

## AGENDA ITEM 1

## FALKIRK COUNCIL LICENSING BOARD

**Subject:** Licensing (Scotland) Act 2005  
Statement of Licensing Policy – Trading Hours  
**Meeting:** Licensing Board  
**Date:** 20 March 2008  
**Author:** Director of Development Services

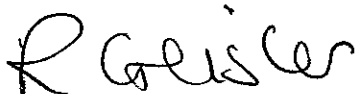
**1. INTRODUCTION**

- 1.1 At its meeting on 28 November 2007 when considering its Statement of Licensing Policy in terms of the Licensing (Scotland) Act 2005, the Board agreed inter alia to authorise supplementary consultations on the matter of the trading hours of licensed premises.
- 1.2 The Boards' Policy Review Working Group subsequently met on 21<sup>st</sup> January, 2008, to consider the matter and again on 5<sup>th</sup> February, 2008, when it agreed to consult on a revised version of the trading hours element of the Statement of Licensing Policy. Before the Policy Review Working Group could conclude its consideration of the matter, the Licensing Board agreed at its meeting on 16 January 2008 to set up a Sub-Committee of the Board to consider various matters relating to the Licensing (Scotland) Act 2005.
- 1.4 The responses received to the consultation exercise were accordingly submitted to the Sub-Committee of the Board on 12 March 2008 for its consideration. After discussion and having noted the various responses made, the Sub-Committee agreed to make the undernoted recommendations to the Board on the matter of trading hours. Copies of the report submitted to the Sub-committee by the Licensing co-ordinator and the minute of the Sub-Committee are attached as appendices 1 & 2 respectively. Also attached as appendix 3 is a copy of the Board's existing trading hours policy under the Licensing (Scotland) Act 1976.

**2. RECOMMENDATIONS**

- (a) That existing policy be maintained as per appendix 3 subject to (b) below
- (b) That the maximum trading hours permitted with regard to off sales shall conform to the legislative provisions contained in the Licensing (Scotland) Act, 2005, ie. 10.00 a.m. to 10.00 p.m. Monday to Sunday

- (c) There be no minimum charge for entry to entertainment licensed premises but there will be a charge
- (d) That it be remitted to the Clerk to prepare for publication an appropriate statement reflecting the Board's decision and that this statement should be included within the Statement of Licensing Policy agreed by the Board at its meeting on 28 November 2007.



.....  
Director of Development Services

Date: 17 March 2008

Contact Officer: Robert Watson, Licensing Co-ordinator (ext 4798)

## FALKIRK COUNCIL LICENSING BOARD

**Subject:** Licensing (Scotland) Act 2005  
 Statement of Licensing Policy – Trading Hours  
**Meeting:** Licensing Board Sub-Committee  
**Date:** 12 March 2008  
**Author:** Licensing Co-ordinator

### 1. INTRODUCTION

- 1.1 At its meeting on 6 February 2008 the Sub Committee agreed that a further round of consultation should take place with all relevant interested parties with regard to the Trading Hours section of its Statement of Licensing Policy and that the draft consultation paper tabled at that meeting by the Clerk should form the basis for that consultation.
- 1.2 Consultations were duly sent out with a final return date for responses being set as 29 February 2008. A total of 17 responses were received as follows:-

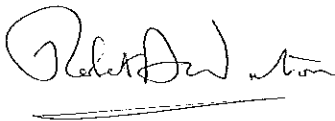
Scottish Beer & Pub Association  
 Young & Partners Lawyers  
 Castle Leisure Group  
 Central Scotland Police  
 Kingdom Taverns Limited  
 Tolbooth Tavern  
 Aitkens Bar  
 Brightons Inn  
 Mariner Bar  
 Argylls Bar  
 Larbert Bowling Club  
 Central Region Licensed Trade Association  
 Tayforth Licensed Trade Association  
 Falkirk Central Community Council  
 Allandale Bowling Club  
 Shieldhill & California Community Council  
 Falkirk Local Licensing Forum

Views expressed were mixed in regard to most of the concepts outlined in the consultation paper. However, it is clear that the majority of respondents favour the Board retaining its existing policy with regard to the closing times of premises. Copies of the various responses received are attached as appendices 1 – 17 respectively.

- 1.3 A copy of the original draft 'trading hours' policy as contained in the Statement of Licensing Policy approved (under exception of the 'Trading Hours' paragraph) at the special meeting of Falkirk Council Licensing Board on 28 November 2008 is attached herewith as Appendix 18 together with a copy of the draft consultation paper referred to at 1.1 above (Appendix 19).

## 2. CONSIDERATION

2. Members are asked to consider the responses received and arrive at a view on the matter for submission to an early meeting of Falkirk Council Licensing Board for final determination of that element of its statement of Licensing Policy relating to trading hours for licensed premises.

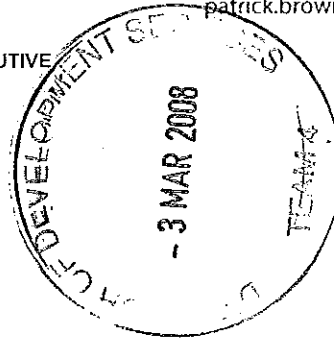


.....  
**Licensing Co-ordinator**

**Date: 11 March 2008**

**Contact Officer: Robert Watson, Licensing Co-ordinator**

FROM THE OFFICE OF THE CHIEF EXECUTIVE



Mr. Robert Watson  
Licensing Co-ordinator  
Licensing Section  
Falkirk Council  
Abbotsford House  
Davids Loan  
FALKIRK  
FK2 7YZ

[licensing@falkirk.gov.uk](mailto:licensing@falkirk.gov.uk)

29<sup>th</sup> February 2008

Dear Sir

**Response to The Falkirk Licensing Board Statement of Licensing Policy  
– Consultation On Premises Trading Hours**

I refer to the your letter of 13<sup>th</sup> February 2008 relating to the above and enclose the response of the Scottish Beer and Pub Association (SBPA) and the British Hospitality Association (BHA) in Scotland to your consultation. We are content with our response being made available publicly.

