

Falkirk Council Licensing Board

Subject: Licensing (Scotland) Act 2005
Review of the Statement of Licensing Board Policy
Meeting: Licensing Board
Date: 5 September 2018
Author: Consumer Protection Manager

1. Purpose of Report

- 1.1 The purpose of this report is to submit a draft revised Statement of Licensing Policy for consideration by the Board for the purpose of issuing it for consultation. The draft revised policy is Appendix 1.

2. Recommendations

Members are asked

to:

- 1. note the contents of the report, and**
- 2. approve the proposed Statement of Licensing Policy be issued for consultation.**

3. Background

- 3.1 The Licensing (Scotland) Act 2005 requires Licensing Boards to publish a statutory Statement of Licensing Policy. Such statements are to be published within 18 months of an ordinary election of councillors for local government areas taking place.
- 3.2 In drawing up the revised draft policy, information has been sought from Police Scotland, Falkirk Drug and Alcohol Partnership, Falkirk Council's Community Safety Team, local members, members of the Board and the Licensing Standards Officers.
- 3.3 With regard to overprovision, the ingathering and analysis of evidence and statistics is not yet complete and therefore it is proposed to publish a supplementary Statement of Licensing Policy in relation to over provision early in the New Year.
- 3.4 Members will recall approving a supplementary Statement of Licensing Policy in relation to Festive Trading at their meeting in June 2018. This policy position has been replicated in the revised policy.
- 3.5 The revised policy makes a number of changes, the most important being a change in the position in relation to children and young persons. The proposed policy position is not to have a prescribed approach but for each application to be assessed in relation to the following:

- Location of the premises
 - Nature of the premises and the customer profile
 - Activities on the premises (gambling, TV sports etc)
 - Food provision
 - Location of toilets within the premises
 - Location of bar serveries
 - Entertainment/functions
 - Specific provision for children such as play areas, childrens' menu etc.
- 3.6 The revised policy seeks to tighten up the policy position in relation to the licensing objective of Preventing Crime and Disorder by requiring all new applicants for premises licences to have in place a CCTV system. In addition, an Electronic Point of Sale (EPOS) type till is also required.
- 3.5 There are a number of premises in the area that have early opening hours. A number of these are grandfather rights, however, there are a number that have these hours granted following a non-minor variation. The revised policy seeks to tighten up the policy position with regards to early opening by attaching a condition to licences whose commencement of the sale of alcohol is before 10am. Such a condition will require the provision of cooked meals throughout the early opening period.
- 3.6 In order to assist licenceholders, applicants and the public, the revised policy includes new sections in relation to the following:
- Annual fees
 - Objections and representations
 - Occasional licences for temporary structures and open air events
 - Occasional licences for martial arts and boxing type events
 - Alcohol and Drug Misuse
 - The Local Licensing Forum
 - Proms and 18th Birthday parties
 - Performances which include Children and Young Persons
 - Site visits

4. Consideration

- 4.1 The Board will need to consider if the draft revised policy meets the criteria set down in the statutory guidance issued by Scottish Ministers under Section 142, promotes the five licensing objectives and address any local issues that have been identified.

5. Consultation

- 5.1 Should the Board be minded to adopt the draft policy as a consultative document, it will be subject of consultation with Local Licensing Forum and such other persons as the Board thinks appropriate.

6. Implications

Financial and Resources

- 6.1 The main implication is in relation to staffing resources required to carry out the consultation and assess the responses.

Legal

- 6.2 The Board's current Licensing Policy Statement was adopted in February 2016 in terms of section 6(1) of the Licensing (Scotland) Act 2005 following an extensive consultation process and is effective until the new policy is approved.

Risk

- 6.3 Failure to publish the revised policy within the statutory timescale may result in reputational damage to the Licensing Authority.

Equalities

- 6.4 The Board's continued commitment to equalities issues is demonstrated in the strategy and reports that have been published since 2013.

Sustainability/ Environmental Impact

- 6.5 None.

7. Conclusion

- 7.1 It is concluded that from the information provided in the report the Licensing Board should approve the proposed Statement of Licensing Policy to be issued for a six week consultation period.
- 7.2 All comments will be considered by the Licensing Board sub group with a view to the Statement of Licensing Policy being considered for approval by members at the meeting of the Board in November 2018.

