoods.

Interpreting the Findings

The relationship between alcohol outlet availability and health and social harms

The strong relationship found in Scotland between the number of alcohol outlets, crime rates and alcohol-related health outcomes suggests that the local availability of alcohol may influence drinking behaviours and associated alcohol-related problems. This relationship meets the criteria of statistical tests and is termed **statistically significant**. Judgements as to statistical significance of each result were made throughout by applying a 95% significance level ($p < 0.05$).

These results agree with findings from other studies in Scotland and beyond showing that there is an association between alcohol outlet availability and many types of health and social harms, such as violence, hospital attendance, underage drinking, and drink driving. See Section 5 of the [Alcohol Focus Scotland Licensing Resource Pack](#) for more detailed evidence.

A relationship was found between outlet availability and harm in both urban and rural areas

There is a significant relationship between outlet availability and harm in both the urban and the rural areas of Scotland. However, in some very rural local authorities (e.g. Orkney Islands, Shetland Islands and Eilean Siar) no statistically significant relationship between alcohol outlet availability and alcohol-related health harm was found. These areas have relatively low population and fewer data zones, which can make it difficult to find a statistical relationship between any two factors.

Other explanatory factors were taken into account

When assessing whether there is a relationship between alcohol outlet availability and harm, a number of other factors that may explain the results were taken into account in the analysis. When looking at whether alcohol outlet availability was related to alcohol-related deaths, alcohol-related hospitalisations and crime, the degree of income deprivation and the rural/urban status of the area were taken into account. For alcohol-related deaths and hospitalisations, the analysis also took into account the age and sex demographics of the population. This means that the relationships found are not explained by levels of deprivation, how populated an area is, or the demographics of the population. When looking at the relationship between income deprivation and outlet availability, population levels were taken in account. This means that the relationships found are not explained by the size of populations in a neighbourhood.

Factors affecting whether a statistically significant relationship can be found

When looking at areas smaller than the whole of Scotland a number of factors can influence if a statistically significant relationship is found. Being able to assess whether there is a relationship depends on the ability to compare areas of high alcohol outlet availability with areas of low availability. At a national level, there is sufficient variation in the number of alcohol outlets across the country to be able to make this comparison. However, within some local authorities, where the alcohol outlet availability is more evenly spread across the area, there may not be enough variation in exposure to outlet availability to enable a comparison. In addition, if the whole area is over-supplied then it will not be possible to detect a difference between one locality and another.

For the smaller local authority areas it can be difficult to find a statistical relationship between outlet availability and harm if there are too few neighbourhoods. For example, both Clackmannanshire and the Islands authority areas have less than 100 neighbourhood areas. In addition, outlet availability tells us something about the amount of alcohol available in an area but there are also other factors such as the size of the premises, level of alcohol sales, the opening hours and how far people travel to buy alcohol.

Deaths in particular are rare events that are especially difficult to analyse in areas with relatively small populations. In addition to this, mortality data was only available for a 6 year period, compared to the 10 year period available for the previous analysis; the boundaries of data zones changed between 2012 and 2016, limiting the number of years of death data that could be included. For this reason, coupled with falling mortality in general, the number of deaths analysed are small in some local authorities.

Whilst taking all of these factors into account, not finding a statistically significant relationship between alcohol outlet availability and harm may simply be because there is no relationship within that area.

Developing the most accurate picture of alcohol availability

The number of alcohol outlets in an area tells us something about the amount of alcohol available in an area but there are other factors that affect how readily accessible alcohol is. For example, the size of the premises (a supermarket will provide a greater volume and variety of alcohol than a small corner shop), the opening hours of the premises and how far people travel to buy alcohol. Currently, the number of alcohol outlets is the only information available for the whole of Scotland.

If more detailed information on the alcohol capacity of premises, their opening hours, alcohol sales and the catchment of the customers were collected this would enable further improvements in our understanding of the relationship between alcohol outlet availability and alcohol-related harm. Even without this more detailed information, a clear and statistically significant relationship between the availability of alcohol outlets and alcohol-related harm was found for Scotland as a whole.

Methodology

Summary

We investigated whether alcohol outlet availability was associated with alcohol-related health outcomes (hospitalisations and deaths) and overall crime rates for Scottish data zones. This analysis builds on [previous research](#), updating analysis of the relationship between alcohol outlet availability and harm in Scotland using more recent outlet availability, mortality and hospitalisation data. It also expands the analysis of alcohol-related harms to include crime data, and assesses whether the availability of alcohol outlets found in Scottish neighbourhoods is related to the degree of income deprivation in these areas. This builds upon [analysis published in 2015](#), using a similar methodology.

Geographical units

The data zone is the key small-area (neighbourhood) geographical unit used by the Scottish Government in the dissemination of official statistics, with populations of between 500 and 1000. There are 6,976 data zones in Scotland; the data zones used were devised for the 2011 census. Differences for data zones were compared across Scotland as a whole, and within 30 local authority areas. Twenty-nine of the local authority areas in place since 1996 were used. The three island local authorities (Shetland Islands, Orkney Islands and Eilean Siar) were grouped together as separately they have too few data zones to be able to carry out these analyses.

Alcohol outlet availability

The locations of outlets licensed to sell alcohol for consumption on the premises (on-sales) and off the premises (off-sales) were obtained in 2016 from each local licensing board. The datasets were checked for errors (e.g. duplications), resulting in verified locations for 11,522 on-sales alcohol outlets and 5,107 off-sales outlets. Outlets selling alcohol for consumption both on and off the premises were counted as on-sales outlets. The resulting dataset corresponds closely with official figures (counts by local authority) from the Scottish Liquor Licensing Statistics 2015-16.

Alcohol outlet availability was measured for each data zone as the number of on-sales, off-sales, or total outlets within 800m of the population centre of the data zone (800m represents a 10-minute walk at average pace). This 800m zone (area 2.0 km²) was assumed to represent the typical neighbourhood experienced by the population of a data zone.

The example in Figure 5 shows that a circle with a radius of 800m around this data zone's population centre (red star) contains 73 on-sales outlets: including a number within neighbouring data zones. Data zones were grouped into five availability groups, from lowest (group 1) to highest (group 5). The highest availability group contains the 5% of data zones with the greatest outlet availability. Groups 2-4 were defined by dividing the remaining data zones into four groups containing equal numbers of neighbourhoods based on rank of outlet availability.

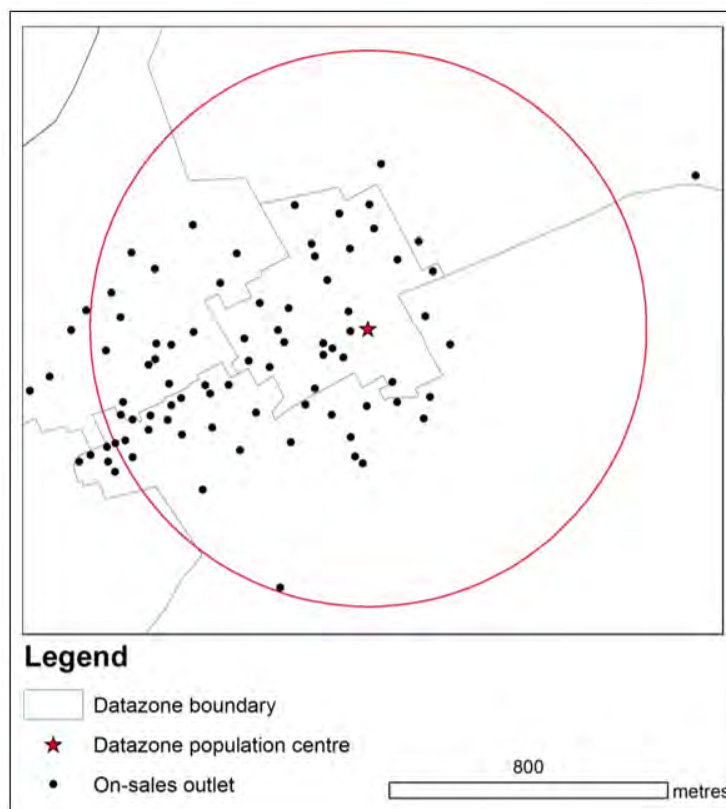


Figure 7. Calculating alcohol outlet availability for a data zone

For very rural areas, where the population is widely dispersed across the data zone, this measure might be a less accurate representation of numbers of outlets that are easily accessible.

Analysis

Multivariate regression models were used to assess whether alcohol outlet availability was related to alcohol-related deaths, alcohol-related hospitalisations and crime within data zones, independent of the degree of income deprivation in the areas and their rural/urban status. For both alcohol-related deaths and hospitalisations, the analysis also took into account the age and sex structure of the population. The models estimated the risk of alcohol-related harms in each of the outlet availability groups relative to a reference group, the group containing the neighbourhoods with the lowest outlet availability.

In testing the relationship between outlet availability and income deprivation, a bivariate analysis was used to compare the mean alcohol outlet availability rates per 10,000 population over 18 years old in groups of data zones with different levels of income deprivation. The 'high' and 'low' income deprivation groups of areas compared in the analysis contained the fifth of data zone areas with the greatest and least income deprivation.

Population

Data zone population data was used in the analysis of the relationship between outlet availability and income deprivation, and between outlet availability and alcohol-related deaths. Population data from the National Records of Scotland was used to describe data zone populations from 2011-2016.

Mortality

The mortality data were supplied by the National Records of Scotland. These data were given for data zones for the period 2011-2016 combined. The time period was set due to the availability of population estimates at 2011 data zone level. The definition of an alcohol-related death is based on [International Classification of Diseases codes](#), and the [2006 National Statistics definition](#) of alcohol-related deaths.

Hospitalisations

The hospitalisations data were extracted from the [Scottish Index of Multiple Deprivation 2016](#) Health Domain. SIMD alcohol-related hospitalisation was based upon the number of continuous inpatient stays, 2011-2014, with a diagnosis of an alcohol-related condition. Hospitalisations are represented for each data zone as a ratio of the number of hospitalisations recorded in the data zone relative to the number that would have been 'expected' based upon the average rates for Scotland, standardised by age and sex.

Crime

The crime data were extracted from the [Scottish Index of Multiple Deprivation 2016](#) Crime Domain. Crimes included in the domain are crimes of violence, sexual offences, domestic house breaking, vandalism, drug offences and common assault recorded during 2014-15, per 10,000 population.





Income Deprivation

Data for income deprivation were obtained from the [Scottish Index of Multiple Deprivation 2016](#) Income Domain. The Income Domain is a count of the number of people claiming selected means-tested benefits in 2013-14 and 2015 divided by the total population in 2014. It is therefore a percentage of the total population in receipt of benefits. The benefit data originates from the Department of Work and Pensions and HMRC.

Urban/Rural

The urban/rural status of data zones were defined using the [Scottish Government 6 Fold Urban Rural Classification](#). In this analysis the six classifications were combined into three categories 'urban' (combining 'large urban areas' and 'other urban areas'), 'small towns' (combining 'accessible small towns' and 'remote small town') and 'rural' (combining 'accessible rural' and 'remote rural').

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Statement of Alcohol Licensing Policy

Community Council Comments

Community Council.	Response.
Birsay.	No comments to make, meeting 23 August 2018.
Eday.	No comments to make, meeting 29 August 2018.
Evie and Rendall.	No comments.
Firth and Stenness.	No comments.
Flotta.	No comments to make, meeting 3 September 2018.
Graemsay, Hoy and Walls.	No comments.
Harray and Sandwick.	No comments to make, meeting 29 August 2018.
Holm.	No comments to make, meeting 29 August 2018.
Kirkwall and St Ola.	No comments to make, meeting 20 August 2018.
Orphir.	No comments.
Papa Westray.	No comments to make, meeting 4 September 2018.
North Ronaldsay.	No comments.
Rousay, Egilsay, Wyre and Gairsay.	No comments.
Sanday.	No comment to make, meeting 21 August 2018.
Shapinsay.	No comment to make, meeting 5 September 2018.
South Ronaldsay and Burray.	No comments.
St Andrews and Deerness.	No comments to make, meeting 28 August 2018.
Stromness	No comments to make, meeting 27 August 2018.
Stronsay.	No comment to make, meeting 27 August 2018.
Westray.	No comment to make, meeting 13 August 2018.

Police Scotland Orkney Area Command are fully supportive of Draft Statement of Alcohol Licensing Policy, November 2018.

In addition to the details contained within the aforementioned document, Orkney Police wish to propose that local conditions be included in the Alcohol Licensing Policy requiring licensed premises to put the following in place:-

- Drug Policy
- Duty of care policy

This should include Occasional Licences.

The rational and proportionality behind this request is as follows:-

Drug Policy

Appendix 4, Licensing Conditions (Late Opening Premises) (Scotland) Regulations 2007, as attached to the 2018 OIC Alcohol Licensing Policy Consultation document details at part 3. (b) "There must be written policies in existence concerning: the prevention of the misuse of drugs on the premises." Late hour's premises tend to be attended by patrons who have also visited licensed premises with standard hours, as such there is no reason why all premises should not have a drug policy in place; furthermore it is almost inconceivable to think that drugs are only prevalent in late hour's premises yet not in a licensed premise with standard hours.

For a premise not to have a Drug Policy puts staff members in a difficult position should they require to deal with an incident involving drugs in that they will have had no training, nor have a policy or direction as to how to deal with such a situation.