We would highlight that we responded on 23<sup>rd</sup> November 2007 to the Board's original consultation on its Draft Statement of Licensing Policy, which covered a number if not all of the issues raised in the latest "consultation exercise" by the Board. We therefore have some difficulty understanding why the Board has undertaken a second consultation exercise on these matters, especially with such an inadequate timescale for effective response by those consulted, as highlighted in a letter to you from our legal advisers, Lindsays WS, of 20<sup>th</sup> February 2008.

Having considered this matter further, it is our belief that the Falkirk Licensing Board was, and is, in breach of its legal obligations under the Licensing (Scotland) Act 2005 by failing to have adopted and published a Statement of Licensing Policy by 30<sup>th</sup> November 2007. This breach has been exacerbated further by its latest consultation on the issue of trading hours, which was subject last year to consultation, but with no apparent decision, and is now subject again to consultation with a wholly inadequate timescale for response.

We would highlight that given the deadlines imposed by Regulations under the Licensing (Scotland) Act 2005 it is impossible for applicants to have due regard to the Board's Policy Statement by the first lodging dates for transitional premises licence applications. We believe many applications will have already been lodged before the Board completes its second consultation on these matters. We therefore believe the Board's approach on these matters to now be fundamentally flawed.

In relation to the content of the Draft Section 9 of the Licensing Policy Statement, we would comment as follows .../

.../

In relation to the content of Section 9.1 we would repeat our view in regard to applicants providing "information to enable the Board to make a decision" that as the content of the operating plan which has to be submitted by an applicant is defined by statute, that it is a matter for the Board to satisfy itself of these matters on the basis of what is in the operating plan and not for applicants to go beyond the requirements of the law in this regard. There is no ability for applicants to submit information other than that which will be required by the application forms produced under the 2005 Act.

In relation to the comments on Off-Sales in Section 9.2, we are not clear whether these are intended to apply to on-sales premises making off-sales or only to dedicated off-sales premises. However we would repeat our view that there is no scope in the paperwork set out in Regulations for applicants to "address the five licensing objectives," even if the Board wishes this to happen.

In relation to Section 9.2.1 the matters raised in relation to underage sales and signage are already matters covered by national mandatory conditions or offences under the Licensing (Scotland) Act 2005 and as such these are not matters for the Board to decide local "standard" conditions in relation to.

In relation to the Sections on On-Sales we note the Board's implied adoption of a blanket policy on trading hours for on-sales premises of 11 am until 11 pm. We would highlight that these hours in relation to trading in the evening hours are stricter than those, which currently apply under the Licensing (Scotland) Act 1976. We would highlight to the Board that under the Regulations underpinning the Licensing (Scotland) Act 2005 the limited "grandfather rights" conceded by the Scottish Government to licence applicants during transition allow applicants to retain their current 1976 Act trading hours and those relating to regular extensions. We therefore cannot see how the Board's intention in Section 9.3 can be delivered in accordance with the 2005 Act and the Regulations underpinning this.

In relation to the content of Sections 9.3.1 – 9.3.7, we would repeat our comments made in our response of last November namely that we must question the Board's proposed policy intention on "hours" given that this appears to have been inadequately referenced to and justified by the licensing objectives of the 2005 Act and is unnecessarily and unduly restrictive. We would suggest that many of the distinctions created by previous Board policies are totally arbitrary and the latest policy seeks to continue distinctions inherent in the Licensing (Scotland) Act 1976. This is legislation, which is being replaced by the 2005 Act, and as such these prior policies can have no legitimate bearing on the operation of the 2005 Act. We would therefore ask the Board to consider the relevance of previous policies and explain its justification for adopting these.

We would highlight that there are no distinctions made between different types of premises under the 2005 Act other than between on and off sales premises, or indeed as regards set trading hours for on sales premises as exist under the 1976 Licensing (Scotland) Act. We must therefore question on what basis the Board is planning to make these distinctions, given that all of these types of premises sell alcohol for consumption on the premises and therefore have similar, if not the same, issues as regards their operation. Indeed the only reason why "entertainment" premises are even licensed is because they are selling alcohol, not because they are providing "entertainment."

We would ask the Board to explain what bearing under the terms of the 2005 Act whether a premises has "entertainment" should have on its trading hours? And would ask how the Board proposes to enforce a condition in relation to "entertainment" using its powers of furthering the five licensing objectives, let alone one requiring that the "breaks" in this "entertainment" should be of no more than fifteen minutes.

We would repeat our view that many of the comments contained in Section 9 seek to continue distinctions and practices under the 1976 Licensing (Scotland) Act and have no bearing to the 2005 Act and that they have no place in any Board's Licensing Policy Statement.

We would comment that "late opening" premises are defined under the 2005 Act as premises, which trade after 1 a.m. The Board has no flexibility in seeking to redefine this under Section 27 of the Licensing Act. We would highlight that the Board's Policy Statement seems to have given no consideration to the position of "late opening" premises.

.../

In relation to the Board's suggestion in Section 9.3.2 we would ask the Board to explain which of the five licensing objectives under the Licensing (Scotland) Act 2005 it would be proposing to use to enforce a condition that it should be able to determine a "minimum entry charge." We would suggest that it cannot and this assertion should be withdrawn.

In relation to the content of Section 9.3.4 we would repeat our earlier comment that the content of the operating plan which has to be submitted by an applicant is defined by statute. We would suggest that it is a matter for the Board to satisfy itself of these matters on the basis of what is in the operating plan and not for applicants to go beyond the requirements of the law in this regard.

In relation to the content of Section 9.4, which appears to suggest that premises operating as hotels that wish to serve alcohol to residents beyond the standard licensed hours must specify the hours during which they wish to do so in their operating plan. We would draw the Board's attention to Section 63 (2) (c) and (d) which state respectively it is not an offence to "allow alcohol to be consumed on or taken from licensed premises outwith licensed hours if the person consuming or taking the alcohol - (i) resides on the premises, or (ii) is a guest of a person who resides there, or "sell alcohol or allow alcohol to be sold on licensed premises out with licensed hours if the alcohol is sold to a person who resides on the premises". The Board's policy appears to be inconsistent with the foregoing and should be amended, and this assertion withdrawn.

In conclusion, we must record our grave and growing concern at the manner in which your Licensing Board has reached this point in the process of licensing reform.