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Consumer Protection Manager

Date: 31 August 2018

Contact Officer: Alison Barr, Consumer Protection Manager (telephone

501265) Appendices

Appendix 1 – Draft Statement of Licensing Policy

LIST OF BACKGROUND PAPERS

Nil

Falkirk Council Licensing Board

Licensing (Scotland) Act 2005

Statement of Licensing Policy

xx November 2018 to xx November 2023



DRAFT

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1. INTRODUCTION

Background

- 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 within 18 months of an ordinary election of councilors for local government areas taking place under section 5 of the Local Government etc. (Scotland) Act 1994
- 1.3 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 and young persons 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.

Falkirk Council Licensing Board

- 1.7 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 *a maximum* 10 members, all of whom are elected members of Falkirk Council. The Board is responsible for the functions set out in paragraph 1.1 within the Falkirk Council area.
- 1.8 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.
- 1.9 A list of members currently sitting on the Board is available on the Council’s website at:
- <http://www.falkirk.gov.uk/services/council-democracy/councillors-decision-making/committees/committee.aspx?committee=132>
- 1.10 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. Information is available on Falkirk Council’s website in relation to all types of licences; guidance on how to apply, how to submit an objection or representation, statutory notices and application forms etc. All of the Board’s statutory reports and policies are also available:
- <http://www.falkirk.gov.uk/services/law-licensing/licensing/alcohol/>
- 1.11 The Board will generally meet in public in the Municipal Chambers, Falkirk Council, West Bridge Street, Falkirk. The Board will attempt to make the process as informal as possible consistent with the carrying out of the Board’s quasi-judicial function. Copies of the Board’s agendas and minutes of Licensing Board meetings will be made available on the Council’s website:
- <http://www.falkirk.gov.uk/services/council-democracy/councillors-decision-making/committees/committee.aspx?committee=132>
- 1.12 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 set out in Appendix 1.
- 1.13 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.
- 1.14 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.

Equality Act 2010

1.15 The Board is committed to fulfilling the three aims of general equality duty which are:

- eliminating unlawful discrimination, harassment, and victimisation and any other conduct that is prohibited by the Act;
- advance equality of opportunity between people who share a protected characteristic* and those who do not;
- foster good relations between people who share a protected characteristic* and those who do not.

(* age, race, religion or belief, pregnancy and maternity, sex, sexual orientation and marriage/civil partnership, gender reassignment, disability)

1.16 The Licensing Board's Equality Strategy, Equalities Mainstreaming Report and Equality Outcomes are available on the Council's website:

<http://www.falkirk.gov.uk/services/law-licensing/licensing/alcohol/licensing-board/>

Complaints

1.17 Any complaints about the Licensing Board or its staff will be processed in accordance with Falkirk Council's complaints procedure which is available on the Council's website:

<http://www.falkirk.gov.uk/contact-us/complaints/docs/01%20Complaints%20procedure.pdf?v=201707041344>

Annual Fee

1.18 Payment of the fee is a mandatory condition of the premises licence. The Board reminds all premises licenceholders that the annual fee is due to be paid by 1st October each year. Failure to make payment by this date may result in a premises licence review hearing.

1.19 The annual fee in relation to premises licences is collected by Falkirk Council Sundry Accounts on behalf of the Licensing Board. In accordance with the Act, notification of the annual fee, in the form of an invoice, will be issued at least 30 days before the fee is due.

Objections and Representations

1.20 The Board has issued guidance on the Falkirk Council web site to assist anyone that wishes to object to an application or submit a representation in support of an application. For applications for a new premises licence or a non-minor variation to a premises licence:

<http://www.falkirk.gov.uk/services/law-licensing/licensing/alcohol/premises-licence.aspx>

and for applications for an occasional licence:

<http://www.falkirk.gov.uk/services/law-licensing/licensing/alcohol/occasional-licence.aspx>

2. CONTEXT

Falkirk Council Area

2.1 Falkirk is situated in the Forth Valley right at the centre of Scotland. It has a growing population of over 160,000 with just under 76,000 people working in the area. The population is expected to grow yet further to over 172,000 by 2041 (an increase of 8.1%), making it one of the fastest growing areas in Scotland. The population of the area has increased by 6.2% over the last decade, with most of this growth taking place in the last four to five years.