During November 2017 two members of N Divisions licensing team attended Orkney where they performed a number of full inspections on licensed premises. During the said inspections they carried out inspections within the toilets of 3 premises utilising drug wipes which indicate if there is a trace of cocaine on surfaces. Of the three premises which had drug wipes utilises all three gave a positive indication. This adds further weight to the fact that drugs are prevalent in both standard premises and late hour premises.

Sec 4 Licensing (Scotland) Act 2005 details the five licensing objective which must be linked to the sale of alcohol. Of those five objectives three are particularly relevant in relation to putting measures in place to combat the illegal use of drugs within a licenced premise

1. Preventing Crime and Disorder.
2. Securing Public Safety.
4. Protecting and Improving Public Health.

Duty of Care

During the early hours of the morning in the winter of 2016 witnesses within a dwelling heard sounds of what they believed to be a person grunting. On going outside they discovered a person in their late 20's lying on a public footpath in Orkney. The person was found to be extremely cold to the touch, groaning and unresponsive, as such an ambulance was called which conveyed them to hospital where they were placed in an induced coma, concern was raised due to their low core temperature amongst other serious medical concerns. They were subsequently transferred to hospital in Aberdeen where fortunately, following medical treatment, they suffered no long term health issues. It was subsequently established that they had been drinking within a local licensed premise, had become

extremely intoxicated, were spoken to by a staff member near to the exit during which time they fell over due to intoxication and were unable to stand up without assistance yet they were simply allowed to leave on their own. Of further concern was the fact they were so intoxicated they had been unable to retrieve their jacket and left without it. It was thereafter over three hours before they were found on the aforementioned public footpath, it is suspected they had lain there for most, if not all, of that time. It is further believed, given the extremely low temperature at the time, had they not been found by the witnesses the circumstances may have had a far more tragic ending. As a result of the incident the licensed premise in question was placed on a Formal Intervention Plan with processes in place to ensure the safety of patrons both within and leaving the premise.

Over and above the aforementioned serious incident of note, and obvious failing by staff to ensure the safety of their patrons, there have been a further 12 recorded issues regarding the duty of care shown by licensing staff towards those who utilise their premises over the last two years within licensed premises in the Orkney Isles which fell below what should be expected.

Sec 4 Licensing (Scotland) Act 2005 details the five licensing objective which must be linked to the sale of alcohol. Of those five objectives two are particularly relevant in relation to ensuring the safety and wellbeing of patrons using

2. Securing Public Safety.
4. Protecting and Improving Public Health.

With the above in mind it is the opinion of Police Scotland, N Division, Orkney Area Command that a Duty of Care policy would assist in ensuring the safety and wellbeing of patrons attending licensed premises in Orkney.

Appendix 6 to the Draft Statement of Alcohol Licensing Policy, November 2018, Guidance to Risk Assessments for applications for Occasional Licences and Occasional Extensions, which provides advice and assistance to applicants for such licences with regards to carrying out a risk assessment exercise in terms of the 5 Licensing Objectives details, in relation to "Crime and disorder", that a risk factor is customers getting hold of drugs, and in relation to "Protecting and improving public health", that a risk factor is excessive drinking. This further evidences that there is a need to have local conditions to make a requirement to have in place Drug and Duty of Care policies.

It is understood that such local conditions will not be added retrospectively, however they can be added to new licences, minor & major variations and occasional licences.

DUTY OF CARE POLICY

"The licence holder must have in place a duty of care policy to ensure a standard approach is taken when any patron appears to be displaying signs of excessive intoxication. The purpose of this policy is to reduce vulnerability through intoxication, however attained.

All staff must have additional training in identifying signs of excessive intoxication and an enhanced awareness of vulnerability through intoxication. This should include use of material such as the 'Who are You' video (whoareyou.nz) or similar.

All related training should be recorded and such records available for inspection by Police and Licensing Standards Officers."

DRUGS POLICY FOR LICENSED PREMISES WITHIN HIGHLAND AREA

These premises operate a zero tolerance approach to drugs.

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 within the Highland Area 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 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 7.

Draft Statement of Alcohol Licensing Policy

Orkney Islands Area Licensing Board

Licensing (Scotland) Act 2005

December 2018

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Preamble

0.1.	<p>Definitions: In this Statement the following words shall have the meaning set out:</p> <ul style="list-style-type: none">• “the Act” means the Licensing (Scotland) Act 2005 as amended from time to time.• “the 2015 Act” means the Air Weapons and Licensing (Scotland) Act 2015 as amended from time to time.• “the Board” means the Orkney Islands Area Licensing Board constituted in terms of section 5 and schedule 1 of the Act.• “the Council” means Orkney Islands Council constituted in terms of the Local Government etc. (Scotland) Act 1994 and subsequent legislation.• “the LSO” means the Licensing Standards Officer(s) appointed by the Council in terms of section 13 of the Act.• “the Police” means Police Scotland, which reference throughout this document includes reference to the Police Service of Scotland.• “the 1982 Act” means the Civic Government (Scotland) Act 1982 as amended from time to time.• “Guidance” means the Guidance for Licensing Boards and Local Authorities issued by the Scottish Ministers in terms of section 142 as amended from time to time.
0.2.	<p>In terms of section 6 of the Act, licensing boards, once appointed following local government elections, must publish, within a period of 18 months, a statement of their policy to assist in the implementation and administration of the licensing of the sale and supply of alcohol within their area and to outline the way they intend to exercise their functions under the Act.</p>
0.3.	<p>In developing this policy, the Board has consulted widely and given due consideration to the views of all those who responded to that consultation process. Details of consultees are provided in paragraph 2 of this policy. There are many organisations and people who have a stake in the leisure industry, including providers, customers, residents, law enforcers and the emergency services, all of whom have views and concerns that require consideration in the promotion of the licensing objectives.</p>

0.4.	<p>In preparing this policy, the Board has had due regard to the guidance issued by the Scottish Government. In particular, the Board has recognised its duty to promote the five licensing objectives set out at section 4 of the Act:</p> <ul style="list-style-type: none"> • preventing crime and disorder; • securing public safety; • preventing public nuisance; • protecting and improving public health; and • protecting children and young persons from harm.
0.5.	<p>The Board welcomes the powers given to it by the Act and intends to use those powers in a socially responsible way. In so doing, the Board recognises that the interests of the public, residents, businesses and patrons of licensed premises require to be balanced. The five licensing objectives outlined in the Act will provide a starting point.</p>
0.6.	<p>You can contact the Licensing Board offices:</p> <ul style="list-style-type: none"> • by email to: licensing@orkney.gov.uk; • by fax to: 01856 871604; • by telephone to: 01856 873535 extensions 2232 or 2229; • in writing to: Clerk to the Licensing Board, Corporate Services, Orkney Islands Council, Council Offices, Kirkwall, Orkney KW15 1NY.
0.7.	<p>Comments on this policy must be submitted in writing by email or letter. Paper and electronic copies of this statement are also available on request from these email or postal addresses.</p>
0.8.	<p>Comments will be made public.</p>
0.9.	<p>If assistance is required, please discuss this with any member of staff, who will be glad to help.</p>
0.10.	<p>All our written information can be made available, on request, in a range of different formats and languages. If you would like this document in any other language or format, please contact us at the above telephone number or email or postal addresses.</p>
0.11.	<p>During the consultation period, this document will be published at http://www.orkney.gov.uk/Council/P/public-notices.htm and will be available for inspection at the Council Offices, Kirkwall, Orkney between 09:00 and 17:00 Mondays to Fridays.</p>
0.12.	<p>The final document, following adoption, will be published at http://www.orkney.gov.uk/Service-Directory/L/licensing-board-policies.htm.</p>

0.13.

The consultation period will commence from 6 July 2018 and will run to 6 September 2018. The policy will be applied for the relevant period. This will be from the date agreed by the Board until a period of 18 months following the next local government elections. It will be kept under review and be subject to ongoing consultation with stakeholders and revised, if appropriate, by the issue of supplementary statements, during its currency.

Section A – General

1. Introduction

1.1.	<p>The Board is a licensing authority for the purposes of the Act and is responsible for granting:</p> <ul style="list-style-type: none">• extensions of licensing hours;• occasional licences;• premises licences;• personal licences;• provisional licences;• temporary licences;• transfers of licences; and• variations of licences, <p>in respect of:</p> <ul style="list-style-type: none">• the sale of alcohol by retail for consumption on or off premises;• the supply of alcohol in members' clubs.
1.2.	<p>Orkney comprises 70 or so islands and skerries, of which up to 19 may be inhabited depending on the time of year. The Islands had a population of 21,349 in 2011, the majority of whom (17,162) lived on the main island called Mainland. The main population centres are located on Mainland. They are: Kirkwall, with a population of 7,200 (2011) and Stromness with a population of 2,050 (2011).</p>
1.3.	<p>At the time of preparation of this statement of Policy, there were 111 premises licences in force within the Board's area, being 16 on-sales, 40 off-sales, 46 both on and off-sales and 9 members' clubs.</p>
1.4.	<p>At the time of preparation of this statement of Policy, there were 341 personal licences in force within the Board's area.</p>
1.5.	<p>The Board is committed to ongoing improvements to the website and encouraging wider use of the internet to inform the public about licensing matters.</p>
1.6.	<p>The Board publishes a considerable amount of information, including requirements relating to layout plans, application forms, guidance, fire safety checklists and fees at http://www.orkney.gov.uk/Service-Directory/L/Alcohol_Licensing.htm.</p>
1.7.	<p>The Act requires the Board to publish annual reports in relation to its Financial Information and Functions. These are published in the Related Downloads section of the following webpage: http://www.orkney.gov.uk/Service-Directory/L/licensing-board-policies.htm.</p>
1.8.	<p>The Act requires the Board to publish Registers of specific information. The Board's Registers of premises and personal licences</p>

	<p>are published in the Related Downloads section of the following webpage:</p> <p>http://www.orkney.gov.uk/Service-Directory/C/Current-Register-of-Premises.htm.</p>
1.9.	<p>The Board's Registers of occasional licences are published in the Related Downloads section of the following webpage:</p> <p>http://www.orkney.gov.uk/Service-Directory/O/Occasional-Licences.htm.</p>
1.10.	<p>Information about the members of the Board, together with agendas, reports and Minutes relating to meetings of the Board, are published through links from the following webpage:</p> <p>http://www.orkney.gov.uk/Council/C/orkney-islands-area-licensing-board.htm.</p>
1.11.	<p>Since the implementation of the Act, the Board has issued:</p> <ul style="list-style-type: none"> • one general extension of licensed hours (Queen's Diamond Jubilee, 2012); • occasional licences 2009 (4 months) – 42; • occasional licences 2010 – 178; • occasional licences 2011 – 220; • occasional licences 2012 – 200; • occasional licences 2013 – 215; • occasional licences 2014 – 184; • occasional licences 2015 – 215; • occasional licences 2016 – 204; • occasional licences 2017 – 212; • occasional licences 2018 (9 months) – 124; • occasional extensions 2009 (4 months) – 1; • occasional extensions 2010 – 3; • occasional extensions 2011 – 5; • occasional extensions 2012 – 4; • occasional extensions 2013 – 3; • occasional extensions 2014 – 2; • occasional extensions 2015 – 1; • occasional extensions 2016 – 1; • occasional extensions 2017 – 1; and • occasional extensions 2018 (9 months) – 0.

1.12.	<p>The Act requires the Board to carry out its various licensing functions so as to promote the five licensing objectives. These are:</p> <ul style="list-style-type: none"> • preventing crime and disorder • securing public safety • preventing public nuisance • protecting and improving public health and • protecting children and young persons from harm.
1.13.	<p>The pursuit of these five objectives is a principal feature of this Board's policy. The objectives provide a basis for refusal of an application for the grant of a premises licence or of an occasional licence; their breach may lead to the imposition of sanctions on a personal licence holder or provide grounds for the review of a premises licence. The attachment of conditions to a premises licence or occasional licence may be based on any of the objectives.</p>
1.14.	<p>The Act further requires that the Board publish a statement of licensing policy which sets out the policies the Board will generally apply to promote the licensing objectives when making decisions on applications.</p>
1.15.	<p>The Board is required to have regard to the Guidance issued by the Scottish Government and to consult with:</p>
1.15.1.	<p>The local licensing forum for the Board's area.</p>
1.15.2.	<p>The following, in so far as they are not represented in the membership of the forum:</p> <ul style="list-style-type: none"> • holders of premises licences and personal licences; • the chief constable; • persons having functions relating to health, education or social work; • young people; and • persons resident within the forum's area.
1.15.3.	<p>The relevant health board.</p>
1.15.4.	<p>Such other persons as the Board thinks appropriate.</p>
1.16.	<p>This policy has been prepared in accordance with the provisions of the Act. It will be applied for the relevant period. This will be from the date agreed by the Board until a period of 18 months following the next local government elections. It will be kept under review and be subject to ongoing consultation with stakeholders and revised, if appropriate, by the issue of supplementary statements, during its currency.</p>

1.17.	It should be recognised that this policy covers a wide variety of activities and premises including public houses, restaurants, nightclubs and private members' clubs, as well as off-licences. It cannot provide for every eventuality but seeks to detail those factors and the Board's policies which will influence the achievement of the licensing objectives.
1.18.	<p>The Board acknowledges that the licensing function cannot be used for the general control of the anti-social behaviour of individuals once they are beyond the direct control of the licence holder of any premises. Other mechanisms exist to be utilised, where appropriate, to tackle unruly or unlawful behaviour of consumers when beyond the control of an individual, club or business holding a licence. These include:</p> <ul style="list-style-type: none"> • planning controls; • positive measures to create a safe and clean city environment, in partnership with local businesses, transport operators and various services of the local authority; • the provision of close circuit television (CCTV) surveillance, taxi ranks, street cleaning and litter patrols; • designating parts of the local authority area as places where alcohol may not be consumed publicly (http://www.orkney.gov.uk/Council/C/drinking-in-public-places-in-kirkwall.htm); • enforcement of the law concerning disorder and anti-social behaviour; • greater use of the powers to deal with those who commit offences, such as selling alcohol to people who are drunk.
1.19.	This policy does not seek to undermine the right of any individual to apply under the terms of the Act and to have such an application considered on its individual merits. If there are no grounds for refusal, the Board must grant the application. The policy does not seek to override the right of any person to make representations on an application or to seek a review of a licence where provision has been made for this in the Act.

