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Alcohol Fact Sheet (Appendix referred to at 3.6)

## **1. INTRODUCTION**

- 1.1 The Licensing (Scotland) Act 2005 (“the Act”) makes provision for regulating (a) the sale of alcohol and (b) licensed and other premises on which alcohol is sold.
- 1.2 The administration of alcohol licensing is carried out by Licensing Boards and section 6 of the Act requires all Licensing Boards to publish a statement of their licensing policy every three years with respect to the exercise of their functions under the Act.
- 1.3 In preparing a policy statement, each Licensing Board must ensure that it seeks to promote the five licensing objectives set out in section 4 of the Act. The objectives are:
  - preventing crime and disorder
  - securing public safety
  - preventing public nuisance
  - protecting and improving public health, and
  - protecting children from harm.
- 1.4 This policy statement sets out the approach Falkirk Council Licensing Board (“the Board”) will adopt to promote the licensing objectives in its area. The policy is additional to the statutory requirements of the Act and any Regulations made under it. It does not seek to repeat those requirements but addresses areas where the Board is entitled to exercise discretion.
- 1.5 In exercising its functions under the Act, the Board is required to have regard to its policy statement. It must also have regard to any guidance issued by the Scottish Ministers under section 142 of the Act (“the Guidance”). Subject to promotion of the licensing objectives, the Board recognises and supports the contribution licensed premises make to the economy, employment, tourism and vitality of the Falkirk area. Moreover, the Board acknowledges that the licensing system is not the primary mechanism for the general control of nuisance and antisocial behaviour by individuals once they are no longer on licensed premises and beyond the direct control of the licence holder. While the Board recognises that many of the problems in society have an association with the abuse of alcohol, it also recognises that it is not for the Board to place unnecessary obstacles in the way of businesses engaged in lawful trade.
- 1.6 The aim of this policy statement is to promote consistency in decision making and to provide applicants with an indication of how the Board is likely to approach certain matters and deal with and determine applications. There is a presumption that the Board will follow the terms of this policy statement in its determination of individual applications. However, the Board will consider each application on its merits and will give due consideration to any application whether or not it conforms to the requirements herein. In such circumstances, the onus will be on the applicant to evidence/demonstrate to the Board good reasons why the Board’s policy statement should not be followed.

## **2. FALKIRK COUNCIL LICENSING BOARD**

- 2.1 Falkirk Council Licensing Board (“the Board”) is the licensing authority for the

local government area of Falkirk for the purposes of the Act. The Board is made up of 10 members, all of whom are elected members of Falkirk Council. The Board is responsible for the functions set out in paragraph xxxx within the Falkirk Council area.

- 2.2 While the Board is made up of members elected to Falkirk Council, it is independent of the Council, being a separate legal entity with its own constitution and statutory procedures.
- 2.3 A list of members currently sitting on the Board is available on the Council's website at:

[www.falkirk.gov.uk](http://www.falkirk.gov.uk) *(more detailed address to be inserted)*

### **3. CONTEXT**

- 3.1 Falkirk is situated right at the centre of Scotland. It has a growing population of over 154,000, with just under 60,000 people working in the area. The population is expected to grow yet further to over 168,000 by 2035 (an increase of 9.3%), making it one of the fastest growing areas in Scotland. The population of the area has increased by 6.3% over the last decade, with most of this growth taking place in the last four to five years.
- 3.2 The settlement pattern within the Board's area is a network of small to medium sized towns. The principal town of Falkirk, with a population of around 37,700, is centrally located and serves as the main shopping, service and employment centre for the area. Separated from Falkirk by a narrow green belt are the urban areas of Larbert/Stenhousemuir, Polmont and Grangemouth. The former two are largely residential in character, while Grangemouth is home to the largest petrochemical complex in Scotland, as well as a major port on the River Forth. In the western reaches of the area lie the settlements of Denny/Dunipace, Bonnybridge and Banknock, while to the east, overlooking the Forth, sits the town of Bo'ness. Some 18 smaller village communities are scattered across the rural part of the area.
- 3.3 The number of premises licenses in the Board area has remained relatively unchanged since 2009 with only minor fluctuations between years. According to figures produced by the Scottish Public Health Observatory (ScotPHO), the number of on-sales premises licenses is statistically significantly lower than the national average with the number of off-sales premises licences not being significantly different from the national average.
- 3.4 Of the 14 indicators reported in the alcohol profile for the Falkirk area published in 2012 by ScotPHO, Falkirk has 7 that are significantly better than the national average, 3 that are the same or slightly better and 3 that are significantly worse, being for instances of common assault, breach of the peace and alcohol treatment waiting times.
- 3.5 The Chief Constable's report to the Board for the year to 31 March 2013 which was issued in October 2013 concluded that there are no emerging trends within the Falkirk Area Command relating to alcohol and that through proactive measures adopted by Police Scotland, alcohol related crime had seen a 14% reduction from 2011/12 to 2012/13. During the same period, 53 test purchases were conducted by Police Scotland with no failures reported. While not being

complacent about the impact of irresponsible alcohol consumption on individuals and on communities, the Board considers that the thrust of this policy statement should build on the previous policy approach rather than being a radical departure from it.