- 2.2 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 36,000, 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.

Tourism

- 2.3 Tourism is an important sector of the economy that continues to grow in the Falkirk Council area due to the abundance of outstanding visitor attractions, such as Callendar House, Blackness Castle, The Kelpies, The Helix, The Falkirk Wheel, Bo'ness and Kinneil Railway and the Antonine Wall.
- 2.4 This has impacted on the local economy in terms of income creation and generation of jobs. The Board will look to encourage the growth of tourism through their policies and practices and will expect licenceholders to strive to drive up standards of service and the facilities they offer to help attract visitors to the area.

Chief Constable's Report

- 2.5 The most recent Chief Constable's report to the Board under section 12A of the Act for the year 1 April 2016 to 31 March 2017 was considered by the Board at its meeting in October 2018. Like all previous reports, it did not identify any emerging trends within the Falkirk Area Command relating to alcohol. The report makes reference to the success of their preventative problem solving approach of issues being dealt with proportionately and at the earliest opportunity. This has been made possible due to the active partnerships which exist across the licensing sector in Falkirk.

3. PROMOTION OF THE LICENSING OBJECTIVES

General

- 3.1 Each licensing 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 expects applicants for new and provisional Premises Licences and transfers of Premises Licences 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.
- 3.2 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.
- 3.3 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.

- 3.4 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.
- 3.5 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.
- 3.6 The Board is of the opinion that good record keeping supports good management and it expects records to be kept in relation to any First Aid administered on the premises, lost and found items and adverse incidents.
- 3.7 Incidents and/or accidents on licensed premises should be properly managed in such a way to ensure that potential evidence is not disturbed or destroyed. This includes CCTV footage where there are cameras on the premises. The Designated Premises Manager, or in their absence, a member of staff, is strongly encouraged to contact the appropriate blue light service without delay.

Preventing Crime and Disorder

- 3.8 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.
- 3.9 The Board is of the view that closed circuit television (CCTV) has made a significant contribution to addressing levels of crime and disorder across the Falkirk area, particularly with regard to anti-social behaviour. For that reason, the Board requires all premises for which a new premises licence is granted to have in place a CCTV system. All such systems must be:
- to a specification approved by the Chief Constable;
 - maintained in full working order;
 - operational at all times the premises are open for business;
 - operated in accordance with data protection legislation; and
 - operated with accordance with the ICO Code of Practice for Surveillance Equipment and Personal Information:
<https://ico.org.uk/media/1542/cctv-code-of-practice.pdf>
- 3.10 Licenceholders must ensure that images from the CCTV system must be made available to a Licensing Standards Officer or Police Constable on request in a suitable format. The Board expects licenceholders to ensure that staff working on the premises are trained in the use of the system.

3.11 The Board considers the use of Electronic Point of Sale (EPOS) type tills to be an important management tool in providing an itemised record of alcohol sales in off sales premises and, for that reason, the Board requires all premises for which a new premises licence application is granted for off sales premises to have an EPOS type till. The till must be:

- used for all sales of alcohol;
- maintained in full working order;
- operational at all times the premises are open for business;
- accurately record the date and time of each sale of alcohol;
- accurately record the type (beer, wine, spirits) or name of the product;
- accurately record the amount of alcohol sold.

3.12 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

3.13 Suggested control measures include:-

- appropriate instruction, training and supervision of staff
- acceptance of accredited proof of age card schemes; <http://www.challenge25.org/proving.html>
- employment, when necessary, of Security Industry Authority (SIA) licensed door staff
- regular toilet checks to prevent the use and supply 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
- lighting outside the premises
- promoting awareness of schemes such as the designated driver scheme
- choice of size of glasses, particularly for wine
- the use of time locks on tills so that sales of alcohol cannot be made outside the hours of the operating plan.
- the use of till prompts so that all till users are prompted to ask for ID when an

age restricted product is scanned.

- the use of electronic refusal registers so that all sales are automatically recorded within the till system.