We would repeat our view that the Board is now clearly in breach of its obligations under the Licensing (Scotland) Act 2005 in relation to the publication of its Statement of Licensing Policy, and that this administrative error has been further compounded by the Board's latest "consultation" which has taken place at a point in the process of licensing transition when not every applicant can be reasonably expected to have regard to these policy intentions which have still to be agreed by the Board and publicised.

The Board may be aware that we are currently in the process of seeking a Judicial Review of comments made by the Glasgow Licensing Board in its Statement of Licensing Policy. We would highlight to the Falkirk Licensing Board that we will have no hesitation in seeking similar redress against the Falkirk Board if this is in the wider interests of our members and if the Board does not resolve the issues which we have again raised.

As a courtesy, I am copying this response to the Convener and Depute Convener of the Licensing Board for their information.

We look forward to your response.

Yours sincerely,



PP Patrick Browne  
Chief Executive

Cc.

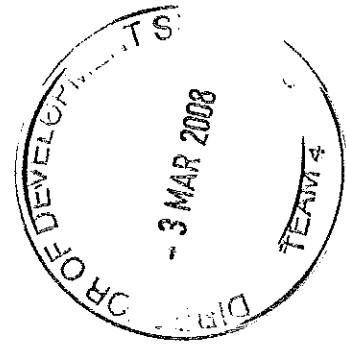
Cllr Malcolm Nicol, Convener, Falkirk Licensing Board  
[malcolm.nicol@falkirk.gov.uk](mailto:malcolm.nicol@falkirk.gov.uk)

Provost Pat Reid, Depute Convener, Falkirk Licensing Board  
[pat.reid@falkirk.gov.uk](mailto:pat.reid@falkirk.gov.uk)

Your ref:  
Our ref: TGJ/RAS/KING17-01

29 February 2008

Robert Watson  
Licensing Co-ordinator  
Falkirk Council Licensing Board  
Licensing Section  
Abbotsford House  
David's Lane  
Falkirk FK2 7YZ



Dear Mr Watson

**Licensing Policy Statement  
Premises Trading Hours**

I act on behalf of Kingdom Taverns, 191 Nicol Street, Kirkcaldy. My clients have only just received a copy of your letter of 13 February addressed to Central Scotland Licensed Trade Association.

As owners of five licensed premises in your area, they are surprised and disappointed that consultation on a matter with such serious ramifications for the licensed trade was not made more widely.

The premises which my clients own are Aitkens, The Tollbooth, The Argyll and Mariners in Falkirk and Brightons in Brighton.

Four out of five of these are traditional public houses where no significant entertainment is provided. These are open until 12 midnight seven days per week. We are not aware of these premises giving rise to any significant problems.

We note from your draft Licensing Policy that it is proposed to restrict the terminal hour until 2300 unless expensive entertainment is being provided.

We would wish to object in the strongest possible terms to this being adopted as Falkirk's policy for a number of reasons.

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Senior Associate: John G. Cassells.

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The Board Members will no doubt be aware of the very significant pressures which continue to mount on small traditional pubs. In many areas the smoking ban has affected both sales and machine income. Aggressive cut-price discounting by supermarkets has resulted in more and more people drinking at home.

A licence is a possession as defined by the European Convention on Human Rights. We would suggest that someone should have a right to a possession reduced only if there exist compelling public interest grounds for so doing. We would suggest if there were incidents of anti-social behaviour, significant nuisance or the like this might justify a reduction in an individual case but a reduction across the board surely must have hard evidence to justify it

It is well known in the licensed trade that the final hour of trading tends to be the busiest. That terminal hour can be the difference between making levels of profit which allow the premises to be maintained to a standard acceptable to your Board, and not.

Experience shows that where one set of pubs has a later terminal hour than another, people tend to go to those other pubs, not for the entertainment, but to obtain a later drink.

It is suggested that the proposed policy discriminates against the more mature members of society. In a traditional pub, people make their own entertainment, conversation, repartee, etc. Many people do not wish to be subjected to significant levels of noise which are invariable concomitants of the types of entertainment which are referred to in clause 9.3.1 of your draft policy. These traditional types of pubs are far less likely to offend against the licensing objectives relating to public safety, nuisance, crime and disorder. We would therefore urge you most strongly to reconsider this policy. My clients would welcome an opportunity to meet with members of the Board to discuss this further.

Yours sincerely



Tom Johnston  
Partner

Castle Leisure Group once again thanks Falkirk Licensing Board for the opportunity to respond to the revised policy in regard to trading hours. The same numbering system is adopted as in the consultation paper. Comments made in this document are intended to assist the Board in compiling an approved policy. Comments therefore are proffered both in favour of suggested policy and against suggested policy. On policy where it has no opinion; no comment is made.

#### 9.1 Noted

9.3 The Board appears to be adopting a policy of 11am to 11pm as non-contentious with hours sought outwith these times having to be justified as described in 9.1. The very real danger with this approach is there are no favoured hours beyond 11pm. As the Board will appreciate, in today's society with the advent of pre-loading (cut price supermarket alcohol consumed at home) the pub going public are going out ever later, consequently the trade requires and thrives on late-opening hours - without them premises would not survive. Therefore, the Board should expect applications from most, if not all premises for hours beyond 11pm. The problem begins to arise when, without a designated terminal hour the request for later hours will vary from applicant to applicant, with each trying to get a march on the other. How is the Board expected to fairly consider and grant hours with different terminal times? The risk is that the Board grants different hours and whilst it is accepted this is the spirit of the 2005 act, the resulting affect will be a **patchwork** of closing times with many of these closing times being beyond the current 12mn weekdays and 1am weekend nights, with quite possibly 2am or 3am for premises which trade as public houses. This would be catastrophic for the trade, the police, residents and the community as a whole. To then correct this licence-holders left behind with an earlier terminal hour would require submitting a variation application to the latest terminal hour resulting in an indirect policy being created, which is the very thing the Board (at this time) appears to want to avoid, and ending up with a terminal hours later than the current policy provides or the Board might ever have intend. The trade does not desire hours beyond those currently enjoyed, but if the Board leaves an opening, there will undoubtedly be a licence-holder who will apply, in hope, of achieving some advantage over a competitor and the rest will be sure to follow. The Board must also guard against the concept of 14 hours continuous trading. The idea that this restricts either early opening (pre 11am) and late opening (1am) leaves a case for an applicant requesting their 14 hours to begin at say 12md and end at 2am the following morning. This cannot be the intention of the 14 hours continuous trading policy. In CLG's experience of licensing trends the Board must adopt the same policy as currently enjoyed by the trade; being 12mn Sunday to Thursday and 1 am Saturday and Sunday mornings.