- 3.6 An alcohol fact sheet covering the Board's area is attached as an appendix to this Policy and the Chief Constable's report is available on the Board's website at xxxxxxxxxxxxxxxxxxxxx.

## **PART 2**

### **4. PROMOTION OF THE LICENSING OBJECTIVES**

- 4.1 This part of the policy statement sets out the Board's general approach to promotion of the licensing objectives. Each objective has equal weighting and, given their importance, the Board expects all applicants and licence holders to familiarise themselves with them and to be prepared to address the Board on what steps have been taken to address each of them with regard to any issue raised by their application or regarding their licence. While not a requirement of the Act, the Board strongly encourages all applicants to accompany their applications with a written statement tailored to their particular premises setting out how they intend to conform to the 5 licensing objectives, paying particular attention to the locality in which the premises are situated and the activities to be carried out. The Board considers that a written statement demonstrates an active and thoughtful engagement with the licensing objectives.
- 4.2 In relation to each objective the Board has set out the general policy it will pursue in seeking to promote that objective, however this does not override the right of any person to make representations on an individual application or to seek a review of a licence where such a provision has been made in the Act.
- 4.2 In respect of each licensing objective, the Board has defined its intended outcome and listed factors which, in its view, have an impact on achievement of that objective. Given the wide variety of premises and activities to which this policy statement applies, these lists are not exhaustive. Applicants and licence holders will know their own premises best and will be expected to address all aspects relevant to the individual style and characteristics of their premises and the licensable activities for which they are seeking, or have obtained, authorisation.
- 4.3 The Board considers that effective and responsible management of licensed premises is key to securing consistency with the licensing objectives. In respect of each licensing objective, the Board has specified a list of measures ("control measures") which it commends to applicants and licence holders as worthy of consideration in seeking to secure consistency with that objective. These lists are intended to assist applicants and licence holders but, again, are not exhaustive. Some control measures apply to more than one licensing objective.
- 4.4 While production of a risk assessment is not required as part of the licensing process, the Board strongly encourages applicants and premises licence holders to carry out a comprehensive risk assessment on their premises. The risk assessment should be specific to the premises and the activities intended

to be carried on in the premises under the operating plan, taking account of the licensing objectives, the proposed licensed hours, the location of the premises, the individual style and characteristics of the premises and the anticipated number of persons who will be on the premises. The Board considers a risk assessment to be good practice and a means of identifying appropriate control measures to put in place.

- 4.5 Additional control measures may be necessary on an occasional or specific basis such as when a special event is planned which is intended to, or likely to, attract larger audiences or audiences of a different nature. An individual risk assessment may be appropriate in these circumstances.

## **5. PREVENTING CRIME AND DISORDER**

- 5.1 In carrying out its functions under the Act, the Board will have regard to the likely impact licensed premises may have on crime and disorder. The Board recognises that licensed premises can be a source of disturbance and consequently crime and disorder. National and local crime statistics indicate that, in many cases, the consumption of alcohol contributes adversely to levels of crime and disorder. The Board considers that good management practices in licensed premises can often make an important difference to the level of alcohol related crime in the vicinity of licensed premises.
- 5.2 The Board is of the view that CCTV has made a significant contribution to addressing levels of crime and disorder across the Falkirk area, particularly with regard to anti social behaviour. In recent years, investment and upgrading of public space CCTV across the area has assisted in identification and prosecution of crime and provided reassurance to residents. It is noted that CCTV cameras are a vital part of Falkirk Council's strategy to tackle anti social behaviour as well as contributing to safer communities.
- 5.3 In relation to new applications for off-sales, the Board will now generally require all such premises to have a fully operational CCTV system. In general, only minimum levels of CCTV to cover entrances, exits and till areas, to a standard to enable facial recognition, will be required. However, in relation to any licensed premises, a fully operational CCTV system may be considered necessary and appropriate for the purposes of the licensing objective of preventing crime and disorder where the individual premises, or the type of premises, have become or are likely to be, associated with higher levels of crime or disorder. In these cases, for example as part of a premises licence review application or in relation to a new premises licence, the Board would expect Police Scotland to indicate why and to what extent CCTV was being requested if this is recommended as a condition of the licence.
- 5.4 Conditions may require the installation, maintenance and operation of appropriately sited CCTV cameras and recording systems which can provide images in all light conditions of a quality to enable facial recognition and be suitable for use as evidence, where it is considered necessary and reasonable to do so. Conditions may also require that images should be retained for a specific period of time and that staff should be trained and authorised to make these images readily available to Police Scotland and to any authorised Licensing Standards Officers.