2. Consultation and Links to Other Policies, Strategies and Legislation

2.1.	<p>In accordance with the requirements of section 6 of the Act and prior to the publication of this policy, the Board has consulted with and taken account of the views of:</p> <ul style="list-style-type: none"> • Alcohol Focus Scotland. • Citizens Advice Bureau (Orkney). • Community councils. • Holders of premises licences throughout Orkney. • Local firms of solicitors. • Local Licensing Forum. • NHS Orkney. • Officials of the Council in respect of planning, building standards, environmental health, education, social services and housing. • Orkney Alcohol Counselling and Advisory Service. • Orkney Alcohol and Drugs Partnership. • Orkney Child Protection Committee. • Orkney Community Planning Partnership. • Orkney Health and Care. • Police Scotland. • Residents via a public notice on www.orkney.gov.uk. • Scottish Beer and Pub Association. • Scottish Fire and Rescue Service. • Scottish Licensed Trade Association. • Visit Scotland (Kirkwall Office). • Voluntary Action Orkney.
2.2.	<p>In administering its responsibilities in respect of licensing the Board believes that it is important that it does not operate in isolation. Due regard will be given to the policies and decisions of the Council.</p>
2.3.	<p>The Human Rights Act 1998 incorporated the European Convention on Human Rights and made it unlawful for a local authority to act in a way which is incompatible with a Convention Right. The Board will have regard to the ECHR in respect of its licensing responsibilities.</p>
2.4.	<p>The Freedom of Information (Scotland) 2002 requires licensing boards to publish information on the basic structure of the board, how it is administered, details of the type of information available to the public and how it can be accessed. The Board's publication scheme, setting out this information, is published at http://www.orkney.gov.uk/Service-Directory/L/licensing-board-policies.htm.</p>

2.5.	The Board also has responsibility for certain licensing functions under the Gambling Act 2005. The Board's statement of policy in respect of the exercise of its functions under that Act is contained in a separate document published at http://www.orkney.gov.uk/Service-Directory/L/licensing-board-policies.htm .
2.6.	The Board recognises its responsibilities under the Equality Act 2010 and related legislation. The Board adopted a Multi Equality Strategy in 2013, which replaced its previous policies in relation to Disability, Race and Gender. Subsequently, the Board's Equality data and outcomes have been reported together with those of the Council and Education Authority. The reports and outcomes are published at http://www.orkney.gov.uk/Council/C/Equality-and-Diversity.htm .
2.7.	The Board will have regard to any strategy of the Scottish Government designed to address the social, health and crime and disorder issues raised by the misuse of alcohol.
2.8.	The Board will avoid duplication with other regulatory regimes and will not use its powers under the Act to arrive at outcomes that can be achieved under other legislation or by other enforcement agencies.
2.9.	In particular, the Board's licensing functions will be discharged separately from the functions of the Council as the local planning authority. The Board recognises that planning and licensing regimes are separate and that the processing of licensing applications should be an exercise distinct from the processing of planning applications. The Board as the licensing authority will not be bound by decisions made by the Council as the local planning authority. Applicants for licences are reminded that planning permission may be required for certain uses and that planning consents may carry conditions.
2.10.	It is appropriate that planning permission is obtained first or alternatively that a certificate of lawful use or development has been obtained in terms of the proposed activities and trading hours.
2.11.	In general, planning permissions authorise a broad type of use of premises, whereas licences are granted for a particular type of activity. A planning permission may cover a number of activities that can have a wide range of different impacts in the locality.
2.12.	There is a presumption of a common approach in the reasoning behind planning and licensing decisions and conditions attached to planning permissions may relate to one or more of the five licensing objectives. Where this is the case, operating plans should make reference to those planning conditions.

2.13.	All premises for which a licence is being sought will be expected to comply with the building standards requirements in force at the time of their construction or at the time of any alteration. This is particularly relevant in respect of the licensing objectives relating to public health and public safety. Where construction work is proposed or completed, the applicant should be able to produce appropriate certificates issued by the local authority.
2.14.	Other statutory requirements may apply to the provision of any activities at premises and the responsibility for compliance lies with the licence holder. For example, if the activity involves the preparation and/or sale of food then it is the responsibility of the applicant to ensure that all appropriate food safety legal requirements are met. It is not a requirement of any licence decision to address these matters but a responsible licence holder will conform to all relevant legislation.
2.15.	There is considerable overlap between the licensing regime and wider health and safety regulatory regimes. Many specific licensing requirements relate to matters potentially affecting public health and public safety, two of the licensing objectives.
2.16.	The Board will maintain effective communication with the Orkney Alcohol and Drugs Partnership. The importance of such cooperation is recognised as part of the wider alcohol agenda.
2.17.	The formulation of this policy involved consultation with the Local Licensing Forum, which will keep under review the operation of the Act in this Board's area and will advise and make recommendations to the Board as appropriate. The Board will have regard to any advice given or recommendation made to it. To ensure proper communication with the Local Licensing Forum, the Board may provide reports particular to it from time to time to enable it to have regard to the detail of such matters when deliberating. Information about the Local Licensing Forum is published at http://www.orkney.gov.uk/Service-Directory/O/Orkney-Local-Licensing-Forum.htm .
2.18.	The Council publishes agendas, reports and Minutes relating to meetings of the Orkney Local Licensing Forum through links on the following webpage: http://www.orkney.gov.uk/Service-Directory/O/Orkney-Local-Licensing-Forum-Agendas-and-Reports.htm .

3. Applications for Licences and Disposal of Business

3.1.	The Board will not accept any premises licence application which fails to satisfy statutory requirements as to matters to be included in or to accompany an application. Any such application will be returned to the applicant. The Board seeks eventually to hold plans of premises electronically and encourages all applications to be accompanied by an electronic copy of any plans to be submitted.
3.2.	With reference to section 123 of the Act (Excluded Premises), the Board determined in 2007 that 22 garages subject to off-sale licences at the time of drafting its first policy served a wider local function or were a required community resource. Applications for new petrol filling station premises will be considered on their merits to determine whether they would serve a similar function. In general, premises used as a garage or which form part of a garage shall be excluded from obtaining a licence.
3.3.	With reference to section 125 of the Act, members' clubs are regulated under the Act and a premises licence is required to authorise the sale of alcohol.
3.3.1.	The Scottish Government acknowledges that it would be reasonable to reflect their special characteristics. In order to benefit from the exemptions available members' clubs require to meet the criteria prescribed in the Licensing (Clubs) (Scotland) Regulations 2007 (http://www.legislation.gov.uk/ssi/2007/76/contents/made).
3.3.2.	When members' clubs apply to the Board they require to provide a copy of their Constitution and Rules to show that they comply with the criteria referred to above in order to benefit from the exemptions.
3.3.3.	Members' clubs are subject to the same provisions regarding access by children as any other licensed premises. They require to specify in their operating plans whether or not it is proposed that children and young persons are to be allowed entry to the premises and, if so, to specify the terms, the times, the ages of such children and the parts of the premises to which they would be permitted access.
3.3.4.	The Board considers that the following would be good practice: <ul style="list-style-type: none"> • clubs should keep their constitutions updated and, when revised, submit a copy of the revised constitution to the Clerk; and • at least two members of staff or committee members or volunteers involved in the management of the club should obtain a training qualification to the standard required by personal licence holders.
3.4.	The Board will dispose of its business in an open and transparent manner. Hearings will be conducted in as informal a manner as possible. Guidance will be made available to those persons who wish to apply for a licence, to make representations or to lodge objections. The Board will remain at all times mindful of the need to be accessible to all and assistance will be available on request to those who require any special arrangements to be made. A statement of agreed procedures for Board meetings is attached at Appendix 1.

3.5.	The Board will generally operate in the Chamber of the Council Offices. However, circumstances may dictate that the Board will operate elsewhere on occasion. The Board will comply with timescales laid down for dealing with applications. The Board meets on a regular basis and the meeting dates are published at http://www.orkney.gov.uk/Diary-of-Meetings.htm .
3.6.	All members appointed to the Board have been trained in accordance with regulations made under the Act which require members to undertake an accredited course of training within three months of being elected or re-elected as a member of the Board.
3.7.	The Board is committed to the use of e-government technology and to applying its benefits so as to ensure continuous improvement of the Board's operation.
3.8.	Applications are advertised for the statutory periods on the Council's website at http://www.orkney.gov.uk/Council/P/public-notices.htm .

4. Delegation of Licensing Functions

4.1.	It is the Board's policy to provide a speedy, efficient and cost-effective service to all parties involved in the licensing process.
4.2.	Decisions on licensing matters will be taken in accordance with an approved scheme of delegation aimed at underlining the principles of timely, efficient and effective decision making.
4.3.	The delegations will be made by the Board in accordance with the Act. A table setting out how the Board intends to delegate its various licensing functions is attached at Appendix 2.
4.4.	Unless there are justifiable reasons or, as provided in regulations made under the Act, the Board will meet in public, although members may retire into private session to consider their decision. However, any decision will be made in public in accordance with the Act or regulations made thereunder.

5. Notification of Application, Objections and Representations

5.1.	<p>The Board will give notice of each premises licence application it receives to those persons referred to in the Act or their successors, namely:</p> <ul style="list-style-type: none"> • each person with a notifiable interest in neighbouring land; • any community council within whose area the premises are situated; • the Council; • the relevant health board, being NHS Orkney; • Police Scotland; and • Scottish Fire & Rescue Service.
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5.2.	In providing notice, the Board is committed to ensuring that application details are provided in a clear, concise and understandable way, by means of Site Notices provided to applicants for display, by means of notification to the consultees detailed at paragraph 5.1 above and by online notification at http://www.orkney.gov.uk/Council/P/public-notices.htm .
5.3.	The Board expects the Police to consider all applications and to give one of the statutory notices as appropriate. The Board will consider all relevant representations or objections from any person. The objection must relate to one of the licensing objectives. Objections or representations which are regarded as frivolous or vexatious may not be considered and in the case of an application for review of a licence may be rejected by the Board if it does not disclose any matter relevant to any ground for review.
5.4.	Where an objection or representation in respect of a premise licence application or a variation application is received late, after the specified date for receipt, the Board will normally treat the objection as not made unless the objector has provided an explanation for late receipt. If the Board decides there are good reasons to treat the objection as made, consideration will be given in the interests of justice to a continuation of the hearing into the application, objections and representations to a future meeting of the Board.
5.5.	The Board will seek the advice of the Council's Development and Infrastructure service in relation to applications for provisional premises licences regarding suitability. This will enable a pro-active approach to be adopted permitting applicants sufficient notice of any issues that may require to be addressed within premises prior to completing construction or renovation when it would be likely to be too late to incorporate changes into the design at the stage of confirmation.

6. Conditions Attaching to Licences

6.1.	The Board acknowledges the mandatory conditions attaching to premises and occasional licences laid down in schedules 3 and 4 of the Act, together with mandatory conditions attached by regulation to premises which are open beyond 1 a.m. on any day. Mandatory conditions current at the date of publication of this policy are attached at Appendices 3 to 5.
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6.2.	Where relevant representations are made, the Board will make an objective judgement as to whether other conditions may need to be attached to a licence to secure achievement of the licensing objectives. Any conditions arising as a result of representations will primarily focus on the impact of the activities taking place at the licensed premises, on those attending the premises and members of the public living, working or engaged in normal activity in the vicinity of the premises, and will cover matters that are within the control of the licence holder. The Board will seek to avoid the imposition of disproportionate conditions. In this connection, the Board may consider attaching a condition requiring the premises licence holder and / or designated premises manager to take-up membership of any Pubwatch or similar scheme operating in the area and to participate fully in its operation, including the effective sharing of information.
6.3.	The Board recognises that all applications should be considered on their own merits. Any condition attached to a licence will be derived either from the licence holder's operating plan or a representation and will be tailored to each individual premises.
6.4.	The Board understands that applicants may suggest conditions which they consider are necessary to achieve the five licensing objectives. If an applicant volunteers a prohibition or restriction in their operating plan because their assessment has determined such prohibition or restriction to be appropriate, such prohibition or restriction if adopted by the Board will be attached as a condition of the licence and will be enforceable as such.

7. Need for Licensed Premises

7.1.	The Board acknowledges Guidance issued by the Scottish Government that licensing boards should not take into account the need or demand for licensed premises in any locality, as commercial considerations are irrelevant to boards' policies. Licensing decisions will not therefore be based upon this issue.
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8. Consideration of Applications by the Board.