Securing Public Safety

- 3.14 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:
- the capacity of their premises;
 - the physical layout of their premises;
 - their operational practices in terms of both avoidance of risk and response to it, including, for example, fire safety; and
 - meeting of any applicable standards under separate legislation.
- 3.15 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.
- 3.16 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)
- 3.17 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 (SIA) licensed door staff
 - use of plastic glasses and/or non-glass bottles
 - participation in anti-violence and abuse strategies and campaigns such as Ask for Angela.

Preventing Public Nuisance

- 3.18 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.
- 3.19 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.
- 3.20 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.
- 3.21 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
- 3.22 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
 - management of 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
 - use of portable air conditioning units

Protecting and Improving Public Health

- 3.23 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.
- 3.24 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.
- 3.25 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.
- 3.26 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
- 3.27 The Board expects 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.
- 3.28 The Board has been made aware of a very small number of off sales premises which supply alcohol to customers then collect the payment at a later date. The Board considers this to be a breach of the public health objective as it is likely to be offered to vulnerable persons who have a dependency on alcohol and may be a factor in contributing to alcohol harm.
- 3.29 Suggested control measures include:-
- Displaying material discouraging drink driving.
 - making a v a i l a b l e information promoting moderate drinking along with awareness of units of alcohol and recommended guidelines. Information on the Scottish Government Safer Scotland's "Don't Risk It" campaign can be found by following the link below:

<http://dontriskit.info/drink-driving/>
 - 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 ¹⁷are 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 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”

Protecting Children and Young Persons from Harm

- 3.30 The Licensing (Scotland) Act 2005 differentiates between children and young persons with “children” being defined as those under 16 years of age and young persons being defined as those aged 16 and 17 years of age.
- 3.31 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. The Board expects applicants to evidence the measure in place to meet this objective. In determining any such application the need to protect children and young persons 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 and young persons.
- 3.32 The Board considers that the wide variety of types of premises that wish to accommodate children and young persons makes it difficult to have a prescriptive approach and, for that reason, the Board will consider each application on its own merits. The Board will assess measures such as the following as part of the consideration:
- location of the premises
 - nature of the premises and customer profile
 - activities on the premises (gambling, TV sports, etc)
 - food provision
 - location of toilets within the premises
 - location of bar serveries
 - entertainment/functions
 - specific provision for children such as play area, children’s menu etc.
- 3.33 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.

3.34 Licence holders and staff responsible for the sale or serving of alcohol on licensed premises should be aware of the risks associated with alcohol and the potential impact 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

3.35 Suggested control measures include:-

- appropriate instruction, training and supervision of staff
- appropriate checks for staff who will be working in premises where children and young persons will be present
- acceptance of accredited proof of age schemes
- measures to ensure that children and young people are not exposed to strong language, violence or disorder
- the use of non-glass drinking vessels
- the use of electric socket covers
- a change mat, proper waste disposal and adequate hand washing facilities to be provided within the baby change facilities
- the use of guards for portable heating appliances

4. LICENSING HOURS

4.1 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

4.2 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.

4.3 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.

- 4.4 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

- 4.5 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.

On Sales – General

- 4.6 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

- 4.7 With the specific exception referred to in paragraph 4.3, 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. Where the Board grants the commencement of on-sales of alcohol before 10am, a condition will be attached to the licence requiring 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

- 4.8 With the exception of those premises dealt with at paragraphs 4.9 to 4.12, 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. The Board considers that these hours draw an appropriate balance between the licensing objectives (particularly preventing crime and disorder, securing public safety and preventing public nuisance) and the development of a thriving night-time economy.

Nightclubs

- 4.9 For premises classed as nightclubs, the terminal hour will be no later than 2am from Sunday to Thursday and 3am on Friday and Saturday. For the avoidance of doubt, it is recognised that the terminal hour is reached in the early hours of the morning following each day.
- 4.10 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.
- 4.11 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.
- 4.12 The Board recognises that where the circumstances relating to a particular premises dictate e.g. where different activities may be taking place in different parts of the premises at the same or at different times, it may be necessary to impose different opening and terminal hours to those parts of the premises and for different days of the week and to impose different conditions to ensure the activities remain separate and in order to achieve the licensing objectives.

Members' Clubs

- 4.13 The Board expects such clubs when seeking a licence to conform to the general policy on terminal hours set out above.

5. EXTENDED HOURS

General

- 5.1 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.
- 5.2 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.