- 5.5 Where CCTV is provided, licence holders should seek to ensure that it is operated in accordance with the Data Protection Act 1998 and guidelines produced by the Scottish Information Commissioner. Licence holders should also co-operate with Police Scotland regarding the handing over of any CCTV footage requested for the purposes of crime prevention and detection.
- 5.6 For new applications for off-sales premises licences, the Board will also now generally require such premises to have EPOS type tills capable of accurately recording the date and time of each sale of alcohol together with information about the type and amount of alcohol sold. The Board considers such tills to be an important management tool in providing an itemised record of alcohol sales during licensed hours.
- 5.7 In addition to the foregoing, applicants and licence holders should be able to demonstrate that all factors which impact on crime and disorder have been considered. These include:-
- underage drinking, including agency purchases
  - drunkenness on or around the premises
  - illegal possession and/or use of drugs
  - violent behaviour/public disorder
  - harassment of customers on or leaving premises
  - antisocial behaviour
  - drink driving
  - litter
- 5.8 Suggested control measures include:-
- appropriate instruction, training and supervision of staff to include conflict management and preventing crime and disorder
  - acceptance of accredited proof of age card schemes
  - security policies and regular toilet checks, for example to prevent the consumption of drugs on the premises
  - the display of notices which set out management policy in relation to drugs
  - provision of local transport information to permit customers to make safe arrangements to travel home
  - proper management of people entering and leaving the premises
  - provision of litter bins and lighting outside the premises

- promoting awareness of schemes such as the designated driver scheme
- choice of size of glasses, particularly for wine
- appropriate checks on immigration status of employees and their eligibility for employment in the UK

## **6. SECURING PUBLIC SAFETY**

6.1 The Board is committed to ensuring that the safety of any person visiting, or working in, or in the vicinity of, licensed premises is not compromised. The steps applicants and licence holders should take in order to address matters of public safety will vary according to individual premises and the types of activity on offer. Subject to this, in general the Board expects applicants to have particular regard to:

- operational practices in terms of both the management of risk and the response to it, the capacity of the premises;
- the physical layout of the premises
- e.g. fire safety; and
- meeting any applicable standards under separate legislation, e.g. health and safety law.

6.2 When determining appropriate applications, the Board will seek advice from Falkirk Council's Building Standards Service with regard to the capacity of the premises. Any capacity figure recommended to the Board by Building Standards will be treated as the maximum capacity and the Board may consider a lower figure to be appropriate depending on the particular circumstances of the application.

6.3 With regard to providing safe access to licensed premises for people with disabilities, the Board reminds applicants and licence holders that the Equality Act 2010 may apply to their operation and to their premises. Information may be obtained at [www.saif.org.uk](http://www.saif.org.uk).

6.4 In addition to the foregoing, applicants and licence holders should be able to demonstrate that all factors which impact on public safety have been considered. These may include:-

- the design and layout of the premises, including means of escape
- the nature of the activities on the premises
- the hours of operation

- customer profile (e.g. age, disability)

#### 6.5 Suggested control measures include:-

- carrying out risk assessments
- provision of effective CCTV in and around the premises
- employment of adequate numbers of suitably trained staff
- proof of regular testing and, where appropriate, certification of appliances and safety systems
- employment, when necessary, of Security Industry Authority licensed door staff

### 7. PREVENTING PUBLIC NUISANCE

7.1 The Board wishes to protect and maintain the amenity of residents and occupiers of business premises in the Falkirk area and recognises that the operation of licensed premises can, on occasion, interfere with the peaceful enjoyment or amenity of the wider community, either in the vicinity of the premises or more generally.

7.2 Although interpretation is ultimately a matter for the courts, the Board intends to interpret “public nuisance” widely to include such issues as noise, light, odour, litter and antisocial behaviour where these impact on the local community.

7.3 The Board recognises that nuisance can be attributable to licensed premises in a variety of forms and is not exclusive to premises with outside areas, including smoking areas, and those in immediate proximity to residential accommodation, although these features may be indicative of premises presenting a higher level of risk of nuisance. The Board also recognises that licensing legislation is not the primary statutory mechanism for controlling nuisance and anti-social behaviour by individuals once they are no longer on licensed premises and are beyond the direct control of the licensee. However, where it is apparent that public nuisance is the direct result of specific practices in the licensed premises, evidence of this activity may be reported to the Board for their consideration.

7.4 Applicants and licence holders should be able to demonstrate that all factors which might contribute to public nuisance have been considered. These include:-

- the location of the premises and the type of neighbouring premises
- the hours of opening
- the nature of the activities to be provided on the premises
- 
- the occupancy capacity of the premises



7.5 Suggested control measures include:-

- appropriate instruction, training and supervision of staff to prevent incidents of public nuisance
- proper management of people entering and leaving the premises
- installation of sound proofing and sound limiting devices
- sound tests for equipment used in providing live or amplified music
- liaison with public transport providers
- effective ventilation systems to prevent nuisance from odour
- provision of effective CCTV in and around the premises
- employment, when necessary, of Security Industry Authority licensed door staff
- management arrangements for the collection and disposal of waste, empty bottles and cigarette butts

7.6 The Board reminds applicants and premises licence holders that failure to take adequate steps to both proactively introduce and to maintain appropriate operational arrangements for their premises in order to prevent public nuisance may have adverse consequences regards their application or licence.