9.3.1 Agreed, subject to comments made above.

9.3.2 Agreed, subject to comments made above. Additionally, the Board should consult with BEDA – The Bar, Entertainment and Dance Association or its successors over the minimum entry charge which in 2008 it suggests is £2.

9.3.3 This is a very wise condition; however CLG would recommend setting the minimum capacity at 350. The reason for this is that many medium size licensed premises today will easily have a



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capacity in the region of 350 and to stop the small capacity, ill-equipped premises from moving into this specialised sphere a capacity set somewhere above the average capacity is required.

9.3.4 Agreed, except for occasions of special significance when hours beyond the suggested policy may be required for one off occasions of local, national or international importance.

9.5 CLG would suggest the Board adopts its previous recommendation for festive hours by defining the festive period and the hours available. This gives certainty for the trade which often starts to plan the marketing of its festive events by mid-summer. If the Board adopts a varying policy it must announce this policy by the summer so the trade can plan knowing the hours available. This is why it is best to know the hours available as a stated policy.

9.8 CLG would repeat its comments made in the first response being; CLG and BEDA lobbied for mandatory and discretionary conditions to be a mainstay of the new Act. As an operator of different types of licensed premises the company understands firsthand how sensible and well constructed conditions can improve the operation of a premise to help protect the public and promote the licensing objectives. It is recognised conditions are imposed with the best of intention, however CLG would urge caution, the Board must be mindful of the damaging consequences that fatuous and erroneous conditions can have on business. Scotland is littered with examples of just such conditions that have neither been thought out nor consulted upon and which ultimately did not achieve the desired effect. Moreover they have even, on occasion but without intention, destroyed livelihoods. To avoid this pitfall the licence - holder, licensing forum and trade associations should first be consulted on the practical implications of conditions.

CLG has no other comment to make on the policy and wishes the Board well in its deliberations.



INVESTOR IN PEOPLE

**Watson, Robert**

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**From:** Derek Simpson (742) [Derek.Simpson@centralscotland.pnn.police.uk]  
**Sent:** 01 February 2008 13:25  
**To:** Watson, Robert  
**Subject:** Consultation on Licensing Hours

Robert,

I would appreciate if you could ask the Licensing Board to take cognisance of the following comments regarding the Trading Hours aspect of the Statement of Licensing Policy.

9.3 I would anticipate there may be a danger in restricting the hours which will be looked upon favourably by the Board as appears to have been done in this paragraph. For most premises currently holding a public house licence this would mean a reduction of two hours trading on Friday and Saturday evenings and a one hour reduction Sunday - Thursday. Assuming most premises will wish to take advantage of grandfather rights many will apply for their existing hours meaning a huge proportion of applications will be outwith policy. This would result in the Board having to convene substantial numbers of hearings to consider these applications. Furthermore it gives no guidance as to whether an application until 1am would be looked on more favourably than an application to 2am etc. If the Board were to stick to their policy it would mean a substantial reduction to hours and if the Board were not to stick to their policy it may result in a free for all.

It may be beneficial to add a sentence to the effect that applications for hours between 11pm and 1am, whilst not being considered as favourably as hours before 11pm, may be granted where the operating plan and any submissions provide evidence that these hours can be granted without compromising the Licensing Objectives.

9.3.3 I would recommend a minimum capacity of 250 should be set. This would ensure that all premises providing substantial entertainment would be obliged to comply with mandatory late opening conditions. To allow premises of a smaller capacity would result in such premises being able to take advantage of the late opening hours but not having to comply with mandatory conditions which are intended to improve public safety, prevent disorder and public nuisance.

9.3.4 Having seen the premises licence application form I believe it may be impossible for applicants to show that they have considered the matters specified. In the absence of an updated form it may be necessary to change the wording here simply to say that "applicants should consider the following matters" rather than requiring them to "show that they have considered the following matters."

9.4 It may be advisable to add a paragraph stating how the Board interpret the "Duty to Trade" under the Licensing Scotland Act 2005 especially in relation to late night hours.

9.5 The requirement for premises taking advantage of extended festive hours to be promoting festive functions appears to have been removed. I am concerned this may result in premises applying for additional drinking time with no entertainment provided. It may also be advisable to define as done in the earlier draft what general period this will be. Central Scotland Police would not support this being set too widely but acknowledge the Board's right to set this as they see fit.

9.7.3 The 28 day minimum period for submitting Occasional Licence applications is very much appreciated however it may be necessary to take account of unforeseen circumstances. For example if a local team was to win a cup final it may be appropriate to allow an occasional to be applied for at short notice as there was no way the applicant could have known of the event 28 days in advance. I would not however support a return to previous circumstances where applicants are submitting applications for events 2 or 3 days before the event despite knowing about the event well in advance. Such applicants should be advised that late applications will not be submitted except in exceptional circumstances.

Other than the above points I think the draft covers all the important aspects. In particular, I think the differentiation between premises in commercial areas and those in residential areas has been well considered which should allow the Board to take this into account in their decision making.

I trust these comments will be of assistance to the Board when finalising their policy on hours.

29/02/2008

**Watson, Robert**

**From:** Licensing [licensing@falkirk.gov.uk]  
**Sent:** 29 February 2008 16:06  
**To:** mcgarva, lynn; Watson, Robert  
**Subject:** FW: comments on new hours proposed

**Attachments:** David\_Yull\_-\_Argylles.doc; Douglas\_-\_Brightons.doc; jim\_Scott-aitkens.doc;  
 Robert\_Lowe\_-\_Tolbooth.doc; Victor\_Wileman\_-\_marnier.doc



David\_Yull\_-\_Argyll Douglas\_-\_Brighton jim\_Scott-aitkens.d Robert\_Lowe\_-\_Tol Victor\_Wileman\_-\_  
 es.doc (27 ... s.doc (27 KB... oc (27 KB) booth.doc (27... marnier.doc (...)

----- Original Message -----

**From:** michael@kingdomtaverns.com  
**To:** licensing@falkirk.gov.uk  
**Subject:** comments on new hours proposed  
**Date:** Fri, 29 Feb 2008 14:50:38 -0000

I have attached the letters approved by the licensee and tenants of our 5 pubs in Falkirk. We have 43 licensed units in Scotland and no other board are proposing changes like this.