- 5.3 Where the hours sought fall outwith the on-sales hours specified in paragraphs 4.7 and 4.8 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:-

- the hours sought;
 - a description of the special event or occasion;
 - the activities proposed to take place in the premises during the hours sought;
 - when each activity will take place;
 - why the event or occasion is considered to be special,
- 5.4 The Board considers that wedding receptions, dinner dance or events where a disco or live entertainment is provided will, generally be accepted as activities to which extended hours would be appropriate. However, darts, dominoes, pool/snooker competitions, karaoke nights or private parties where there is no significant entertainment will, generally, not be considered as activities to which extended hours would be appropriate

Public Holidays

- 5.5 The Board recognises the community benefit and the longstanding tradition of 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.

Festive Trading

- 5.6 The Licensing Board will grant a general extension of hours on certain dates during the Festive Period which will run from mid-December to 2 January the following year. The dates for a general extension of hours will be set by the Board. The general extension will allow nightclub premises to extend their terminal hour for the sale of alcohol to a maximum of 4am and all other on sales premises to a maximum of 2am.
- 5.7 The general extension of hours will apply to on sales premises only.
- 5.8 Any premises that are open beyond 1am must comply with the late night opening mandatory conditions.
- 5.9 Any premises requiring extended hours for dates that are not covered by a general extension must make application to the Licensing Board at least 5 weeks before the event(s).
- 5.10 The dates agreed by the Board for the general extension of hours will be published on Falkirk Council's website.

Monitoring and Enforcement

- 5.11 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.
- 5.12 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.

6. OCCASIONAL LICENCES

General

- 6.1 It is possible to make an application for an occasional licence authorising the sale of alcohol on premises which are not licensed premises. 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.

- 6.2 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 additional conditions to promote the licensing objectives.
- 6.3 The Board will not condone the use of the occasional licence process 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.
- 6.4 Information about the event will require to be detailed on the application form and the applicant may be asked to provide supporting documentation. If an occasional licence is required for a part of a premises, then a layout plan showing the extent of the licensed area within the premises must be submitted. The layout plan must also indicate the location and dimensions of any outdoor drinking area.
- 6.5 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.

- 6.6 Where the application is from a voluntary organisation, the applicant will require to satisfy the Board that it is a properly constituted organisation by submitting a copy of the constitution with the application. Additionally, the applicant must demonstrate that the event is connected to the organisation's activities.
- 6.7 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.
- 6.8 Having regard to the licensing objectives, the Board believes that such training is desirable and would encourage holders of occasional licences 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.
- 6.9 The Board would encourage the holders of occasional licences to have a personal licenceholder on duty throughout the event where possible.
- 6.10 The Board will not generally favour occasional licenses for 18th birthday parties.

Temporary Structures and Open Air Events

- 6.11 Where an application for an occasional licence relates to a temporary structure such as a marquee, a layout plan must be submitted with the application showing the exact area to be licensed including any area designated for outdoor drinking. The plan should also show the location of the temporary structure as it relates to any permanent structures.
- 6.12 The Board expects any outdoor drinking area to be clearly delineated with barriers.
- 6.13 For large scale events such as pop concerts, displays, and festivals, the applicant for an occasional licence must submit with their application an Alcohol Management Plan which details, amongst other things, how the alcohol will be sold, the types of alcohol, and the measures put in place to support the licensing objectives.

Martial Arts and Boxing Type Sporting Events

- 6.14 The Board is aware that this type of event has become more popular in recent years and that unfortunately, in some circumstances have resulted in drunken behaviour, crime and anti-social behaviour. The Board will not condone such behaviour in the Falkirk Council area and therefore, in order to uphold the licensing objectives, it is the Board's view that where these types of events take place on premises for which an occasional licence has been granted, the following additional conditions will be applied:
- adequate stewarding by persons who hold a licence granted under section 8 of the Private Security Industry Act 2001 is provided during the event.
 - a personal licenceholder be present for the duration of the sporting event organised; and
 - all drinks must be decanted into plastic drinking vessels.
- 6.15 Where children and young persons are in attendance, a condition will be put on the occasional licence stating that they must be accompanied by a responsible adult.

Hours

- 6.16 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 this policy.