## **8. PROTECTING AND IMPROVING PUBLIC HEALTH**

8.1 The Board recognises the link between consumption of alcohol and public health. The Board wishes to see licensed premises thriving in the area, but this cannot be at the expense of the health and wellbeing of patrons or the wider community.

8.2 The Board also recognises that the general position in the Falkirk area is one replicated to a greater or lesser degree throughout the country, namely that Scotland's relationship with alcohol is a complex one for which there are no easy or quick fix solutions. While the Board is committed to tackling such issues arising locally through the exercise of licensing powers and, in particular, through the licensing objective of protecting and improving public health, it nevertheless recognises that it can only work within the legal powers it has been given by the Act and that all actions of the Board are open to legal challenge.

8.3 While the Board is fully supportive of efforts to tackle the problems associated with harmful and dependant drinking, it recognises that existing licensing laws are such that there has to be a causal connection between a particular licensing application and a concern for the public health objective. The Board is not in a position to apply the Act more widely than through the powers it has been given.

- 8.4 While recognising its own important part in promoting this particular licensing objective, the Board strongly encourages applicants and licence holders to have greater regard to the public health objective when considering the management and operation of their premises. Applicants and licence holders should be prepared to address the Board, if questioned, on what steps have been taken to deal with a particular health concern raised by any aspect of their application or in terms of a premises licence review hearing.
- 8.5 Applicants, licence holders and all staff responsible for the sale or serving of alcohol on licensed premises should be aware of the risks associated with alcohol and the impact they could have on public health. These include:-
- hazards of rapid intoxication from high strength alcohol, particularly when consumed without food
  - regular heavy consumption of alcohol is associated with poor health, accidents and violence
  - the Burden on the NHS, Police, other services and local communities due to excessive alcohol consumption
- 8.6 Applicants, licence holders and all staff responsible for the sale or serving of alcohol on licensed premises should have a clear understanding of the offences in connection with the sale of alcohol to a person who appears drunk, or who is known to have consumed large quantities of alcohol and allowing drunkenness on the premises.
- 8.7 Suggested control measures include:-
- Displaying material discouraging drink driving
  - making available information promoting moderate drinking along with awareness of units of alcohol and recommended guidelines
  - having a workplace alcohol policy in order to raise awareness, minimise harm and ensure that staff are able to access help (without fear of job loss) when an alcohol related problem arises
  - ensuring that customers are aware of choice in relation to alcohol measures, especially in the case of wine, e.g. small. medium and large glasses should be available
  - ensuring that customers are aware of choice in relation to the strength of alcohol in drinks such as wine and beer
  - availability of drinking water free of charge and low alcohol alternatives
  - encouraging the consumption of food

- providing contact details where assistance for alcohol related problems may be sought
- having in place a policy/practice to deal with patrons who have consumed excessive alcohol
- increasing the proportion of seating available so as to reduce the level of “vertical drinking”

## **9. PROTECTING CHILDREN FROM HARM**

- 9.1 The Board wishes to see family friendly premises thriving in Falkirk. It will welcome premises licence applications from those who wish to operate licensed premises which accommodate children and young persons and which provide an environment where families can socialise safely together. The Board recognises that additional responsibilities will be placed on such applicants while at the same time recognising that parents and other adults accompanying children also have responsibilities, particularly in relation to their supervision. In determining any such application the need to protect children from harm will be a major consideration and the Board therefore wishes to ensure that such premises are run in a way that is suitable for children.
- 9.2 All applicants for premises licences must be able to demonstrate in their operating plan, to the satisfaction of the Board, the steps they will take in order to protect children from harm. The Board recognises that, in terms of the Act, the operating plan requires this information in relation to young persons who are 16 and 17 while the licensing objective relates only to children who are under the age of 16. In general, the Board will take a lighter touch approach to access to licences premises by young persons so long as this does not have any negative impact on any of the other licensing objectives and applicants can demonstrate that they have considered the particular needs of young persons within their plans.
- 9.3 Where licensed premises intend to hold events where alcohol is not provided and those events are specifically targeted at children or young persons (for, example, underage discos or parent and toddler groups), consideration should be given to taking steps to avoid any obvious promotion of alcohol.
- 9.4 Where children are permitted entry to the premises, the Board may place a limit on the hours when children can be present. Each application will be considered on its merits and the Board will take into account the measures each applicant proposes to take in order to protect children from harm and whether activities in the premises are specifically targeted at families.
- 9.5 In terms of bar areas, the Board considers these to be premises, or parts of premises, used mainly or exclusively for the supply of alcohol for consumption on the premises. As such, they will not generally be considered to be suitable areas to which children should have access.
- 9.6 The Board also takes very seriously the issue of underage drinking and wishes to remind licence holders that they and their staff must comply with all legislation in relation to children and young persons, including not selling, or allowing the sale of, alcohol to children and young persons.
- 9.7 Applicants, licence holders, and all staff responsible for the sale or serving of

alcohol on licensed premises should be aware of the risks associated with alcohol and the impact they could have on children. These include:-