8.1.	In assessing the following matters, the Board will have regard to the licensing objectives and will expect applicants to pay similar regard to their terms.
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8.2.	<p>When considering whether any licence should be granted, the Board will assess the likelihood of it having an adverse impact. The Board may take into account relevant matters including:</p> <ul style="list-style-type: none"> • the nature of the premises, the style and type of use, the potential number and profile (for instance, ages or disabilities) of the customers likely to attend the premises; • the proposed hours of operation; • whether children are to be admitted to the premises and the arrangements made for them; • the means of access to the premises including the location and adequacy of customer entrances and exits; • the level of public transport accessibility for customers either arriving or leaving the premises and the likely means of public or private transport that will be used by them; • the likely level of car parking demand on principal roads and surrounding residential streets in comparison with the existing situation, its effect on local residents and on residential parking and emergency access; • the provision of toilet facilities and ventilation of the premises.
8.2.	<p>Where it is possible to take steps to mitigate or prevent any potential impact it may still be possible to grant a licence subject to conditions. Each case will be considered on its merits.</p>
8.3.	<p>When considering any application for premises which have been previously licensed, or in any review of an existing licence, the Board will take into account the impact on local residents as borne out by any history of complaints and investigations into these and any antisocial behaviour report made available by the Police. The Board will also consider measures put into effect by the applicant to mitigate any adverse impact.</p>

9. Overprovision.

9.1.	<p>The Board is under a duty in terms of section 7 of the Act to publish in this policy a statement on the extent to which it considers there to be overprovision of licensed premises or licensed premises of a particular description in any locality within the area of the Board.</p>
9.2.	<p>On 25 January 2018, the Board determined that, for the purposes of consultation on the assessment of overprovision of alcohol licensed premises, the locality should be Orkney as a whole.</p>
9.3.	<p>On 3 May 2018, the Board determined that there is no overprovision of licensed premises or licensed premises of a particular description within the locality of Orkney defined by the Board.</p>

9.4.	The Board concluded that there was not a dependable causal link between the evidence provided to the Board and the operation of licensed premises, to suggest that a saturation point had been reached, or was close to being reached, within the locality of Orkney defined by the Board. A copy of the full report is available at http://www.orkney.gov.uk/Council/C/orkney-islands-area-licensing-board-3-may-2018.htm .
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10. Occupancy Capacity.

10.1.	Reference is made to the provisions of paragraph 9 of this policy, which relate to overprovision. The occupancy capacity of premises is one factor in the assessment of overprovision.
10.2.	The occupancy capacity for premises and events is an important factor in the achievement of the five licensing objectives, except in respect of premises licensed only for the consumption of alcohol off the premises. The Board will seek the advice of the Council's building standards service in relation to maximum occupancy limits to ensure the safety of persons in the premises and safe escape in the case of an emergency.
10.3.	<p>The Board will expect applicants to consider various factors when assessing the appropriate capacity for premises. These include:</p> <ul style="list-style-type: none"> • the design and layout of the premises; • the location, availability and size of exits including emergency exits; • the nature of the premises or event; • the nature of the activities being provided; • the provision or removal of temporary structures such as a stage or furniture; • the number of staff available to supervise customers both ordinarily and in the event of an emergency; • the profile of the customers (for instance, ages or disabilities); • the availability of suitable and sufficient sanitary accommodation; • the nature and provision of facilities for ventilation.
10.4.	Each case will be considered on its merits but the Board will consider very carefully the type, size and capacity of licensed premises in the particular locality in respect of which the application is made.

11. Occasional Licences and Extended Hours.

Occasional Licences

11.1.	An occasional licence authorises the temporary sale of alcohol on premises other than licensed premises.
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11.2.	<p>They may be applied for by:</p> <ul style="list-style-type: none"> • the holder of a premises licence; • the holder of a personal licence; or • a representative of any voluntary organisation. <p>to cover a period of up to 14 days.</p>
11.3.	<p>The holders of a premises licence or a personal licence may make unlimited applications.</p>
11.4.	<p>There are restrictions on the number of applications voluntary organisations and registered clubs can make, in any period of 12 months:</p> <ul style="list-style-type: none"> • not more than 4 occasional licences each having effect for a period of 4 days or more; and • not more than 12 occasional licences each having effect for a period of less than 4 days <p>provided that, in any period of 12 months, the total number of days on which occasional licences issued in respect of the voluntary organisation, or the premises of the registered club have effect does not exceed 56.</p>
11.5.	<p>On 14 October 2009, the Board adopted the following definition of a voluntary organisation:</p> <p>“An independent organisation established for purposes that add value to the community as a whole and which is not permitted, by its constitution, to make a profit for private distribution. Such an organisation does not include local government, other public bodies or statutory authorities. It is an organisation formally constituted, self-governing and primarily non-commercial.”</p>
11.6.	<p>Where a representative of a voluntary organisation applies for an occasional licence for a barn dance, or a marquee dance, where more than 100 persons are expected, the Board expects there to be a person in charge of the bar at the event who is a personal licence holder and evidence of that training must be submitted to the Board with the application for the occasional licence.</p>
11.7.	<p>In all other circumstances, where a voluntary organisation applies for more than 4 occasional licences in any calendar year, the Board expects there to be a person in charge of the bar at the event who is a personal licence holder and evidence of training must be submitted to the Board with the application for the occasional licence.</p>
11.8.	<p>The Board considers that it would be good practice for at least one or two committee members or volunteers involved in the operation of the voluntary organisation to obtain a training qualification to the standard required by personal licence holders.</p>

11.9.	The Board considers the commencement of the sale of alcohol shall not be earlier than 10 a.m. For the terminal hour beyond which alcohol must not be sold on the premises, the Board considers that the time frames detailed in paragraph 20 of this policy are appropriate.
11.10.	Applicants seeking licensed hours for times outwith the Board's policy will require to demonstrate to the Board that the additional requested hours are appropriate in the circumstances.
11.11.	Registered clubs should ensure that occasional licences applied for in respect of their premises are for events for the benefit of the club or their members to which members of the public are admitted or for which there are insufficient numbers of members attending the event to sign in the required number of guests.
11.12.	Voluntary organisations should ensure that occasional licences applied for are for events for the benefit of the organisation to which members of the public may be admitted.
11.13.	All applications for occasional licences should be accompanied by an assessment of how the application complies with the licensing objectives. Guidance is attached at Appendix 6.
11.14.	Applicants should be aware that it is a mandatory condition of an occasional licence that an Age Verification Policy, as referred to in the Guidance, must be in place. Further information is published at http://www.orkney.gov.uk/Service-Directory/L/Alcohol_Licensing.htm .
11.15.	To allow time for the statutory consultation process, applications should be submitted as far in advance of the event as possible but not later than 4 weeks before the event is due to take place. An application received after that deadline may not be processed in time. Any applicant unable to meet the deadline should communicate with the Clerk's office as a matter of urgency.
11.16.	Applicants should be aware that they may also require a public entertainment licence issued by the Council in terms of the 1982 Act, dependent upon the nature of the event. Further information is published at http://www.orkney.gov.uk/Service-Directory/P/Public-Entertainment_2.htm .
11.17.	Applicants should be aware that they may also require a late hours catering licence issued by the Council in terms of the 1982 Act if the event commences before or continues after alcohol sales. Further information is published at http://www.orkney.gov.uk/Service-Directory/L/Late-Hours-Catering.htm .
11.18.	The Board recognises the right of any person to object to an application for an occasional licence.
11.19.	The grant of an occasional licence is subject to the mandatory conditions laid out in schedule 4 to the Act. Reference is made to the provisions of paragraph 6 and Appendix 5 of this policy.

11.20.	The Board will consider on an individual basis whether it is necessary or expedient to impose additional conditions, to promote one or more of the licensing objectives or otherwise to give effect to the provisions of this policy or the Act. The decision whether to impose conditions will be made on an objective basis, any representations made and any other relevant information available to the Board when considering the application. The Board will seek to avoid the imposition of disproportionate conditions.
11.21.	The Board commonly attaches some local conditions.
11.21.1.	The following local condition is attached to all occasional licences: Noise from the premises to which the occasional licence applies shall: <ul style="list-style-type: none"> • not be discernible within residential accommodation between 2300 hrs and 0700 hrs; and • at no time be such as to give rise to a nuisance.
11.21.2.	The following local conditions are attached to some occasional licences when relevant, usually events taking place outwith permanent premises, for example, marquees: <ul style="list-style-type: none"> • The licence holder shall provide the facilities and fire precautionary measures as stated on the Fire Safety Checklist completed by the licence holder and submitted to the Scottish Fire and Rescue Service. • The licence holder shall ensure that all alcoholic liquor sold at the event shall be served in plastic containers. No bottles or glass containers shall be sold or served.

Extended Hours

11.22.	Extended hours applications allow for an occasional extension of licensed hours within licensed premises and operate only for a period of up to one month. If the Board receives a number of applications to extend licensed hours it will expect the applicant to consider whether an application should be made to vary the premises licence, by adjustment of the operating plan.
11.23.	Occasional extensions can be applied for by premises licence holders in connection with a special event or occasion to be catered for on the premises or a special event of local or national significance.

11.24.	<p>Where the hours sought fall outwith the on-sale hours detailed in paragraph 20 of this policy, the applicant will require to demonstrate that the hours requested are appropriate in the circumstances. The applicant shall provide the Board with sufficient information to enable a decision to be made. In addition to the information provided on the application form, this will include:</p> <ul style="list-style-type: none"> • why the event or occasion is considered to be special; • why the event or occasion cannot take place within the usual on-sales hours operated on the premises; and • an assessment of how the application complies with the licensing objectives (guidance is attached at Appendix 6).
11.25.	<p>To allow time for the statutory consultation process, applications should be submitted as far in advance of the event as possible but not later than 4 weeks before the event is due to take place. An application received after that deadline may not be processed in time. Any applicant unable to meet the deadline should communicate with the Clerk's office as a matter of urgency.</p>
11.26.	<p>The Board will have complete discretion as to whether to grant the application taking into account any Police objections and comments from the LSO and having regard to the licensing objectives. The Board may hold a hearing for the purposes of determining any application, but this is not mandatory. Where the Board does not hold a hearing, the Board will ensure that before determining the application, the applicant is given an opportunity to comment on any objections from the Police or adverse comments from the LSO.</p>
11.27.	<p>The Board may grant a general extension of licensed hours under section 67 of the Act to enable premises to remain open longer in connection with a special event of local or national significance. The Board will request observations from the Police and the LSO in relation to the licensing objectives. It will notify its determination to the Police and LSO, to holders of licences and other relevant parties and will take appropriate steps to publicise the determination as widely as necessary, including publication at http://www.orkney.gov.uk/Council/P/public-notices.htm.</p>
11.28.	<p>The Board believes that in many cases, such events can be appropriately accommodated within the Board's normal licensed hours policy and should not be regarded as routinely in need of extended licensed hours. Any extension beyond normal licensed hours policy will only be granted after careful consideration of the particular event and will require increased control measures in place aimed at preventing or limiting problems with their potential impact on the five licensing objectives.</p>

12. Licensing Standards Officers and Enforcement.

12.1.	<p>The Council's appointed LSOs work within its Environmental Health Service. Their LSO function incorporates three roles:</p> <ul style="list-style-type: none"> • providing information and guidance to interested persons concerning the operation of the 2005 Act in their area; • providing mediation services to avoid or resolve disputes or disagreements between licence holders and other persons; if a member of the public complains about a premises, the LSO will investigate; and • supervising licence holders' compliance with the legislation.
12.2.	<p>The LSOs will take a stepped approach to enforcement, from verbal advice through to written. The LSOs can take formal action when appropriate by means of issuing of compliance notices and referral to the Board for review. The LSOs are also members of the Local Licensing Forum.</p>
12.3.	<p>The LSOs can be contacted:</p> <ul style="list-style-type: none"> • by email to: env.health@orkney.gov.uk; • by telephone to: 01856 873535 extension 2801; • by writing to: Licensing Standards Officer, Environmental Health, Development and Infrastructure, Orkney Islands Council, Council Offices, Kirkwall, Orkney, KW15 1NY.
12.4.	<p>Resources will be targeted towards high-risk premises and activities that require greater attention.</p>
12.5.	<p>The Council delivers a wide range of enforcement services aimed at safeguarding the environment and the community and at providing a level playing field on which businesses can trade fairly. The enforcement of the licensing regime is one of these services.</p>
12.6.	<p>Specifically, the Council has confirmed that it is committed to the principles of good enforcement practice by carrying out its regulatory functions in a fair, open and consistent manner.</p>
12.7.	<p>The Board recognises the interests of both citizens and businesses and will work closely with its partners, to assist licence holders to comply with the law and the five licensing objectives it seeks to promote. Proportionate but firm action will be taken against those who commit offences.</p>
12.8.	<p>The Board expects enforcement agencies to adopt a similar approach and will seek to work actively with them to enforce the licensing legislation. In particular the Board anticipates co-operation with the Police and to share information where appropriate in order to enhance the promotion of the five licensing objectives.</p>

12.9.	<p>The Board recognises the Hampton principles of inspection and enforcement, including:</p> <ul style="list-style-type: none"> • no inspection should take place without a reason; and • regulators should recognise that a key element of their activity will be to allow or even encourage, economic progress and only intervene when there is a clear case for protection.
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13. Review of Premises Licences.