Processing Timescales

- 6.17 In order to allow sufficient time for processing applications for occasional licences and extended hours, and to ensure timescales are met for the requisite consultations, applications must be submitted no later than 5 weeks prior to the date of the proposed event. While applications submitted later will be accepted, they will require to be determined by the Board.
- 6.18 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.

7. OVERPROVISION

- 7.1 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.
- 7.2 In considering the issue of overprovision, the Board has had regard to the Guidance, the Chief Constable's reports to the Board for the years ending 31 March 2013 and 2014, information available from ScotPHO and from the Falkirk Alcohol and Drug Partnership and the Board's own statistical information.
- 7.3 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.
- 7.4 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.
- 7.5 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.

8 MEMBERS CLUBS

- 8.1 While acknowledging the role that members' clubs play in the life of the community, the Board emphasises that, in holding premises licences, they must also be able to demonstrate that they are capable of adhering to the terms of their licence and upholding the Licensing Objectives.
- 8.2 The Board expects that clubs will carefully consider the access arrangements for children and young persons participating in sporting activities separate from attendance by such persons at social events.
- 8.3 Each club should be non-profit making, with a constitution and limited access by members of the public, and any club in submitting an application for a premises licence should submit a copy of its current constitution.
- 8.4 Following their Annual General Meeting, clubs are required to provide the Clerk to the Board with an updated list of office bearers, their address, date of birth and phone number. Only current office bearers are able to make applications for extended hours or occasional licence on behalf of the club.
- 8.5 Clubs should give careful consideration when advertising events within the club to the general public. Any such events must be run for the benefit of the club and be covered by an occasional licence if they are open to the public and not restricted to members and their guests.
- 8.6 Two key requirements for a qualifying club mean that anyone who is supplied with alcohol on the premises must be (a) a member of the club or a genuine guest of a member of another qualifying club, and (b) properly signed in accordance with the provisions of the constitution.
- 8.7 The Board notes that there is no definite answer to the question of how many people a member can sign in if this is not provided for in the constitution. The Board expects that, in these circumstances, the natural limit would be the number of people the signing member can reasonably accompany. The entries in the signing-in book should be clearly legible and should include the full name of the member accompanying the visitor, and the visitor's name and full address. The Board expects that the member should know everyone he is signing in and accompany them during their time within the club.

9. MISCELLANEOUS

Licensing Standards Officers (LSO)

- 9.1 The Board recognises that Licensing Standards Officers play a key role in the licensing regime. The Licensing Standards Officers will carry out the roles and responsibilities set out under the Act including:
- Providing guidance and information on the Act
 - Checking that licence holders are complying with the terms of the legislation and their licence conditions
 - Providing a mediation service in order to resolve disagreements and disputes.
- 9.2 Two Licensing Standards Officers are employed by Falkirk Council. They can be contacted:
- by writing to or visiting Falkirk Council Licensing Section, Municipal Buildings, West Bridge Street, Falkirk, FK1 5RS;
 - by emailing licensing@falkirk.gov.uk
 - by calling 01324 501575

- 9.3 The Licensing Standards Officers are not in a position to give legal advice or make applications or objections on behalf of any party.
- 9.4 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. Regular inspections of all licensed premises in the area will be carried out and they will work with partner agencies such as Police Scotland to enable the most efficient and appropriate responses to be made when compliance issues arise.

Outdoor Areas

- 9.5 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 expect applicants to consider visually impaired and disabled persons when determining the size and location of such an area.
- 9.6 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, and will, where necessary, consult with the Roads Authority and the Development Management Section of Falkirk Council.
- 9.7 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.
- 9.8 The Board may require the outdoor drinking area to be monitored by CCTV.
- 9.9 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.
- 9.10 Control measures in relation to the management of outdoor drinking area include removing the barriers, tables and chairs when not in use and the use of plastic drinking vessels.

Local Licensing Forum

- 9.11 The Board recognises the importance of the Local Licensing Forum and will endeavour to have a close relationship with it. The Board fully intends to use the experience and knowledge of the Forum, through its members to consult on licensing matters as and when required.