- the toxic effects of alcohol on the social, physical and mental wellbeing of children and young people, particularly in regards to brain development
- alcohol related brain damage in children and young people is irreversible
- children and young people who frequently witness alcohol consumption as normal practice, have an increased risk of consuming greater quantities of alcohol and at a younger age
- those affected are at a higher risk of developing hazardous drinking patterns and dependence in adult life

9.8 Suggested control measures include:-

- appropriate instruction, training and supervision of staff
- appropriate measures to ensure that children and young persons do not purchase or consume alcohol on the premises (unless such consumption is permitted by a young person in terms of section 105(5) of the Act)
- appropriate checks for staff who will be working in premises where children and young persons will be present
- acceptance of accredited proof of age card schemes
- measures to ensure that children and young people are not exposed to strong language, violence or disorder
- measures to ensure that children and young people are not waiting or seated in the bar area.

### **PART 3**

## **10. LICENSING HOURS**

10.1 While each application will be dealt with on its merits, this part sets out the Board's general policy on licensing hours. Applicants seeking hours outwith the policy will require to demonstrate as part of their applications that the additional hours requested are appropriate in the circumstances and that they are consistent with the licensing objectives.

### **Presumption against 24 hour licences**

10.2 In terms of section 64 of the Act, there is a presumption against the grant of applications for licensed hours for a period of 24 hours, whether made on a permanent basis or in relation to a one off event, unless the Board is satisfied that there are exceptional circumstances which justify allowing the sale of alcohol on the premises during such a period.

10.3 The Guidance sets out that the Scottish Ministers are of the view that Boards should consider exceptional circumstances to cover special events such as one-

off local or national festivals. The Guidance states that it is unlikely that exceptional circumstances would be constituted in the case of premises where there were routine requests to sell alcohol for 24 hours.

- 10.4 As a matter of policy, the Board cannot conceive of any special events or festivals where such a request would be justified as it considers that the granting of such hours would generally be detrimental to the licensing objectives. The onus, therefore, would be on the applicant to demonstrate to the satisfaction of the Board that the granting of such hours was not inconsistent with any of the licensing objectives and that there were genuinely exceptional circumstances to justify the request.

### **Off Sales**

- 10.5 In terms of the Act, the sale of alcohol for consumption off the premises is not permitted before 10am nor after 10pm. However it is open to the Board to further restrict licensed hours for off-sales where it considers that the hours proposed would be inconsistent with one or more of the licensing objectives. In particular, where as a result of the hours operated or proposed, premises are, or are likely to be, a source of, or focal point for, anti social behaviour and thus compromise the licensing objectives of preventing crime and disorder and/or preventing public nuisance, the Board may restrict the hours of operation. Unless so restricted, the Board would generally permit off sales hours from 10am to 10pm.

### **On Sales - general**

- 10.6 In formulating the policy approach to on-sales hours, the Board has taken account of the licensing objectives, the Guidance and the provisions of the Act itself. The Board recognises that licensing hours are important to individual licensed premises but can have a wider impact on an area. Balanced against this, the Board does not wish to inhibit unnecessarily the development of thriving and safe evening and night time local economies which are important for investment, employment and tourism. The Board considers that the on-sale policy hours are appropriate for the Board's area and represent a balance between the interests of the public, residents, licensed premises and their customers.

### **On Sales – early opening**

- 10.7 With the specific exception referred to in paragraph 10.13, the Board considers that the commencement of on-sales of alcohol before 10am is likely to be inconsistent with the licensing objective of protecting and improving public health. The Board considers that the historic basis for granting early morning hours, for example as a facility for shift workers or market workers, is unlikely now to apply. Based on the Board's own local knowledge, and views expressed to it by Police Scotland, early morning licensed hours can attract persons with alcohol dependency issues which can, in some situations, compromise the licensing objective of protecting and improving public health by allowing the consumption of alcohol over a sustained period of time commencing in the

earlier part of the day. Nevertheless, the Board will consider every application on a case by case basis. Any applicant seeking licensed hours before 10am would require to persuade the Board that they were an exceptional case. The Board would expect evidence, and not just anecdotal evidence, that there was an actual need and demonstrable demand for the hours sought. Reference simply to “customer demand” will generally be insufficient in this regard and evidence of quantifiable demand will be required. Moreover, the Board cannot conceive of a successful application that would involve purely the addition of extra drinking hours. As a minimum, the operating plan would require to include the provision of certain facilities e.g the provision of cooked meals throughout the early opening period (for the avoidance of doubt, snacks and crisps are not considered to constitute “meals”).

### **On Sales- terminal hour**

- 10.8 With the exception of those premises dealt with at paragraphs 10.9 to 10.11, the terminal hour for on sales premises will be no later than midnight from Sunday to Thursday and no later than 1am on Friday and Saturday nights.