13.1.	<p>A licence may be reviewed on the application of any person on the grounds that one or more conditions to which the premises licence is subject has been breached or any other ground relevant to one or more of the licensing objectives. A review will include consideration being given to the suspension, revocation or variation of a licence or alternatively to the issue of a written warning.</p>
13.2.	<p>The Board may reject a premises licence review application if it is considered to be vexatious or frivolous or if it does not disclose any matter relevant to any ground for review.</p>
13.3.	<p>Reviews may result from enforcement activity by the Police or the LSO.</p>

14. Management of Licensed Premises.

14.1.	<p>A premises manager must be identified in an operating plan for licensed premises, except members' clubs. The person can only be the premises manager for one licensed premises. The Board will expect the premises manager to have the day to day responsibility for running the premises and to be present at the licensed premises on a regular basis when alcohol is being sold. The premises licence holder is expected to ensure that the premises manager has experience commensurate with the size, capacity, nature and style of the premises.</p>
14.2.	<p>The premises manager must hold a personal licence.</p>
14.3.	<p>Within all licensed premises, whether or not alcohol is to be sold, the Board will expect there to be proper management arrangements in place which will ensure that there is an appropriate number of responsible, trained persons on the premises and will also ensure compliance with all statutory responsibilities and the terms and conditions of the premises licence. Premises are recommended to have other personal licence holders in addition to the premises manager.</p>

15. Personal Licences.

15.1.	<p>Any individual may seek a personal licence whether or not they have current employment or business interests associated with the use of the licence.</p>
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15.2.	<p>The Board will grant a personal licence if it is satisfied that the applicant:</p> <ul style="list-style-type: none"> • is 18 years of age or older; • possesses a relevant licensing qualification; • does not already hold a personal licence issued in Scotland • has not had a personal licence revoked within the period of 5 years, ending with the day on which the application was received (other than for failure to complete mandatory refresher training); and • has not been convicted of any relevant offence or foreign offence.
15.3.	<p>When an applicant has an unspent conviction for a relevant or foreign offence, the Board will hold a hearing at which it will consider carefully whether it is satisfied that the grant of a licence would not breach the objectives of the Act. It will consider the seriousness and relevance of any conviction, the period that has elapsed since the offences were committed and any mitigating circumstances. If not so satisfied the Board will refuse the application.</p>

16. Adult Entertainment.

16.1.	<p>The Board notes that in terms of regulations published by the Scottish Government, “adult entertainment” means any form of entertainment which:</p> <ul style="list-style-type: none"> • involves a person performing an act of an erotic or sexually explicit nature; and • is provided wholly or mainly for the sexual gratification or titillation of the audience.
16.2.	<p>Where the operating plan for a premises licence application identifies that adult entertainment will take place in the premises, the Board will have particular regard to the location of the premises in relation to places of religious worship, schools, youth clubs or other premises where significant numbers of children are likely to congregate.</p>
16.3.	<p>All applications involving adult entertainment of any kind will be considered in relation to the licensing objectives on their own merits.</p>
16.4.	<p>At the time of preparation of this statement of Policy, the Board noted the Scottish Government’s intentions for licensing of venues offering sexual entertainment. It noted that the relevant provisions of the 2015 Act were not yet in force and that licensing of such venues would be a matter for the Council.</p>

17. Off-sales.

17.1.	<p>The Board notes that regulations concerning display of alcohol for consumption off the premises must be observed in the layout of premises. Information about the requirements relating to layout plans is available at http://www.orkney.gov.uk/Service-Directory/L/Alcohol_Licensing.htm.</p>
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17.2.	Paragraphs 20.2 and 20.3 of this policy outline the Board's policy approach with respect to off-sale trading hours.
17.3.	The Board encourages the installation of an effective CCTV system, which complies with current legislative requirements (including, for the avoidance of doubt, Data Protection legislation), in off-sales licensed premises. Reference is made to paragraphs 20, 22 and 24 of this policy relating to hours of trading and the licensing objectives of prevention of crime and disorder and prevention of public nuisance.

18. Smoking and Nuisance.

18.1.	The Board acknowledges that smoking is not a licensing matter but one for other legislation.
18.2.	The health risks associated with smoking and with passive smoking continue to be well publicised. Licence holders will be aware of their own statutory responsibilities, public opinion generally, the expectations of their patrons and the legislation concerning smoking in public places.
18.3.	The Board expects that licence holders will have regard to good practice. It is their responsibility to ensure that patrons do not create a nuisance or disturbance for residents living nearby. This includes noise arising as a result of patrons smoking outside the premises and any associated littering of the area. Where appropriate the Board may impose conditions requiring licence holders to provide litter bins and cigarette disposal containers in the vicinity.
18.4.	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.

19. Outdoor Facilities.

19.1.	The Board will expect any licence holder who intends to provide outdoor facilities to hold a premises licence which includes the outside area. These areas should be shown on the required plan of the premises and will be taken into account in the overall assessment of capacity, particularly in relation to exits and sanitary facilities.
19.2.	When applicants propose to provide outdoor facilities (whether covered or not), regard should be had to the need to ensure that the use of such outdoor areas will not cause disturbance or nuisance to the occupiers of other premises in the vicinity. Applicants should demonstrate how they intend to mitigate these issues.

19.3.	The Board expects that licence holders will not only comply with any conditions of grant of a permit which may be applied in respect of tables and chairs, but will also put into place effective management controls, supervision and other measures to ensure that the use of such areas by patrons or by any other persons does not have a negative impact in the vicinity. In this connection, the Council operates a scheme whereby consent may be applied for to occupy the footway with tables and chairs. This scheme is operated under the Roads (Scotland) Act 1984.
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20. Hours of Trading.

20.1.	This section relates to licensed premises where alcohol is sold with or without any other licensable activity.
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Off-sales

20.2.	For applications relating to premises licences and to occasional licences, the licensed hours for the sale of alcohol for consumption off the premises (off-sale hours) are 10 a.m. to 10 p.m. each day. The Board has no discretion to permit licensed hours outwith these times in terms of the Act. In determining applications and licensed hours within these times, the Board will, in considering the merits, have particular regard to the effect (if any) which the proposed off-sales hours may have on the licensing objectives relating to crime, children, public health and public nuisance in particular.
20.3.	There is no entitlement to a grant of maximum trading hours for off-sale premises. The hours granted by the Board to off-sale premises will reflect the actual hours of operation of the premises. There will be flexibility to build in extended or reduced trading to reflect seasonal variations, such as the Festive Season.

On-sales

20.4.	For applications relating to premises licences, including extensions of hours, the licensed hours for the sale of alcohol for consumption on the premises (on-sale hours), the Board considers the commencement of the sale of alcohol shall generally be no earlier than 10 a.m. 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.
20.5.	Any opening time earlier than 10 a.m. will require strong evidence before being permitted by the Board.
20.6.	The Board will consider extending the commencement of the sale of alcohol in premises from 10 a.m. to 9 a.m. on condition that the sale of alcohol is ancillary to a table meal taken by persons within the premises.

20.7.	A table meal generally consists of a meal eaten by a person sitting at a table, counter or other structure which serves the purpose of a table. The meal must be eaten with cutlery or similar accoutrements. Snacks, sandwiches and crisps are not considered to constitute table meals.
20.8.	The Board may attach conditions to such licences. The earlier premises wish to open, the more the Board will expect applicants to demonstrate measures that promote the licensing objectives and justify the request for the early hours. The Board further considers that it would be difficult for any application to justify the sale of alcohol before 9 a.m.
20.9.	Having regard to the licensing objectives, but subject to considering the individual merits of each case, for on-sale licensed premises the Board considers the following to be appropriate for terminal hours:
20.9.1.	Regular evenings: <ul style="list-style-type: none"> • 12 midnight Sundays to Thursdays inclusive; and • 1 a.m. Fridays/Saturdays and Saturdays/Sundays; or • 2 a.m. Fridays/Saturdays and Saturdays/Sundays for premises which, in terms of their operating plan and the Board's understanding, will be operating as nightclubs.
20.10.	The Board expects applicants to apply for the hours they normally or usually trade in their operating plan. There is no automatic entitlement to the maximum hours for on-sales set in terms of the Board's policy. Provision can be built into operating plans for longer or shorter opening at certain times of the year, such as the Festive Season.
20.11.	The following may be included within the Seasonal Variations section of operating plans:
20.11.1.	<ul style="list-style-type: none"> • Annual agricultural shows – to 1 a.m. any morning where an event related to the show is being held within the premises. • Local festivals – to 1 a.m. any morning where an event related to the festival is being held within the premises. • Private Functions – to 1 a.m. any morning. • Weddings – to 1.30 a.m. any morning.
20.11.2.	Festive Season: <ul style="list-style-type: none"> • Block applications for Christmas and New Year festivities for the period from 24 December to 3 January each year – 1 a.m. any morning (for the avoidance of doubt, terminating at 1 a.m. on 3 January each year). • 24/25 December (Christmas Eve) and 31 December/1 January (Hogmanay) each year – 2 a.m. in premises which, in terms of their operating plan and the Board's understanding, will be operating as nightclubs.

20.12.	The Board wishes to make it clear that any Festive Season hours should be accounted for within the Seasonal Variations section of operating plans and should not routinely be the subject of extended hours applications.
20.13.	The Board is satisfied that the Act does not contain a specific duty to trade. It does not contain a provision imposing a duty to trade on premises licence holders.
20.14.	The Board is satisfied that the provision in schedule 3 to the Act that “alcohol is to be sold on the premises only in accordance with the operating plan” should be construed as preventing licensees from operating outwith the hours stated in their operating plans rather than requiring licensees to trade for the full complement of hours.
20.15.	<p>The Board recognises:</p> <ul style="list-style-type: none"> • that there may be circumstances that would reasonably cause a temporary deviation from the licensed hours given in the operating plan; and • the need for businesses, especially in a rural environment, to remain economically viable when faced with a lack of demand.
20.16.	The Board will continue to support local schemes such as Pubwatch, Safer Towns initiatives, Shop-watches, Best Bar None, radio-links and Door Safe Schemes. The Board recognises that such schemes help to reduce public disorder and nuisance offences taking place within local communities, thereby promoting the licensing objectives. The Board encourages responsible licence holders to participate in such schemes.
20.17.	Section 64 of the Act contains a presumption against 24-hour drinking unless the Board is satisfied that there are exceptional circumstances which justify allowing the sale of alcohol on the premises during such a period.
20.18.	Premises opening after 1 a.m. are subject to mandatory conditions – reference is made to the provisions of paragraph 6 and Appendix 4 of this policy – and the Board may attach additional conditions.
20.19.	<p>The following issues should be considered:</p> <ul style="list-style-type: none"> • 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; • 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 and hours of licensable premises in the vicinity;

	<ul style="list-style-type: none"> • whether customers and staff have adequate access to public transport when arriving at and leaving the premises, especially at night; • the capacity of the premises; • the type of use, recognising that premises which sell alcohol, play music for dancing, provide late night refreshment or takeaway food, are more likely to be associated with crime and disorder and public nuisance than restaurants, theatres, cinemas or other performance venues; • the hours at which noise may occur and the disturbance of nearby residents' rest, relaxation and sleep.
20.20.	The Board recommends that applicants give consideration to the principle of winding down periods at the end of the night. By gradually increasing the lighting and winding down entertainment such as loud music before ending the sale of alcohol and the end of trading hours, thereby creating a calmer ambience, patrons leaving licensed premises may be inclined to behave less boisterously. In addition, patrons may be inclined to leave the premises spasmodically in small groups on a gradual basis rather than simultaneously.
20.21.	Restricted licensing hours may be appropriate in cases where licensed premises are situated in the vicinity of residential property or where the trading hours of the premises and competing businesses in the vicinity are likely to lead to undue pressure on public transport systems or additional public nuisance, disorder or anti-social behaviour and where licensed premises include external areas. Where the whole circumstances of particular premises dictate, including promotion of the licensing objectives, the Board will consider restricting the opening hours. The Board may impose different restrictions on hours for different licensable activities and for different days of the week.
20.22.	Consideration will always be given to an applicant's individual case and the Board will take into account any proposals the applicant has to minimise the risk of nuisance or disorder being caused or exacerbated by customers departing from the premises.
20.23.	Where no relevant representations are received from either a responsible body or any interested party and there is no departure from the Board's adopted policies, the Board will consider granting an application in accordance with the terms of the operating plan.

20.24.	<p>The Board believes that by adopting an approach which is sufficiently flexible, it is possible to ensure that:</p> <ul style="list-style-type: none">• all areas of the Islands, including the larger towns, their businesses and residents will be treated equitably and arbitrary restrictions will be avoided;• restrictions on the hours of trading will only be applied where this is necessary in order to promote the Board's policy and the licensing objectives;• restrictions are not placed on hours of trading which may contribute to rapid binge drinking near closing time.
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Section B – Licensing Objectives.