Michael Payne  
 Operations Director  
 Kingdom Taverns Ltd / EQM Properties / Ainslie Homes Ltd michael@kingdomtaverns.com  
 07714980092

\*\*\*\*\*  
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The views and opinions expressed in this e-mail are the senders own and do not necessarily represent the views and opinions of Falkirk Council.

\*\*\*\*\*

29<sup>th</sup> February 2008

Robert Watson  
Licensing Co-ordinator  
Falkirk Council Licensing Board  
Licensing Section  
Abbotsford House  
David's Lane  
Falkirk  
FK2 7YZ

Dear Mr Watson

I am commenting on the draft policy issued by the board for Falkirk..The lack of time to comment upon the policy is un-acceptable .

9:3 Onsales and the 11am to 11pm operating hours of licensed premises.

Does the board realise that this is out with any other board in Scotland. Not only have the on trade in Scotland had to suffer the smoking ban which has had a cull effect on many public houses we are now faced with what seems a very real determent from the Falkirk board to reduce the operating hours by 7 hours per week ...a drop in real terms of 8 %...I can state that this would have a huge impact on all licensed premises. Jobs would be lost, many publicans would be forced to close .The impact on the Falkirk social area would be catastrophic .The idea that the board will have lots of hearings for every single pub to determine what extra hours outwith policy, will cost the tax payer a considerable amount of money If the 2005 act was meant to streamline the system this is indeed a huge contradiction in terms.

The idea that all publicans will be forced to provide entertainment to gain the midnight hour trading is worrying to say the least. Will the board be publishing a full list of what is deemed by them to be acceptable entertainment?

Many public houses are simply not able to provide the level that the board has indicated...they are simply not big enough these smaller units will be discriminated against.

I would be pleased if you would take these points into consideration.

Many thanks

Robert Lowe  
Tolbooth Tavern - Falkirk

29<sup>th</sup> February 2008

Robert Watson  
Licensing Co-ordinator  
Falkirk Council Licensing Board  
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I would be pleased if you would take these points into consideration.

Many thanks

Jim Scott  
Licensee of Aitkens Bar, Falkirk

29<sup>th</sup> February 2008

Robert Watson  
Licensing Co-ordinator  
Falkirk Council Licensing Board  
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The idea that all publicans will be forced to provide entertainment to gain the midnight hour trading is worrying to say the least. Will the board be publishing a full list of what is deemed by them to be acceptable entertainment?

Many public houses are simply not able to provide the level that the board has indicated...they are simply not big enough these smaller units will be discriminated against.

I would be pleased if you would take these points into consideration.

Many thanks

Douglas Morrison  
Brightons Inn – Maddison - Falkirk



29<sup>th</sup> February 2008

Robert Watson  
Licensing Co-ordinator  
Falkirk Council Licensing Board  
Licensing Section  
Abbotsford House  
David's Lane  
Falkirk  
FK2 7YZ

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Victor Wileman  
Licensee Mariner Bar - Falkirk

29<sup>th</sup> February 2008

Robert Watson  
Licensing Co-ordinator  
Falkirk Council Licensing Board  
Licensing Section  
Abbotsford House  
David's Lane  
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FK2 7YZ

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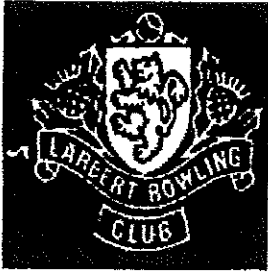
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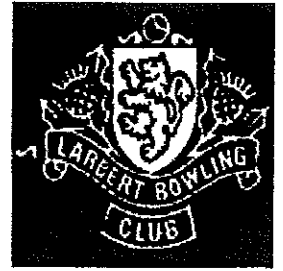
Many thanks

David Yull  
Licensee Argylles Bar - Falkirk



**LARBERT BOWLING CLUB  
PRETORIA ROAD  
LARBERT  
FK5 4MB**

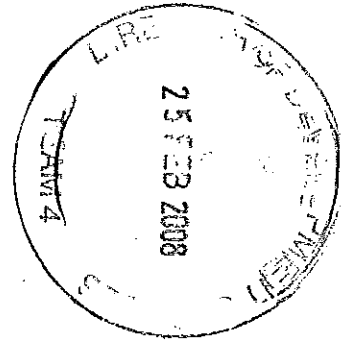
**TEL:- 01324 556819**



Date: 20 February 2008

Mr Robert Watson  
Licensing Co-ordinator  
Falkirk Council  
Licensing Board

Mr Alexander Fish  
(President)  
Larbert Bowling Club  
Pretoria Road  
Larbert



Dear Sir,

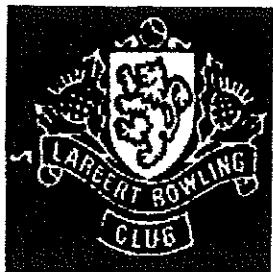
With reference to your letter dated 13 February 2008, the same day I was appointed Club President.

My time since then has been very much catch up and understanding the licensing regulations.

On reading section 9 of premises trading hours this club is currently trading within section 9.3.1. and I know of no reason to change in the foreseeable future.

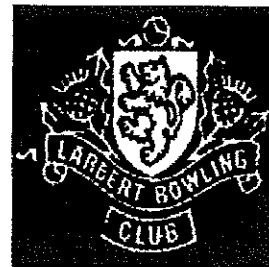
Please see attached trading hours of Larbert Bowling Club.  
These hours cover the playing times requested by our members.

Alexander Fish  
(President)



**LARBERT BOWLING CLUB**  
**PRETORIA ROAD**  
**LARBERT**  
**FK5 4MB**

**TEL:- 01324 556819**



**LICENSING HOURS**

**April to September**

Monday: 6pm to 11.30pm.

Tuesday: 6pm to 11pm.

Wednesday: 6pm to 11pm.

Thursday: 6pm to 12Midnight.

Friday: 6pm to 12.30am.

Saturday: 12.30pm to 12.30am.

Sunday: 10am to 12midnight.

**October to April**

Monday: 6.30pm to 11.30pm.