### **Nightclubs**

- 10.9 For premises classed as nightclubs, the terminal hour will be no later than 3am from Sunday to Thursday and 4am on Saturday and Sunday. For the avoidance of doubt, it is recognised that the terminal hour is reached in the early hours of the morning following each day.
- 10.10 To be considered for the on sale policy applying to nightclubs, applicants will require to satisfy the Board on the following matters:
- the premises to which the application relates are purpose built or designed, fitted out and operated for the regular provision of either substantial live musical entertainment or a DJ operated discotheque facility;
  - the premises have a comparatively high occupant capacity and are fitted out to a high standard of equipment with appropriate ancillary facilities, such as toilet provision and stewarding to cope with large numbers of late night patrons; and
  - the operation of the premises is such that the sale of alcohol to patrons is genuinely ancillary to the entertainment provided and the primary reason for patrons visiting the premises is the entertainment itself rather than the provision of alcoholic refreshment.
- 10.11 Premises seeking to sell alcohol prior to 7pm will not generally be considered to be nightclubs and will therefore not normally be granted nightclub hours. Where consent is sought to sell alcohol prior to 7pm, applicants will be expected to demonstrate to the Board that the sale of alcohol is genuinely ancillary to some other substantial form of entertainment during that time or is for some other legitimate purpose e.g. the provision of conference facilities or specific social functions.

## **Members' Clubs**

- 10.12 While the Board has previously considered 1am on each day of the week to be the terminal hour for Members' Clubs, the policy position will now expect such clubs to conform to the general policy on terminal hours set out above. Where any exception to that policy is sought, it will be for the applicant club to provide the Board with evidence to demonstrate that there is a genuine community need for the hours sought rather than simply the extension of drinking time.
- 10.13 With regard to the commencement of licensed hours, the Board acknowledges that outdoor bowling clubs have traditionally been granted opening hours from 9.30am during the playing season between April to October inclusive. The Board is minded to continue this tradition. With the exception of such premises, however, all other clubs will be subject to the general policy position on hours set out above.

## **11. APPLICATIONS FOR EXTENDED HOURS**

- 11.1 In terms of the 2005 Act the Board is only empowered to extend the licensed hours of premises in respect of:
- a special event or occasion to be catered for on the premises, or
  - a special event of local or national significance.
- 11.2 The Board must consider whether it is appropriate to grant the application and can extend the licensed hours by the period specified in the application or such other period as it considers appropriate. In either case the period must not exceed one month.
- 11.3 Where the hours sought fall outwith the on-sales hours specified in paragraphs 10.7 and 10.8 above, the applicant will have to persuade the Board that the hours requested are appropriate in the circumstances and that a departure from the general policy is justified. The applicant should provide to the Board sufficient detailed information to enable a decision to be made in this regard.

This information will include :-

- a) the hours sought;
- b) a description of the special event or occasion;
- c) the activities proposed to take place in the premises during the hours sought;
- d) when each activity will take place;
- e) why the event or occasion is considered to be special, and
- f) why the event or occasion cannot take place within the on-sales hours specified in the operating plan.

- 11.4 In relation to applications for extended hours for a special event or occasion to be catered for on the premises, the Board will generally look for the applicant to demonstrate that the extension is required for a particular event such as a special birthday (e.g. 21<sup>st</sup>, 30<sup>th</sup>, 40<sup>th</sup> etc.) or special anniversary (e.g. silver, gold etc) or weddings and other such special events or occasions.
- 11.5 Where an application is made for extended hours in relation to a festival or event of local or national significance, the Board will expect the applicant to demonstrate that there will be a substantial form of entertainment taking place on the premises which is related to the particular event or festival. In such cases, the applicant will be required to submit a programme of events along with the application form. For the avoidance of doubt, mere sponsorship of the festival or event will not generally be considered sufficient to warrant granting the extended hours.

### **Public Holidays**

- 11.6 The Board recognises the community benefit in marking significant local holidays and will look favourably on applications in respect of on-sales premises seeking to extend their standard licensed hours by one hour on the night before the following approved holidays:

Good Friday  
Easter Monday  
First Monday and Tuesday in May  
September Tryst Weekend – being the first Monday following the first Tuesday in September.  
Bo'ness Children's Fair (applicable to the Bo'ness area only)

- 11.7 The Board will expect licence holders who wish to trade early on the morning of the Bo'ness Children's Fair to apply for Extended Hours.

### **Festive Trading**

- 11.8 The Board recognises that during the period leading up to Christmas Day and New Year's day many residents wish to celebrate by attending festive events and that many such events have become regular fixtures in the social life of the community. The Board wishes to recognise this by continuing its long held practice of permitting an extra hour of trading for all premises during the festive period; that being from the evening of the first Thursday in December until the morning of 3 January each year inclusive. The additional hour will be for premises holding *bona fide* festive functions. Whilst recognising that festive events can take many forms and that these will vary depending on the nature of the premises within which they are to be held, the Board it is of the view that a festive event or function should be more than one which simply provides additional drinking hours and should comprise one or more of the following elements - meals, buffets, dancing, disco, live entertainment such as magicians, comedians, live music etc.