21. Overview.

21.1.	<p>The following sub-sections set out the Board's policy relating specifically to the five licensing objectives:</p> <ul style="list-style-type: none">• preventing crime and disorder;• securing public safety;• preventing public nuisance;• protecting and improving public health; and• protecting children and young persons from harm.
21.2.	<p>In each section relating to the objectives, the Board has defined its intended outcome. Each section lists the influencing factors on the achievement of that objective but, because of the wide variety of premises and activities to which this policy applies, the lists provided are not exhaustive. Applicants will know their premises best and may address all aspects relevant to the individual style and characteristics of their premises and the licensable activities for which they are seeking a licence.</p>
21.3.	<p>In each sub-section, a list of possible control measures is provided. This is intended to be of assistance to applicants, but again is not intended to be an exhaustive list. Many control measures achieve more than one objective but have not necessarily been listed under each objective.</p>
21.4.	<p>The selection of control measures should be based upon a risk assessment of the premises, the proposed activities and the type of customers expected to attend – for example their age range and numbers. Risk assessment is considered to be good practice and a useful tool in the instruction and training of staff, as well as a sound basis for review by the licence holder, in the event of requiring to make application for a variation or in response to changing circumstances or conditions at the premises.</p>
21.5.	<p>Additional measures may be necessary on an occasional or specific basis such as when a special event is planned which is intended to, or is likely to, attract larger audiences or audiences of a different nature. This can have a significant impact on the achievement of the licensing objectives.</p>
21.6.	<p>The Board encourages applicants and licence holders to ensure that they have adequate arrangements in place for the effective and responsible management of the premises and for instruction, training and supervision of staff. This is considered to be an essential control measure for the achievement of all the licensing objectives.</p>

22. Licensing Objective – Preventing Crime and Disorder.

22.1.	The Council together with other agencies supports a strategy aimed at making the Islands Area a safe place to live in and visit. The Board is committed to further improving the quality of life for the people of the Islands Area by continuing to adopt policies and to introduce measures designed to increase community safety and to reduce crime, the fear of crime and disorder.
22.2.	There are already in existence a wide range of measures for preventing and reducing crime and disorder. The Act reinforces the duty of the Board to make this a top priority.
22.3.	The promotion of the licensing objective to prevent crime and disorder, places a responsibility on licence holders to become key partners in achieving this objective. Applicants will be encouraged to demonstrate that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and the activities at those premises.
22.4.	<p>The applicant should be able to demonstrate that all those factors, which impact on crime and disorder, have been considered. These include:</p> <ul style="list-style-type: none"> • underage drinking; • drunkenness on premises; • public drunkenness; • illegal possession and/or use of drugs; • violent behaviour; • anti-social behaviour; • litter; • unauthorised advertising.
22.5.	<p>The following examples of control measures are given to assist applicants, having regard to their particular type of premises and/or licensable activities:</p> <ul style="list-style-type: none"> • effective and responsible management of premises; • appropriate instruction, training and supervision of staff; • adoption of best practice guidance where available; • acceptance of accredited photographic proof of age cards, EU photographic driving licences, passports, Ministry of Defence Form 90 (Defence ID Card), Biometric Residents Permit or national identity card issued by an EU member state, Norway, Iceland, Liechtenstein or Switzerland; • written Age Verification Policy and appropriate signage; • provision of effective CCTV in and around the premises, which complies with all current legislative provisions and provision of external lighting and other security measures; • employment of Security Industry Authority licensed door supervisors;

	<ul style="list-style-type: none"> • provision of litterbins outside premises; • membership of any local Pubwatch schemes or similar organisations; • responsible advertising; • distribution of promotional leaflets and posters.
22.6.	The Board notes the Scottish Government's requirements in respect of the installation of CCTV in late opening premises. In order to ensure the greatest possible degree of protection for the public this Board recommends the installation of an effective CCTV system in off-sales premises. Reference is made to paragraph 17 of this policy in this connection.
22.7.	In 2011 the Council made byelaws prohibiting the consumption of alcohol in designated public places in Kirkwall. The byelaws are available at http://www.orkney.gov.uk/Council/C/drinking-in-public-places-in-kirkwall.htm .

23. Licensing Objective – Securing Public Safety.

23.1.	The Board is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised. To this end, applicants will be encouraged to demonstrate that suitable and sufficient measures have been identified and will be implemented and maintained to ensure public safety, relevant to the individual style and characteristics of their premises and the licensable activities for which the licence is being sought.
23.2.	<p>When addressing the issue of public safety, applicants will be encouraged to demonstrate that those factors which impact on standards of public safety have been considered, including:</p> <ul style="list-style-type: none"> • the occupancy capacity of the premises; • the condition, design and layout of the premises, including means of escape in the event of fire; • the adequacy of vehicular access to the premises by the emergency services; • the nature of the activities to be provided, in particular the sale or supply of alcohol and the provision of music and dancing, including whether those activities are of a temporary or permanent nature; • the hours of operation – differentiating the hours of opening from the hours when alcohol is sold, if different; • customer profile – for instance age, disability; • the use of special effects such as lasers, pyrotechnics, smoke machines and foam machines.

23.3.	<p>The following examples of control measures are given to assist applicants, having regard to their particular type of premises and/or activities:</p> <ul style="list-style-type: none"> • suitable and sufficient risk assessments, including compliance with the Fire (Scotland) Act 2005; • effective and responsible management of premises, including installation of a CCTV system which complies with current legislative requirements in and around premises; • provision of a sufficient number of people employed or engaged to secure the safety of the premises and patrons; • appropriate instruction, training and supervision of those employed or engaged to secure the safety of the premises and patrons; • adoption of best practice guidance; • implementation of crowd management measures; • proof of regular testing and certification where appropriate of procedures, appliances and safety systems; • a prohibition on customers taking open bottles or drinking glasses outwith the areas to be subject to the premises licence.
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24. Licensing Objective – Preventing Public Nuisance.

24.1.	<p>The Board believes that licensed premises may have a significantly adverse impact on communities, through public nuisances which arise from their operation. It wishes to maintain and protect the amenity of residents and occupiers of other businesses from the potential consequence of the operation of licensed premises, whilst recognising the valuable cultural, social and business importance that such premises provide.</p>
24.2.	<p>The Board will interpret public nuisance in its widest sense and will take it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.</p>
24.3.	<p>The Board acknowledges the provisions of section 65 of the Act in relation to off-sales by shops, stores, supermarkets and other premises selling alcohol for consumption off the premises. Subject to the overall limits in section 65, the Board may permit the hours during which alcohol is sold to match the normal trading hours during which other sales take place, unless there are reasons for not doing so, such as disturbance or disorder attributable to the location and/or the premises. Reference is made to paragraph 17 of this policy in this connection.</p>
24.4.	<p>However, applicants need to be aware that the Board may apply stricter conditions, including controls on licensed hours, where premises are in residential areas or where their activities may impact on residents or other business premises and where relevant representations have been received.</p>

24.5.	The Board believes that the impact licensed premises can have on a neighbourhood is significantly influenced by the times when those licensed premises are open. The Board may stipulate shorter hours when considering a premises licence application, if it considers this to be appropriate depending on where the premises are situated or the likelihood of their becoming a source of antisocial behaviour. The Board will consider each case on its merits.
24.6.	Applicants will be encouraged to demonstrate that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance, relevant to the individual style and characteristics of their premises and events.
24.7.	<p>When addressing the issue of prevention of public nuisance, the following factors are relevant:</p> <ul style="list-style-type: none"> • the location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices, care homes and places of worship; • the hours of opening, particularly between 11 p.m. and 7 a.m.; • the nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises; • the design and layout of premises and in particular the presence of noise limiting features and a CCTV system, which complies with current legislative requirements; • the occupancy capacity of the premises; • the availability of public transport; • the wind down period between the end of the licensable activities and the closure of the premises; • the last admission time.
24.8.	<p>The following examples of control measures are given to assist applicants, having regard to their particular type of premises and/or activities:</p> <ul style="list-style-type: none"> • effective and responsible management of premises; • appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance – for instance to ensure that customers leave quietly; • control of operating hours for all or parts of the premises – for instance garden areas – including deliveries; • adoption of best practice guidance; • installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices; • management of people, including staff and vehicular traffic and resulting queues, arriving and leaving premises; • liaison with public transport providers;

	<ul style="list-style-type: none"> • siting of external lighting, including security lighting and installation of an effective CCTV system which complies with current legislative requirements; • management arrangements for collection and disposal of waste and empty bottles; • effective ventilation systems to prevent nuisance from odour and noise from air conditioning units.
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25. Licensing Objective – Protecting and Improving Public Health.

25.1.	The Board is concerned about the link between the consumption of alcohol and public health which has been widely documented. The Board wishes to see premises thriving in the Islands Area, but this cannot be at the expense of patrons' health and wellbeing. The Board will have particular regard to the views of the relevant bodies responsible for, and interested in, the protection and improvement of public health in the Islands Area. It will take advice from those relevant bodies. The Board welcomes information provided by those bodies and intends to monitor the circumstances. The Board would welcome further research.
25.2.	Applicants will be encouraged to demonstrate that suitable and sufficient measures have been identified and will be implemented and maintained to protect patrons' health.
25.3.	One concern about excessive alcohol consumption is the impact on people's health. This may in part be due to ignorance of the advisable daily and weekly units of alcohol which should be consumed and the number of units in commonly consumed drinks. Although some manufacturers are taking an initiative in this regard and publishing information on the labels of their products, it is considered that greater awareness of this issue would be achieved by more overt displaying of information. If necessary, and as the result of a relevant representation, such a requirement may be imposed by way of a condition on a premises licence. Reference is made to paragraph 6 of this policy relating to conditions attaching to licences
25.4.	The measures identified by an applicant may depend on the individual characteristics of the premises for which the licence is sought. The Board would encourage applicants to consider steps which may assist in the promotion of this licensing objective.
25.5.	The Board is very aware of the risk of harm to children's health and this will be of paramount consideration when determining applications. Children may be adequately protected from harm by the action taken to protect adults but they also may need special consideration.

25.6.	Licence applicants, door supervisors where employed and premises managers, as well as other staff employed in the premises, must remain vigilant at all times to the risks of excessive consumption. There should be established practice within the premises to ensure that a standard approach is taken where patrons' demeanour demonstrates an excessive consumption of alcohol. There should also be a clear understanding of the offences committed in connection with the service of alcohol to children or drunk persons.
25.7.	With reference to Schedule 3 of the Act, applicants should demonstrate that they are aware that they must provide tap water fit for drinking free of charge on request and a wide selection of non-alcoholic beverages must be available for purchase at a reasonable price during the whole period the premises are open.
25.8.	<p>The following examples of control measures are given to assist applicants, having regard to their particular type of premises and/or activities:</p> <ul style="list-style-type: none"> • making available information with regard to sensible drinking, the effects of excessive alcohol consumption and contact points where assistance is available to address problem drinking; • prominent display of informative signage in appropriate places within premises; • use of drink mats with sensible drinking messages; • use of posters in areas of circulation and toilet areas; • particular care to introduce measures designed to protect children's health while in or around premises; • provision of food on premises, so that patrons may eat at the same time as consuming alcoholic beverages, if they wish; • appropriate instruction, training and supervision of staff.

26. Licensing Objective – Protecting Children and Young Persons from Harm.

26.1.	The Board will have particular regard to the views of the Orkney Child Protection Committee.
26.2.	The Board wishes to see family friendly premises thriving in the Islands Area. It would welcome applications from those who wish to operate licensed premises which will accommodate children and young persons. In determining any such application the risk of harm to children and young persons will be paramount.
26.3.	Where applicants wish to operate such premises, the Board expects them to appreciate that this places additional responsibilities upon them, at the same time recognising that parents and other adults accompanying children and young persons also have responsibilities.

26.4.	Applicants may be encouraged to demonstrate that suitable and sufficient measures have been identified and will be implemented and maintained to protect children and young persons from harm, relevant to the individual style and characteristics of their premises and the licensable activities for which a licence is being sought. A written Age Verification Policy and appropriate signage should be in place.
26.5.	<p>Children and young persons may be adequately protected from harm by the action taken to protect adults, but they may also need particular measures to be taken; no policy can anticipate every situation. When addressing the issue of protecting children and young persons from harm, the applicant will be encouraged to demonstrate that those factors, which may particularly impact on harm to children and young persons have been considered. These include whether:</p> <ul style="list-style-type: none"> • entertainment or services of an adult or sexual nature are commonly or regularly provided; • there have been convictions of members of the current staff at the premises for serving alcohol to children or offences against children or young persons; • there has been a known association with drug taking, drug dealing or other criminal activity on the premises; and • the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided there.
26.6.	<p>The following examples of control measures are given to assist applicants who may adopt them in any combination. They are considered to be among the most essential that applicants should take account of, having regard to their particular type of premises or activities:</p> <ul style="list-style-type: none"> • effective and responsible premises management; • appropriate instruction, training and supervision of employees; • adoption of best practice guidance; • limitations on the hours when children and young persons may be present, in all or parts of the premises; • limitations or exclusions by age when certain activities are taking place; • imposition of requirements for children and young persons to be accompanied by an adult; • acceptance of accredited photographic proof of age cards, EU photographic driving licences, passports, Ministry of Defence Form 90 (Defence ID Card), Biometric Residents Permit or national identity card issued by an EU member state, Norway, Iceland, Liechtenstein or Switzerland;

	<ul style="list-style-type: none"> • written Age Verification Policy and appropriate signage; • measures to ensure children and young persons do not purchase, acquire or consume alcohol; • measures to ensure children and young persons are not exposed to incidences of violence or disorder.
26.7.	<p>The Board requires applicants who submit operating plans including children and young persons to ensure that they are not given access to premises when activities such as adult entertainment are taking place. The Board has given particular consideration to these types of entertainment and has included within this statement of policy at paragraph 16 its expectation of applicants in respect of adult entertainment.</p>
26.8.	<p>The Board notes the statutory requirements relating to identification of areas where children and young persons will be permitted, the activities to be operated within those areas and the provision of baby changing facilities for children under five years of age (accessible to all carers).</p>
26.9.	<p>In addition to those requirements, the Board also expects that holders of a premises licence which allows children and young persons entry to the premises will seek to ensure:</p> <ul style="list-style-type: none"> • that seating facilities for children and young persons, if appropriate, would be separate from normal licensed premises facilities; • whilst separate toilet facilities may not be available for use by children and young persons, if appropriate, disabled toilets would be adapted to encourage use by children and young persons, if appropriate; • that children and young persons should not be exposed to foul or intemperate language or behaviour; • provision of safe high chairs; • provision for heating of children's food at no cost; • that heating sources would be adequately protected; • that a menu would be available at all times when children were allowed on the premises with either a children's section or indicating that half portions were available for children; and • that no gaming machines would be situated in the part of the premises accessible to children except in accordance with the provisions of the Gambling Act 2005.