Tuesday: 6.30pm to 11pm.

Wednesday: 6.30pm to 11pm.

Thursday: 6.30pm to 12midnight.

Friday: 6pm to 12.30am.

Saturday: 12.30pm to 12.30am.

Sunday: 12noon to 12midnight.

All functions music stops at Midnight.

Sunday Christenings end 7pm.

# Central Region Licensed Trade Association

President:-  
David Kerr  
The Lane  
7-11 Woocer Street  
Falkirk  
FK1 1NJ  
01324-639454

Secretary:-  
Mr. W. Wisdom,  
59 Brookfield Place,  
ALVA.  
FK12 5AB  
Tel: 01259-761887

29 February 2008

Robert Watson  
Licensing Co-ordinator  
Falkirk Council Licensing Board  
Abbotsford House  
David's Loan  
FALKIRK  
FK2 7YZ

Dear Mr. Watson

LICENSING (SCOTLAND) ACT 2005  
LICENSING POLICY STATEMENT  
PREMISES TRADING HOURS



I refer to your letter of 13 February 2008 regarding the above and welcome the opportunity to comment.

One of the main causes for concern to licensees in the Board's proposals will undoubtedly be the view that trading hours for premises operating without significant entertainment will not extend beyond 11 p.m. on any day of the week. This will have a bombshell effect on many establishments where the Board's definition of entertainment does not exist. It is considered by many that the average member of the public would have difficulty in equating the need for "significant entertainment" before the opportunity to enjoy drinking in domestic situations within a perfectly safe environment.

Primary legislation, and the Board's previous support for a 14 hour continuous period of trading in any 24 hours (para 9.3 of the Board's draft licensing policy statement) appears now to have been superseded, without justification, and this Association would deplore such a policy decision.

Many establishments, including public houses and small sporting clubs, have successfully operated a policy of opening until 12 midnight on Sundays to Thursdays and 1 a.m. on Fridays and Saturdays, and this was a policy approved by the Board for many years. To my knowledge, this policy has not given rise to any concerns to the police or other authorities nor did it conflict with the policies of Licensing Boards in surrounding areas.

At /

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(2)

At this late stage, to suggest a complete down turn in operating hours is extremely detrimental and potentially disastrous. In the circumstances I would ask the Board not to approve the latest proposals in operating hours. Adherence to the status quo appears reasonable as is the reference to "late opening" as being 1 a.m. rather than 12 midnight, as proposed in this instance.

I should be grateful to hear the Board's final views on the latest proposals and look forward to hearing from you in the near future.

Yours sincerely



W.S. WISDOM  
Interim Secretary  
Central Region Licensed Trade Association

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29<sup>th</sup> February 2008.

Robert Watson,  
Licensing Co-ordinator  
Licensing Section,  
Falkirk Council,  
Abbotsford House,  
David's Loan,  
Falkirk, FK2 7 YZ.

Dear Mr. Watson,

**Licensing Policy Statement - Premises Trading Hours**

We refer to your letter addressed to Central Scotland Licensed Trade Association, dated 13<sup>th</sup> February 2008 and welcome the opportunity to comment on the above.

We are most concerned that this consultation document was only issued three weeks prior to the deadline for submitting the March licensing applications and at a time when most March licensing applications have been prepared and completed. Members of our Association in the Central Area LTA are further dismayed to note that this policy will not be confirmed or amended until the final week of preparations.

For ease of understanding and to avoid confusion, we have adopted the numbering system used in the consultation document.

- 9.3.1. The Association is most concerned to see the trading hours proposed for what would previously have been termed "public houses." These licensed establishments form the backbone of many communities and provide a safe and controlled environment in which members of the public may enjoy reasonable consumption, regulated by both local and national government requirements. We would respectfully suggest that the hours proposed are by default a restriction of trade in a perfectly legal environment and contrary to the suggested maximum of fourteen hours per day laid out within the act.

We would further suggest that it is contrary to the best interests of public safety to eject all patrons from these establishments simultaneously, causing considerable strain on both public transport and local taxi companies, who are most unlikely to cope with this short term demand. The Association fears greatly that the disruption which may well ensue is likely to be counter

productive, in creating a sizeable nuisance to persons living around these premises until transport is secured.

We would further suggest that the board should be mindful of the impact upon public health, as many of these patrons leave the regulated environment of licensed premises to continue drinking in a domestic situation with none of the safeguards which the licensed trade imposes. Evidence suggests that an increase in domestic abuse, alcohol abuse, and risk to life through accidents and house fires, are only some of the likely effects should this policy be confirmed as stated.

We are also concerned that it would appear to be the case that Falkirk Council Licensing Board is demanding large sections of the population travel to designated venues across the area, where licensed premises are in possession of later terminal hours. We would have to be mindful of the risk in encouraging persons who have consumed alcohol to travel any distance with the increased risk of accident/attack inherent in completion of these journeys.

- 9.3.7. We note the statement, and would respectfully draw the attention of the board to the observations listed above in promotion of the five licensing objectives. The Association would further encourage the stated policy in 9.3.6., rather than a blanket approach which is being stated.

Yours sincerely,

S. R. Mudie  
Tayforth Licensed Trade Association

On behalf of members of the Central Regional Licensed Trade Association.



**Watson, Robert**

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**From:** Licensing [licensing@falkirk.gov.uk]  
**Sent:** 26 February 2008 09:32  
**To:** mcgarva, lynn; Watson, Robert; Glackin, Rosemary  
**Subject:** FW: Policy - Trading Hours

----- Original Message -----

From: falkirkcentralcommunitycouncil@msn.com  
 To: licensing@falkirk.gov.uk  
 Subject: Policy - Trading Hours  
 Date: Fri, 22 Feb 2008 14:21:19 +0000

Dear Lynn,

Many thanks for the letter of 13th February regarding comments on the Lic Board's Draft Statement on Policy Section 9.

The Community Council doesn't meet until 28th February and any comments they may have will be forwarded as soon as possible after that.

In the meantime, could you send me an electronic copy of the Draft Statement which I can send out to Community Councillors with their Agenda papers?