## **Monitoring and Enforcement**

- 11.9 In granting any hours outwith the standard licensed hours, the Board may consider attaching licence conditions in order to regulate the activities associated with those non-standard licensed hours. It may also request that the premises be monitored on a regular basis by Licensing Standards Officers for a period of time in order to satisfy itself that the terms of the exception from the standard licensed hours are being met.
- 11.10 If it is found that the premises are not being operated in accordance with the terms of the exception, or any condition, or if there is a particular concern in relation to one or more of the licensing objectives, then the premises licence may be reviewed. If a ground for review is found to have been established, the licensed hours may be varied if the Board considers it necessary or appropriate to do so.

## **PART 4**

### **12. OCCASIONAL LICENCES**

- 12.1 It is possible to make an application for an occasional licence authorising the sale of alcohol on premises which are not licensed premises. In terms of the 2005 Act such applications may only be made by :-

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

Applications for occasional licences are advertised on the Board's website for a period of 7 days and any person can object or make a representation regarding these applications.

- 12.2 In the absence within the Act of a definition of what constitutes a voluntary organisation, the Board is minded to apply the following definition:

Voluntary organisations are formally constituted, non-profit driven, autonomous and non-statutory organisations run by individuals who do not get paid. The main aim of a voluntary organisation is to deliver social benefit in a variety of forms, rather than to generate profit for distribution to its members. A copy of the organisation's constitution may require to be submitted prior to an application for an occasional licence being granted in order that the Board may be satisfied that the application is made by a voluntary organisation.

- 12.3 The Board expects that an occasional licence will be operated in such a manner as to be consistent with the five licensing objectives and that any reasonable request made by the Police or by a Council official regarding the safety of the event would be complied with. In addition to the foregoing, the Board will consider whether it is necessary to impose local conditions to promote the licensing objectives.

- 12.4 While the Board is aware that the Act doesn't refer to the holding of event in the provisions dealing with occasional licences, given their short term nature and that they are not subject to any requirements for certification, neighbourhood notification or public site notices, it will generally look for the applicant to demonstrate that the occasional licence is required for a special event to be catered for on unlicensed premises. The Board believes that this approach is necessary to avoid the occasional licence process being used as a mechanism to circumvent the full licensing process which would more readily identify any issues of concern in relation to one or more of the licensing objectives and, in particular, that relating to securing public safety. Each application will, however, be determined on its own merits.
- 12.5 Information about the event will require to be detailed on the application form and the applicant may be asked to provide supporting documentation. Where the event relates to a charitable activity, the Board may require a letter from the charity stating that they are aware of the event and that they are receiving some benefit from it. Where the application is from a voluntary organisation, the applicant will require to demonstrate that the event is connected to the organisation's activities, e.g. a fund raising dinner dance.
- 12.6 The Board will not generally favour occasional licenses for 18<sup>th</sup> birthday parties.
- 12.7 The Board is aware that the Act does not require the office bearers of voluntary organisations who apply for occasional licences to obtain an appropriate training qualification. The Board is conscious, however, that such persons are in charge of events where alcohol is being dispensed and sold and may be running a number of such events during the course of a year.
- 12.8 Having regard to the licensing objectives, the Board believes that such training is desirable and would encourage voluntary organisations to ensure that at least one member present at the event to which the occasional licence relates is trained at least to a standard prescribed in the Licensing (Training of Staff) (Scotland) Regulations 2007.

### **Hours**

- 12.9 Applications for occasional licences and extended hours will generally be determined in accordance with the Board's general policy on licensed hours as set out in part 3 herein.

### **Processing Timescales**

- 12.10 In order to allow sufficient time for processing applications for occasional licenses and extended hours, and to ensure timescales are met for the requisite consultations, applications must be submitted at least 5 weeks prior to the date of the proposed event. While applications submitted later will be accepted, no assurance can be given that they will be processed in time so applicants lodge them at their own risk.
- 12.11 The Board considers that applications which require to be dealt with quickly in terms of section 57(4) of the Act will generally only be considered appropriate in relation to funeral functions. Any other application seeking a section 57(4) decision must be accompanied by a clear explanation of why the licence is required and why the standard notice could not be given.