Alcohol and Drug Misuse

- 9.12 The Board recognises the importance of the work of the local alcohol and drug partnership and will always seek to be supportive of their campaigns.
- 9.13 The Board expects that licenceholders and Designated Premises Managers will take all reasonable steps to promote the safe drinking of alcohol and have a zero tolerance to drunkenness on their premises. Licenceholders are encouraged to keep a register of all refusals of the sale of alcohol detailing the reason for the refusal.
- 9.14 The Board, recognising that drug misuse is an unfortunate part of the wider society, expects licenceholder to have a zero tolerance approach to the use and supply of drugs and/or any illegal substances on their premises. Any incidents of alleged drug misuse must be properly recorded and reported to the police.

Proms and 18th Birthday Parties

- 9.15 The Board is aware that a number of schools both within and outwith the area organise prom events for their pupils and staff at premises in this area. The Board expects holders of premises licences and occasional licences that cater for this type of function should ensure that the event is run in a manner that upholds the licensing objectives, particularly in relation to protecting children and young persons from harm and protecting and improving public health.
- 9.16 Where an occasional licence is granted for this type of event, conditions may be put on the licence. These may include:
- The use of wrist bands
 - The use of SIA licensed door stewards
 - The decanting of drinks into non-glass drinking vessels
 - A personal licence holder to be on the premises for the duration of the event.
- 9.17 Where this type of event is held on premises where there is a premises licence, the Board expects that this is referred to in the Operating Plan. The Board may attach such conditions to the licence specifically relating to this type of event.

Performances including Children and Young Persons

- 9.18 The Board considers the terms and conditions of children access, as detailed in the operating plan, should take into consideration whether children or young persons maybe on the premises as part of organised entertainment. Where this is the case, it would be expected that appropriate control measures are put in place including an up to date record of all under age performers showing name, date of birth, address and emergency contact details.
- 9.19 The Board expects that under age performers will leave after the entertainment, to which they are party, has ceased in accordance with the terms and conditions of the operating plan.
- 9.20 Where an occasional licence is applied for, and any entertainment at the event which includes the participation of children and/or young persons, the Board expects this to be detailed in the application form including the time that the entertainment will cease. The Board will condition the licence to the effect that under age performers will leave after the entertainment, to which they are party, has ceased.

Site Visits

- 9.21 Where an application for a new or provisional premises licence or a non-minor variation to a premises licence is made, the Board may, prior to determining the application, wish to visit the premises. This will usually be the case where either or both of the following apply:
- objections or representations have been received
 - the variation seeks an increase in the access for children and young persons
- 9.22 The Board may, from time to time, undertake visits to licensed premises in the area.

Licensing (Scotland) Act 2005 Schedule 1 Paragraph 10 and named sections of the Act

Delegation of the Licensing Board Functions

Functions of the Licensing Board	
The functions listed below are reserved to the Licensing Board by the Act	
(a).	Determining the Board's policy for the purposes of the licensing policy statement or supplementary licensing policy statement.
(b)	Determining, for the purposes of the licensing policy statement or supplementary statement, whether there is overprovision of licensed premises or overprovision of licensed premises of any particular description, in any locality.
(c)	Determining a premises licence application.
(d)	Determining a premises licence variation application other than a minor variation.
(e)	Determining an application for the transfer of a premises licence where the applicant has been convicted of a relevant offence or foreign offence
(f)	Determining a personal licence application or a personal licence renewal application where the applicant has been convicted of a relevant or foreign offence.
(g)	Conducting a hearing under the Licensing (Scotland) Act 2005 and taking any of the following steps following hearing: issuing a written warning to a premises licenceholder; revoking or suspending a premises licence; making a variation of the premises licence; revoking, suspending or endorsing a personal licence.
(h)	Making a closure order
In addition, the following functions are reserved to the Board.	
(i)	Refusing an application for confirmation of a provisional premises licence .
(j)	Determining an occasional licence application where this is a notice of objection or representation in relation to the application, or a report from the Licensing Standards Officer (section 59).
(k)	Granting of general extensions of licensed hours for a special event of

	local or national significance (Section 67)
(l)	Determining an application for extended hours where there is notice of objection from the Chief Constable or report from the Licensing Standards Officer (Section 70).
The Board has delegated all other functions to the Clerk	

In this scheme

“Act” means the Licensing (Scotland) Act 2005

“Clerk” means the person appointed under Schedule 1 Paragraph 8 of the Act or any staff member appointed to assist the Clerk.