Regards,

Ronnie Peebles  
 Secretary to Falkirk Central Community Council

*Dowe*

*✓*

\*\*\*\*\*  
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The views and opinions expressed in this e-mail are the senders own and do not necessarily represent the views and opinions of Falkirk Council.  
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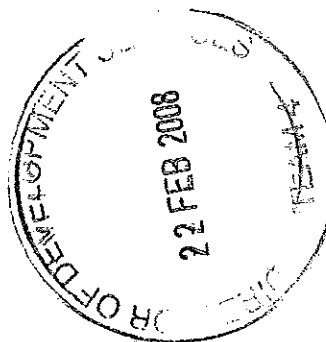
# Allandale Bowling Club

Secretary  
Mrs Mary Dawson  
29 Fairfield Ave  
Bonnybridge FK4 1LU  
Tel. 01324 813388

Treasurer  
Mr Ian McEwan

Match Secretary  
Mr James Flood  
73 Braes View  
Denny, FK65NG  
Tel. 01324 825538

21st February 2008



Miss L. McGarva  
Licensing Board  
Falkirk

Dear Miss McGarva

With reference to your recent letter asking for comments on the Boards draft Policy Statement.

This was discussed with the Management of our Club and the only concern that we have is the License for the Extension of Permitted Hours.

Reading through your letter it would appear that the intention is that an application would have to be made monthly instead of annually. We as a Bowling Club have enjoyed the extended hours granted to us in the past and would wish this to remain as is at present.

Yours faithfully

A handwritten signature in cursive script, appearing to read 'Mary Dawson'.

Mary Dawson  
Secretary

## ALLANDALE BOWLING CLUB

Thorndale Gardens, Allandale, By Bonnybridge, FK4 2HG  
Tele: 01324 840151

**Watson, Robert**

---

**From:** Licensing [licensing@falkirk.gov.uk]  
**Sent:** 18 February 2008 08:38  
**To:** mcgarva, lynn; Watson, Robert  
**Subject:** FW: Shieldhill & California Community Council

----- Original Message -----

**From:** isobel.hampson@sky.com  
**To:** licensing@falkirk.gov.uk  
**Subject:** Shieldhill & California Community Council  
**Date:** Fri, 15 Feb 2008 12:52:16 -0000

Licensing (Scotland) Act 2005)  
 Licensing Policy Statement  
 Premises Trading Hours

In reply to your letter of 13th February, 2008, on behalf of Shieldhill & California Community Council, I would say that the set out proposals in this document would appear to cover all requirements.

Joe Hampson  
 Convener

mailto:isobel.hampson@sky.com  
 mailto:mail@isobelhampson.co.uk

\*\*\*\*\*  
 The information contained in this e-mail is confidential and is intended only for the named recipient(s). If you are not the intended recipient, you must not copy, distribute or take any action or reliance on it. If you have received this e-mail in error, please notify the sender. Any unauthorised disclosure of the information contained in this e-mail is strictly prohibited.

The views and opinions expressed in this e-mail are the senders own and do not necessarily represent the views and opinions of Falkirk Council.

\*\*\*\*\*



**Falkirk Council**  
Law & Administration Services

Date: 25 February 2008  
Our Ref. BD/SMcG

Mr Robert Watson  
Licensing Co-ordinator  
Falkirk Licensing Section  
Abbotsford House  
David's Loan  
Bainsford  
FK2 7YZ

Enquiries to: Bryan Douglas  
Direct Dial: 01324 506116  
E-mail: [bryan.douglas@falkirk.gov.uk](mailto:bryan.douglas@falkirk.gov.uk)

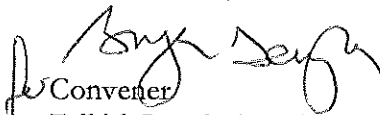
Dear Robert

***FALKIRK LICENSING BOARD DRAFT LICENSING POLICY STATEMENT –  
OPERATING HOURS***

I refer to the above document and would advise that Falkirk Local Licensing Forum met on Thursday 31 January 2008 and considered the tabled statement. I have attached comments that the Forum wish to proffer.

The Forum will look forward to receiving a copy of the revised finalised statement of licensing policy once the Board has concluded its deliberations.

Yours sincerely

  
Convenor  
Falkirk Local Licensing Forum

*Acting Director: Rose Mary Glackin*

Municipal Buildings,  
Falkirk FK1 5RS  
LP 1 Falkirk-2.  
Telephone: 01324 506070  
Fax: 01324 506071  
[www.falkirk.gov.uk](http://www.falkirk.gov.uk)



**RESPONSE TO FALKIRK LICENSING BOARD'S DRAFT POLICY STATEMENT –  
OPERATING HOURS**

**UNDER THE LICENSING (SCOTLAND) ACT 2005 BY FALKIRK LOCAL  
LICENSING FORUM**

*Falkirk Council  
Law & Administration Services*

- 9.3 The Forum considered that the hours enjoyed by licensees under the Act (to midnight Sunday – Thursday and 1am Friday – Saturday) worked well and should be continued.

9.3.3 The Forum agreed that a minimum capacity of 250 should be set.

9.3.4 The Forum felt that the current layout of the Premises Licence Application form would make it nigh impossible for applicants to demonstrate adequately that they have considered the matters that the Board have specified.

Accordingly, the Forum suggests that the wording of the opening sentence be slightly amended as follows:-

“Applicants wishing to trade outwith the hours specified above should consider the following items”

- 9.4 The Forum felt that there would be merit in the insertion of an additional paragraph stating clearly the Board’s interpretation of the duty to trade under the new Act, particularly in relation to late night hours.

- 9.5 To avoid any uncertainty the Forum felt that the wording contained within the original draft statement should remain. For ease of reference the paragraph is:-

“The Board will allow an extra hour of trading for all premises for the first Thursday in December of each year until 3 January each year for premises holding bona fide festive functions at which meals /and/or entertainment is being provided.

- 9.7.3 The Forum felt that the word “be” should be preceded by “where possible”. Certain unforeseen circumstances such as Scotland qualifying for the World Cup Final should be considered outwith the normal 28 days timescale.