Appendix 1

Practice at Licensing Board Meetings

1.	Identify all parties – applicant and agent (if any) and objector(s) and agent(s) (if any); also members of the Board and licensing staff.
2.	Licensing staff introduce report and cover any preliminary legal matters.
3.	Applicants, objectors and their agents will be permitted to speak during the meeting in accordance with the points below, but such participation should normally be limited to 5 minutes in respect of each point below. The Board reserves the right to permit slightly longer participation in appropriate circumstances in each case.
4.	Applicant/agent to be invited to speak.
5.	Objector(s)/agent(s) (in order if more than one) and the Board to be invited to ask questions of the applicant/agent. Questions must relate to the spoken information at point 4 above and be asked through the Chair.
6.	Objector(s)/agent(s) (in order if more than one) to be invited to speak. Presentation must not introduce new information and refer solely to the matters raised in the written objection.
7.	Applicant/agent and the Board to be invited to ask questions of the objector(s)/agent(s). Questions must relate to the spoken information at point 6 above and be asked through the Chair.
8.	Objector(s)/agent(s) in turn to be asked to sum up.
9.	Applicant/agent to be invited to sum up.
10.	Board to determine application.

Appendix 2

Scheme of Delegation

1.	The Board has delegated to the Clerk (which includes such Depute or Assistants as may be appointed by the Clerk for the purpose) authority to grant the following descriptions of application under the Act:
1.1.	minor variation of premises licence, including variation to substitute new premises manager – where the applicant has not been convicted of any relevant or foreign offence and no objections or representations have been received (sections 29 to 31 and 54);
1.2.	transfer of premises licence – where the transferee has not been convicted of any relevant or foreign offence (reference to sections 33 to 35);
1.3.	confirmation of a provisional premises licence – where no objections or representations have been received (section 46);
1.4.	occasional licence – within the Board’s normal licensing hours policy (see paragraph 20 of this policy) – where no objections or representations have been received, the Police have not lodged a notice recommending refusal of the application and any report by the LSO does not recommend refusal (reference to sections 56 to 61);
1.5.	extension of licensed hours – within the Board’s normal licensing hours policy (see paragraph 20 of this policy) – where no objections or representations have been received, the Police have not lodged a notice recommending refusal of the application and the report by the LSO does not recommend refusal (reference to sections 68 to 70);
1.6.	personal licence or renewal of a personal licence – where the applicant has not been convicted of a relevant or foreign offence [relevant and foreign offences – the Licensing (Relevant Offences) (Scotland) Regulations 2007, SSI 2007/513 http://www.legislation.gov.uk/ssi/2007/513/contents/made]
2.	The Board has delegated to the Clerk (which includes such Depute or Assistants as may be appointed by the Clerk for the purpose) authority to take the following action under the Act: <ul style="list-style-type: none"> • personal licence – revocation in accordance with section 87(3) (failure to comply with mandatory refresher training requirements).
3.	The Board has delegated to the Clerk (which includes such Depute or Assistants as may be appointed by the Clerk for the purpose) authority to determine the following description of application under the Act in consultation with those members of the Board who may be available by telephone or email at any given time and at no time less than five members:

3.1.	occasional licence – outwith the Board’s normal licensing hours policy (see paragraph 20 of this policy) – where no objections or representations have been received, the Police have not lodged a notice recommending refusal of the application and any report by the LSO does not recommend refusal (reference to sections 56 to 61);
3.2.	extension of licensed hours – outwith the Board’s normal licensing hours policy (see paragraph 20 of this policy) – where no objections or representations have been received, the Police have not lodged a notice recommending refusal of the application and the report by the LSO does not recommend refusal (reference to sections 68 to 70).
<p>Note: The Clerk or Depute Clerks may elect not to use their delegated powers in a particular case, in consultation with the Chair and Vice Chair of the Board, in which circumstances the matter will be referred to the Board.</p>	

Appendix 3

Licensing (Scotland) Act 2005 – Schedule 3

Mandatory Conditions attaching to Premises Licences

Interpretation.		
1.		“The premises” means, in relation to any premises licence, the premises specified in the licence.
Compliance with the operating plan.		
2.	(1)	Alcohol is to be sold on the premises only in accordance with the operating plan contained in the licence.
	(2)	Nothing in sub-paragraph (1) is to be read as preventing or restricting the doing of anything referred to in section 63(2).
3.		Any other activity to be carried on in the premises is to be carried on only in accordance with the operating plan contained in the licence.
The premises manager (this condition does not apply to members’ clubs).		
4.	(1)	Alcohol is not to be sold on the premises at any time when:
	(a)	there is no premises manager in respect of the premises;
	(b)	the premises manager does not hold a personal licence;
	(c)	the personal licence held by the premises manager is suspended, or
	(d)	the licensing qualification held by the premises manager is not the appropriate licensing qualification in relation to the premises.
	(2)	In sub-paragraph (1), “appropriate licensing qualification” in relation to any licensed premises means any licensing qualification prescribed as such in relation to licensed premises of that description in regulations under section 91(2)(d).
	(3)	Nothing in sub-paragraph (1) or paragraph 5 is to be read as requiring the premises manager to be present on the premises at the time any sale of alcohol is made.
Authorisation of sales of alcohol (this condition does not apply to members’ clubs).		
5.		Every sale of alcohol made on the premises must be authorised (whether generally or specifically) by:
	(a)	the premises manager, or
	(b)	another person who holds a personal licence.

Training of staff.		
6.	(1)	No person (other than a person who holds a personal licence) is to work in the premises in the capacity mentioned in sub-paragraph (2) unless that person has complied with such requirements as to the training of staff as may be prescribed for the purposes of this paragraph.
	(2)	That is a capacity (whether paid or unpaid) which involves the person:
	(a)	making sales of alcohol, or
	(b)	where alcohol is sold on the premises for consumption on the premises, serving such alcohol to any person.
	(2A)	At any time when a person (other than a person who holds a personal licence) is working in the premises in a capacity mentioned in sub-paragraph (2), there must be kept on the premises a training record which relates to that person and is in the form set out in the Schedule to the Licensing (Mandatory Conditions No. 2) (Scotland) Regulations 2007.
	(2B)	A record kept on the premises under sub-paragraph (2A) must be produced to a Licensing Standards Officer on request.
	(3)	Regulations under sub-paragraph (1) prescribing training requirements may, in particular:
	(a)	provide for the accreditation by the Scottish Ministers of:
	(i)	courses of training; and
	(ii)	persons providing such courses,
		for the purposes of the regulations,
	(b)	prescribe different training requirements in relation to different descriptions of persons,
	(c)	require that any person providing training or any particular description of training in accordance with the regulations hold a personal licence or such other qualification as may be prescribed in the regulations, and
	(d)	require training to be undergone again at such intervals as may be prescribed in the regulations.
Pricing of Alcohol.		
6A.	(1)	Alcohol must not be sold on the premises at a price below its minimum price.
	(2)	Where alcohol is supplied together with other products or services for a single price, sub-paragraph (1) applies as if the alcohol were supplied on its own for that price.
	(3)	The minimum price of alcohol is to be calculated according to the following formula:

		$MPU \times S \times V \times 100$
		where:
		MPU is the minimum price per unit, S is the strength of the alcohol, and V is the volume of the alcohol in litres.
	(4)	The Scottish Ministers are to specify by order the minimum price per unit for the purposes of sub-paragraph (3).
	(5)	For the purposes of sub-paragraph (3), where:
	(a)	the alcohol is contained in a bottle or other container, and
	(b)	the bottle or other container is marked or labelled in accordance with relevant labelling provisions,
		the strength is taken to be the alcoholic strength by volume as indicated by the mark or label.
	(6)	The Scottish Ministers are to specify by order the enactments which are relevant labelling provisions for the purposes of sub-paragraph (5).
6B.	(1)	A package containing two or more alcoholic products (whether of the same or different kinds) may only be sold on the premises at a price equal to or greater than the sum of the prices at which each alcoholic product is for sale on the premises.
	(2)	Sub-paragraph (1) applies:
	(a)	only where each of the alcoholic products is for sale on the premises separately, and
	(b)	regardless of whether or not the package also contains any item which is not an alcoholic product.
	(3)	In this paragraph, “alcoholic product” means a product containing alcohol and includes the container in which alcohol is for sale.
7.		Where the price at which any alcohol sold on the premises for consumption on the premises is varied:
	(a)	the variation (referred to in this paragraph as “the earlier price variation”) may be brought into effect only at the beginning of a period of licensed hours, and
	(b)	no further variation of the price at which that or any other alcohol is sold on the premises for consumption on the premises may be brought into effect before the expiry of the period of 72 hours beginning with the coming into effect of the earlier price variation.
7A.		Where the price at which any alcohol sold on the premises for consumption off the premises is varied:

	(a)	the variation (referred to in this paragraph as “the earlier price variation”) may be brought into effect only at the beginning of a period of licensed hours, and
	(b)	no further variation in the price at which that alcohol is sold on the premises may be brought into effect before the expiry of the period of 72 hours beginning with the coming into effect of the earlier price variation.
Irresponsible drinks promotions.		
8.	(1)	An irresponsible drinks promotion must not be carried on in or in connection with the premises.
	(2)	Subject to sub-paragraph (3), a drinks promotion is irresponsible if it:
	(a)	relates specifically to an alcoholic drink likely to appeal largely to persons under the age of 18,
	(b)	involves the supply of an alcoholic drink free of charge or at a reduced price on the purchase of one or more drinks (whether or not alcoholic drinks),
	(c)	involves the supply free of charge or at a reduced price of one or more extra measures of an alcoholic drink on the purchase of one or more measures of the drink,
	(d)	involves the supply of unlimited amounts of alcohol for a fixed charge (including any charge for entry to the premises),
	(e)	encourages, or seeks to encourage, a person to buy or consume a larger measure of alcohol than the person had otherwise intended to buy or consume,
	(f)	is based on the strength of any alcohol,
	(g)	rewards or encourages, or seeks to reward or encourage, drinking alcohol quickly, or
	(h)	offers alcohol as a reward or prize, unless the alcohol is in a sealed container and consumed off the premises.
	(3)	Paragraphs (c) to (e) of sub-paragraph (2) apply only to a drinks promotion carried on in relation to alcohol sold for consumption on the premises.
	(4)	The Scottish Ministers may by regulations modify sub-paragraph (2) or (3) so as to:
	(a)	add further descriptions of drinks promotions,
	(b)	modify any of the descriptions of drinks promotions for the time being listed in it, or
	(c)	extend or restrict the application of any of those descriptions of drinks promotions.

	(5)	In this paragraph, “drinks promotion” means, in relation to any premises, any activity which promotes, or seeks to promote, the buying or consumption of any alcohol on the premises.
Provision of non-alcoholic drinks.		
9.	(1)	The conditions specified in this paragraph apply only to the extent that the premises licence authorises the sale of alcohol for consumption on the premises.
	(2)	Tap water fit for drinking must be provided free of charge on request.
	(3)	Other non-alcoholic drinks must be available for purchase at a reasonable price.
Age verification policy.		
9A.	(1)	There must be an age verification policy in relation to the sale of alcohol on the premises.
	(2)	An “age verification policy” is a policy that steps are to be taken to establish the age of a person attempting to buy alcohol on the premises (“the customer”) if it appears to the person selling the alcohol that the customer may be less than 25 years of age (or such older age as may be specified in the policy).
	(3)	The condition specified in this paragraph does not apply in relation to any sale of alcohol which takes place on the premises merely by virtue of being treated, by section 139, as taking place on the premises.
Payment of annual or recurring fees.		
10.	(1)	The condition specified in sub-paragraph (2) applies only in relation to a premises licence in respect of which an annual or other recurring fee is to be paid by virtue of regulations under section 136(1).
	(2)	The fee must be paid as required by the regulations.
Notices: admission of persons under 18.		
11.	(1)	The condition specified in this paragraph applies only in the case of premises on which alcohol is sold for consumption on the premises.
	(2)	There is to be displayed so that it is reasonably visible to customers entering the premises a sign of at least A4 size which:
	(a)	states that persons under the age of 18 are not permitted on the premises; or
	(b)	states that such persons are permitted on the premises or on such parts of the premises as are specified on the sign.