## PART 5

### 13. OVERPROVISION

- 13.1 Section 7 of the Act requires the Board to include within its policy a statement as to the extent to which the Board considers there to be overprovision of (a) licensed premises or (b) licensed premises of a particular description, in any locality within the Board's area.
- 13.2 In considering the issue of overprovision, the Board has had regard to the Guidance, the Chief Constable's report to the Board for the year ending 31 March 2013, information available from ScotPHO and from the Falkirk Alcohol and Drug Partnership and the Board's own statistical information.
- 13.3 The Board also sought advice from the local Police Command Unit for the Falkirk area on whether there were any identifiable "hot spots" in the area where it could be demonstrated that crime, disorder or nuisance were caused by customers from licensed premises or from a concentrated number of licensed premises. The only area considered to come within that category was Falkirk Town Centre and specifically that part covered by Meadow Street, Manor Street, Princes Street and Bank Street, all of which see a notable increase in anti-social behaviour on Friday and Saturday evenings which the Police believe it is reasonable to infer is directly attributable to an **over consumption** of alcohol. However, the Police go on to say that this is a pattern familiar to the vast majority, if not all, towns and cities in the UK.
- 13.4 While there are other locations within the Board's area where an increased prevalence of anti-social behaviour has been noted, the Police do not specifically attribute these instances to any specific licensed premises or to a concentration of licensed premises.
- 13.5 While acknowledging the issue of **over consumption** of alcohol, the Board has not been able to make a sustainable causal link to an **over provision** of premises generally or specifically within the Falkirk area. Nevertheless, the Board will keep the issue of overprovision under close attention and may issue a supplementary policy statement within the life of this policy should more robust evidence emerge to support it. In the meantime, the Board will continue to consider overprovision on a case by case basis, either where the Board considers that it is an issue or where objections or representations have been received which refer to overprovision as a possible reason for refusal of an application.

## PART 6

### 14. MISCELLANEOUS

#### Board Business

- 14.1 The Board will deal with its business in an open and transparent manner. Information and assistance will be made available to persons wishing to apply for a licence, make representations or lodge objections. While Board staff will give advice, it should be understood that they will not complete applications or operating plans.

- 14.2 The Board is aware of the need to ensure that the licensing process is accessible to all. Assistance will therefore be available on request for those who require special arrangements to access any part of the process.
- 14.3 The Board will generally meet in the Municipal Chambers, Falkirk Council, West Bridge Street, Falkirk. In accordance with schedule 1 to the Act, Board meetings will be held in public.
- 14.4 Where a hearing is to take place, the Board will attempt to make the process as informal as possible consistent with the carrying out of the Board's quasi-judicial function.
- 14.5 The Board's aim is to provide a speedy, efficient and cost effective service to all parties involved in the licensing process. To this end, the Board has adopted a scheme of delegation to ensure that decisions are made in a manner consistent with this aim. The scheme sets out decisions which may be made by the Clerk of the Board and other specified Board officers and is available on the Board's website at:
- [www.falkirk.gov.uk](http://www.falkirk.gov.uk) (more detailed address to be inserted)
- 14.6 The Board is committed to avoiding duplication with other statutory regimes and agencies as far as possible. The Board recognises that Falkirk Council and other bodies are responsible for enforcing and regulating statutory regimes which may directly or indirectly impact on the licensing process such as health, transport, planning and building control. As such, the Board will seek to avoid duplication with other regulatory regimes when exercising its licensing functions.

#### **Licensing Standards Officers**

- 14.7 Two licensing standards officers are employed by Falkirk Council to exercise the functions set out in the Act. Their role will involve guidance, mediation and compliance. They will work with the public and licensees in the promotion of the licensing objectives and in ensuring compliance with the Act. The Board recognises that licensing standards officers play a key role in the licensing regime.
- 14.8 While the Licensing standards officers are not in a position to give legal advice or make applications or objections on behalf of any party, they will be expected to advise both licence holders and the public on their rights and responsibilities.
- 14.9 Licensing Standards Officers' resources will be targeted at high risk premises and activities which require greater attention. A lighter touch will be employed in respect of low risk premises which are well operated.
- 14.10 At least one Licensing Standards Officer will be a member of Falkirk Council Licensing Forum.

#### **Outdoor Areas**

- 14.11 Where an applicant proposes to provide seating, tables or other facilities in any outdoor area (whether covered or not), consideration should be given to the need to ensure that the use of such areas will not cause disturbance or nuisance to occupiers of premises in the vicinity. The Board will assess the suitability of outdoor drinking areas having regard to the licensing objectives, particularly those relating to preventing crime and disorder and preventing public nuisance. The Board reiterates that it considers effective and responsible

management to be key in ensuring that such areas operate in a manner consistent with the licensing objectives.

- 14.12 In each individual case where an outdoor area is proposed, the Board will consider whether there should be a physical demarcation of the area, unless such demarcation already exists.
- 14.13 The Board's general policy is that there shall be no consumption of alcohol in any outdoor area after 10.00 pm on any day. An earlier closing time may be imposed where the particular circumstances of the application or the premises merit it. As narrated elsewhere in this statement of policy, every application will be considered on its own merits.

### **Smoking**

- 14.14 The Board welcomes the legislation prohibiting smoking in enclosed public places. Licence holders have been effective in ensuring that patrons do not smoke within their premises. However, at times other issues can arise in the area around licences premises such as noise, litter, disorder and smoke drift into neighbouring residences or back into the licensed premises.
- 14.15 The Board expects licence holders to have regard to good practice to ensure that patrons do not create a nuisance or disturbance for neighbouring residents. his includes noise arising as a result of patrons smoking outside the premises and obstructions that may be caused through patrons standing in public areas.