Baby changing facilities.		
12.	(1)	The condition specified in this paragraph applies only in the case of premises:
	(a)	which are not:
	(i)	a vehicle;
	(ii)	a vessel;
	(iii)	a moveable structure; or
	(iv)	used wholly or mainly for the purposes referred to in section 125(1);
	(b)	on which alcohol is sold for consumption on the premises; and
	(c)	to which children under the age of 5 are to be admitted.
	(2)	There are to be on the premises facilities for baby changing which are to be accessible to persons of either gender.
Display, or promotion of the sale, of alcohol for consumption off the premises.		
13.	(1)	Subject to sub-paragraph (3), alcohol which is for sale only for consumption off the premises may be displayed only in one or both of the following:
	(a)	a single area of the premises agreed between the Licensing Board and the holder of the licence; or
	(b)	a single area of the premises which is inaccessible to the public.
	(1A)	Sub-paragraphs (1B) to (1D) apply where the premises, in so far as they are used for the sale of alcohol, are so used only or primarily for the sale of alcohol for consumption off the premises.
	(1B)	Any drinks promotion on the premises may take place only in any one or more of the following:
	(a)	an area referred to in sub-paragraph (1)(a) and (b),
	(b)	a room on the premises which is used for offering the tasting of any alcohol sold on the premises (for consumption off the premises) and the resulting tasting and is separate from those areas.
	(1C)	A drinks promotion in connection with the premises may not take place in the vicinity of the premises.
	(1D)	For the purposes of sub-paragraph (1C), the “vicinity” means the area extending 200 metres from the boundary of the premises (as shown on the layout plan).

	(2)	In an area agreed in terms of sub-paragraph (1)(a), a product other than alcohol may be displayed only if it is:
	(a)	a non-alcoholic drink;
	(b)	packaged with, and may be purchased only along with, alcohol,
	(c)	a branded non-alcoholic product, or
	(d)	a newspaper, magazine or other publication.
	(2A)	Sub-paragraph (2) is without prejudice to sub-paragraph (1B).
	(3)	This paragraph does not apply in respect of premises:
	(a)	whose main function is to provide a visitor attraction, and
	(b)	where:
	(i)	the premises form part of a larger site which is used principally for the production of alcoholic drinks, or
	(ii)	the visitor attraction is used principally to provide information about and promote the history and attributes of a particular alcoholic drink or a particular category of alcoholic drink.
	(4)	In this paragraph:
		“branded non-alcoholic product” means a product which does not consist of or contain alcohol and which:
	(a)	bears a name or image of, or
	(b)	is an image of,
		an alcoholic product (namely, a product consisting of or containing alcohol),
		“drinks promotion” means any activity which promotes, or seeks to promote, the buying of any alcohol sold on the premises for consumption off the premises but does not include the display of any product which is:
	(a)	a branded non-alcoholic product for sale on the premises, or
	(b)	a newspaper, magazine or other publication:
	(i)	for sale on the premises, or
	(ii)	if not for sale on the premises, which does not relate only or primarily to alcohol.

Appendix 4

Licensing Conditions (Late Opening Premises) (Scotland) Regulations 2007

[http://www.legislation.gov.uk/ssi/2007/336/pdfs/ssi_20070336_en.pdf]	
Condition 1 applies to all premises licences where the operating plan indicates opening beyond 1 a.m. on any day.	
1.	A person trained to the satisfaction of the licensing board in administering First Aid must be present on the premises from 1 a.m. (on any day when the premises are open at that time) until whichever is the earlier of:
(a)	the time at which the premises next close; and
(b)	5 a.m.
The following conditions 2 to 6 apply to premises where it appears to the Board, based on the operating plan, that the premises have a capacity of at least 250 people and:	
(a)	will regularly provide at any time in the period between 1 a.m. and 5 a.m.:
(i)	live or recorded music with a decibel level exceeding 85dB;
(ii)	facilities for dancing; or
(iii)	adult entertainment; or
(b)	when fully occupied, are likely to have more customers standing than seated.
The following types of premises are exempt from conditions 2 to 6:	
(i)	premises whose primary function is the provision of food;
(ii)	premises which include, or are part of larger premises which include, at least 6 letting bedrooms;
(iii)	premises which are the subject of a theatre or cinema licence;
(iv)	premises which are, or are part of, an art gallery.
2.	A designated person who is the holder of a personal licence must be present on the premises from 1 a.m. (on any day when the premises are open at that time) until whichever is the earlier of:
(a)	the time at which the premises next close; and
(b)	5 a.m. or such other time as the licensing board may specify.
3.	There must be written policies in existence concerning:
(a)	the evacuation of the premises; and
(b)	the prevention of the misuse of drugs on the premises.

4.	A CCTV system must be installed on the premises to the satisfaction of the appropriate chief constable and must be kept in good working order.
5.	There must be persons responsible for checking on the safety and wellbeing of persons using any toilet facilities on the premises.
6.	A person who holds a licence granted under section 8 of the Private Security Industry Act 2001 must be positioned at every entrance to the premises from 1 a.m. (on any day when the premises are open at that time) until whichever is the earlier of:
(a)	the time at which the premises next close; and
(b)	5 a.m. or such other time as the licensing board may specify.

Appendix 5

Licensing (Scotland) Act 2005 – Schedule 4

Mandatory Conditions attaching to Occasional Licences

Interpretation.		
1.		“The premises” means, in relation to any occasional licence, the premises specified in the licence.
Compliance with licence.		
2.	(1)	Alcohol may be sold on the premises only in accordance with the terms of the licence.
	(2)	Nothing in sub-paragraph (1) is to be read as preventing or restricting the doing of anything referred to in section 63(2).
3.		Any other activity to be carried on in the premises may be carried on only in accordance with the description of the activity contained in the licence.
Authorisation of sales of alcohol (this condition does not apply to members’ clubs).		
4.	(1)	The condition specified in sub-paragraph (2) applies only to an occasional licence issued to the holder of a premises licence or personal licence.
	(2)	Every sale of alcohol made on the premises to which the licence relates must be authorised (whether generally or specifically) by the holder of a personal licence.
Voluntary organisations.		
5.	(1)	The condition specified in sub-paragraph (2) applies only to an occasional licence issued to a representative of a voluntary organisation.
	(2)	Alcohol may be sold on the premises only at an event taking place on the premises in connection with the voluntary organisation’s activities.
Pricing of alcohol.		
5A.	(1)	Alcohol must not be sold on the premises at a price below its minimum price.
	(2)	Where alcohol is supplied together with other products or services for a single price, sub-paragraph (1) applies as if the alcohol were supplied on its own for that price.

	(3)	The minimum price of alcohol is to be calculated according to the following formula:
		$MPU \times S \times V \times 100$
		where:
		MPU is the minimum price per unit, S is the strength of the alcohol, and V is the volume of the alcohol in litres.
	(4)	The Scottish Ministers are to specify by order the minimum price per unit for the purposes of sub-paragraph (3).
	(5)	For the purposes of sub-paragraph (3), where:
	(a)	the alcohol is contained in a bottle or other container, and
	(b)	the bottle or other container is marked or labelled in accordance with relevant labelling provisions,
		the strength is taken to be the alcoholic strength by volume as indicated by the mark or label.
	(6)	The Scottish Ministers are to specify by order the enactments which are relevant labelling provisions for the purposes of sub-paragraph (5).
5B.	(1)	A package containing two or more alcoholic products (whether of the same or different kinds) may only be sold on the premises at a price equal to or greater than the sum of the prices at which each alcoholic product is for sale.
	(2)	Sub-paragraph (1) applies:
	(a)	only where each of the alcoholic products is for sale on the premises separately, and
	(b)	regardless of whether or not the package also contains any item which is not an alcoholic product.
	(3)	In this paragraph, “alcoholic product” means a product containing alcohol and includes the container in which alcohol is for sale.
6.		Where the price at which any alcohol sold on the premises for consumption on the premises is varied:
	(a)	the variation (referred to in this paragraph as “the earlier price variation”) may be brought into effect only at the beginning of a period of licensed hours, and
	(b)	no further variation of the price at which that or any other alcohol is sold on the premises for consumption on the premises may be brought into effect before the expiry of the period of 72 hours beginning with the coming into effect of the earlier price variation.
6A.		Where the price at which any alcohol sold on the premises for consumption off the premises is varied:

	(a)	the variation (referred to in this paragraph as “the earlier price variation”) may be brought into effect only at the beginning of a period of licensed hours, and
	(b)	no further variation in the price at which that alcohol is sold on the premises may be brought into effect before the expiry of the period of 72 hours beginning with the coming into effect of the earlier price variation.
Irresponsible drinks promotions.		
7.	(1)	An irresponsible drinks promotion must not be carried on in or in connection with the premises.
	(2)	Subject to sub-paragraph (3), a drinks promotion is irresponsible if it:
	(a)	relates specifically to an alcoholic drink likely to appeal largely to persons under the age of 18,
	(b)	involves the supply of an alcoholic drink free of charge or at a reduced price on the purchase of one or more drinks (whether or not alcoholic drinks),
	(c)	involves the supply free of charge or at a reduced price of one or more measures of an alcoholic drink on the purchase of one or more measures of the drink,
	(d)	involves the supply of unlimited amounts of alcohol for a fixed charge (including any charge for entry to the premises),
	(e)	encourages, or seeks to encourage, a person to buy or consume a larger measure of alcohol than the person had otherwise intended to buy or consume,
	(f)	is based on the strength of any alcohol,
	(g)	rewards or encourages, or seeks to reward or encourage, drinking alcohol quickly, or
	(h)	offers alcohol as a reward or prize, unless the alcohol is in a sealed container and consumed off the premises.
	(3)	Paragraphs (c) to (e) of sub-paragraph (2) apply only to a drinks promotion carried on in relation to alcohol sold for consumption on the premises.
	(4)	The Scottish Ministers may by regulations modify sub-paragraph (2) or (3) so as to:
	(a)	add further descriptions of drinks promotions,
	(b)	modify any of the descriptions of drinks promotions for the time being listed in it, or
	(c)	extend or restrict the application of any of those descriptions of drinks promotions.

	(5)	In this paragraph, “drinks promotions” means, in relation to any premises, any activity which promotes, or seeks to promote, the buying or consumption of any alcohol on the premises.
Provision of non-alcoholic drinks.		
8.	(1)	The conditions specified in this paragraph apply only to the extent that the occasional licence authorises the sale of alcohol for consumption on the premises.
	(2)	Tap water fit for drinking must be provided free of charge on request.
	(3)	Other non-alcoholic drinks must be available for purchase at a reasonable price.
Age verification policy.		
9.	(1)	There must be an age verification policy in relation to the sale of alcohol on the premises.
	(2)	An “age verification policy” is a policy that steps are to be taken to establish the age of a person attempting to buy alcohol on the premises (“the customer”) if it appears to the person selling the alcohol that the customer may be less than 25 years of age (or such older age as may be specified in the policy).
	(3)	The condition specified in this paragraph does not apply in relation to any sale of alcohol which takes place on the premises merely by virtue of being treated, by section 139, as taking place on the premises.

Appendix 6

Guide to Risk Assessments for Applications for Occasional Licences and Occasional Extensions

This document is designed to provide advice and assistance to applicants for Occasional Licences and Occasional Extensions with regard to carrying out a risk assessment exercise in terms of the 5 Licensing Objectives.

The Orkney Islands Area Licensing Board in its Statement of Alcohol Licensing Policy has indicated that a risk assessment should be undertaken before any application is made to the Board for an Occasional Licence or Extension.

The results of that risk assessment should then be exhibited to the Board, by every applicant, when making the application for an Occasional Licence or Extension under the Licensing (Scotland) Act 2005. By requiring applicants to undertake risk assessments the Orkney Islands Area Licensing Board is promoting the Licensing Objectives. Applicants will also promote the licensing objectives through any actions taken in response to their assessment.

The Licensing Objectives are:

- preventing crime and disorder;
- securing public safety;
- preventing public nuisance;
- protecting and improving public health;
- protecting children and young persons from harm.

In preparing this document we have sought to give applicants as much assistance with the process as possible. Each premises is unique and not all matters will be relevant to each premises.

The table overleaf includes a few examples of risk factors and possible control measures for a Country Dance. It is not meant to be a comprehensive approach. Applicants must conduct thorough analyses of their own practices and procedures and devise suitable control measures.

The risk assessment overleaf is only an example. The amount of detail you will need in your risk assessment will depend on your business and your activities.

The completed risk assessment will provide valuable information to the Board and demonstrate that applicants have taken these matters into account.

Examples of Licensing Objectives Risk Assessment.					
Name of Event:					
Date of Event:					
Licensing objectives.	Crime and disorder.	Public safety.	Public nuisance.	Protecting and improving public health.	Protecting children and young persons from harm.
Risk Factors.	Customers getting hold of drugs. Fighting inside or outside premises. Under-age drinking.	Premises overcrowded. Inadequate fire safety procedures. Blocked escape routes. Excess heat build-up.	Noisy customers leaving premises – affecting nearby residents. Excessively loud music affecting nearby residents.	Drink driving, excessive drinking.	Under-age access might be an issue and the potential illegal sale of alcohol.
Control Measures.	Drugs, weapons and glass policies implemented. Good door-security. Proof-of-age policy.	Capacity checks. Regular testing of fire equipment and alarms and checking fire escape routes. Adequate ventilation system. Appropriate staff training.	Signs promoting considerate behaviour. Staff intervention/ assistance on customer departure. Nuisance audit. Sound insulation work to structure. Use of noise limiters.	Consideration has been given to the provision of alternatives to alcoholic drinks (including reasonably priced alternatives to alcohol) i.e. soft drinks, tea and coffee, food and non-alcoholic substitutes.	Good door security. Proof of Age card scheme. Signage supporting the above measures.

I confirm that a written Age Verification Policy is in place and has been signed by each person serving or selling alcohol; and that appropriate signage is in place.

Completed by:

Date:

YES / NO [delete as appropriate]

Completed by [print name]:

Signed by [signature]:

Completed on [print date]:

2018-06-28 Draft Policy for Consultation.

2018-12-06 Updated Draft Policy for Adoption.