*Acting Director: Rose Mary Glackin*

Municipal Buildings,  
Falkirk FK1 5RS  
LP 1 Falkirk-2.  
Telephone: 01324 506070  
Fax: 01324 506071  
[www.falkirk.gov.uk](http://www.falkirk.gov.uk)

## 9. OPERATING HOURS

- 9.1 The Board expects that all applicants for licensed premises will consider hours of trading to be an important issue when preparing their operating plans. In particular the Board notes the duty to trade contained in the Act. Applicants should not overestimate their trading hours just in case they may be required, as this may precipitate a review of the licence.
- 9.2 In its approach to hours of trading the Board will distinguish mainly commercial town centres from mainly residential non town centre areas. In determining the hours of trading, the Board will give full consideration to the Scottish Executive guidance under the Act and to the provisions of the Act itself.
- 9.3 Each case will be dealt with according to its individual circumstances. The Board will deem 14 hours continuous trading in any 24 hour period to be reasonable. The Board will not normally grant hours beyond midnight outwith town centre areas on any day of the week. The Board will not normally grant hours beyond 2.00 am within town centre areas on weekdays and 3am on Fridays and Saturdays. Function rooms, for private functions only, wherever located will normally have a terminal hour of 1.00 am. Premises may have differing terminal hours for different parts of the premises.
- 9.4 Applicants wishing to trade before 10.00am and beyond 1.00am will have to show that they have taken account of all the following matters ;-
- the impact their patrons may have after leaving their premises, taking into account the likely exits of patrons from nearby licensed establishments
  - the effect of the grant of a licence for later or earlier hours on crime and disorder, public safety, public nuisance, public health and children
  - the proposed hours when any music, including incidental music and karaoke, will be played
  - the hours when customers will be allowed to take food or drink outside the premises or be within open areas which form part of the premises
  - whether customers and staff have adequate access to public transport when arriving at and leaving the premises, especially at night
  - the capacity of the premises
  - the type of use, recognising that premises which sell alcohol, play music, provide late night refreshment or takeaway food, are more likely to be associated with crime and disorder and public nuisance than restaurants, theatres, cinemas or other performance venues
  - the hours at which noise may occur and the disturbance of nearby residents' rest, relaxation and sleep.
- 9.5 The Board further considers that it would be extremely difficult for any applicant to justify the sale of alcohol prior to 10.00am and after 3.00am unless there are exceptional circumstances.
- 9.6 Late opening will be considered as opening beyond 12.00 midnight. Such premises will be subject to mandatory late opening conditions and the Board

may attach further conditions. The later a premises wishes to trade, the more the Board will expect applicants to demonstrate measures that promote the licensing objectives and justify the request for later hours.

- 9.7 Premises which wish to open after 1.00am will be subject to a curfew. This will prevent customers who intend to drink alcohol past 1.00am from drifting between premises and/or remaining on the streets with the potential for anti-social behaviour and public nuisance. The Board is of the opinion that the curfew should be in place from 12.00am and customers should not be admitted to premises after this time. The Board will allow an extra hour of trading for all premises from the first Thursday in December of each year until 3 January each year for premises holding *bona fide* festive functions at which meals and/or entertainment is being provided. On these nights, the curfew referred to previously will be 1.00am.
- 9.8 The Board will expect licence holders who wish to trade late on the night preceding a local holiday to apply for an occasional extension of hours.

For the avoidance of doubt the local holidays referred to are:-

**(to be detailed)**

- 9.9 Premises licensed for off sale only, will be subject to the statutory hours of 10.00am to 10.00pm daily. The Board however does have powers to restrict these hours if it considers it to be necessary to meet the licensing objectives.
- 9.10 The Board is of the view that when preparing operating plans there may be merit in applicants giving consideration to the principle of winding down periods at the end of the night. By gradually increasing the lighting and winding down entertainment such as loud music before ending the sale of alcohol and the end of trading hours, thereby creating a calmer ambience, patrons leaving the premises may be inclined to behave less boisterously after they have left the premises. In addition patrons may be inclined to leave the premises spasmodically in small groups on a gradual basis rather than simultaneously.
- 9.11 Restricted licensing hours may be appropriate in cases where licensed premises are situated in the vicinity of residential property or where the trading hours of the premises and competing businesses in the vicinity are likely to lead to undue pressure on public transport systems, additional public nuisance disorder or anti social behaviour, and where licensed premises include external areas. Where the circumstances relating to a particular premises dictate, the Board may impose different restrictions on hours for different premises and for different days of the week in order to achieve the licensing objectives.
- 9.12 Consideration will always be given to an applicant's individual case and the Board will take into account any proposals the applicant has to minimise the risk of nuisance or disorder caused or exacerbated by customers departing from the premises.
- 9.13 The Board is of the view that by adopting an approach which is sufficiently flexible, it is possible to ensure that restrictions on the hours of trading will only be applied where this is necessary in order to promote the licensing objectives.

**Draft Statement of Licensing Policy – Section 9  
Premises Trading Hours.**

- 9.1 In determining its approach to hours of trading, the Board has given full consideration to the Act and to Scottish Government guidance thereunder. While each application will be determined on its own merits, the Board's general policy with regard to licensing hours is set out below. Any applications for licensed hours at times outwith the Board's policy will require to provide information to enable the Board to make a decision about whether the requested hours are appropriate in the circumstances and are consistent with the licensing objectives. The Board expects that all applicants will consider hours of trading to be an important issue when preparing their operating plans.

**OFF-SALES**

- 9.2 Applicants for licenses for premises which are to be used for the sale of alcohol for consumption off the premises will be expected to address the five licensing objectives in their operating plan.
- 9.2.1 The Board is concerned to ensure that all reasonable steps are taken in this area to promote the licensing objectives. The Board will work towards the adoption of a policy concerning the layout of such premises and the responsible display of alcoholic liquor in premises which are not exclusively or mainly used for the sale of alcohol. The Board will monitor developments in the area of test purchasing and will take appropriate action as part of its wider alcohol agenda. Consideration will be given to adopting a standard condition relating to proof of age without which no sale will be made and to point of sale signage to show penalties for selling to or buying for under-age persons.
- 9.2.2 The parameters for licensed hours for the sale of alcohol for consumption off the premises are laid down in the Act as being between 10am and 10pm each day. There is no discretion to permit licensed hours outwith these times. The Board may take the view that the permitted hours should be restricted in particular circumstances. Each case will be taken on its merits, having due regard to the licensing objectives and, in particular, those relating to crime, children, health and public nuisance.
- 9.2.3 The Board may insist on certain premises licensed to sell alcohol for consumption off the premises installing an effective CCTV system covering both the interior and exterior of the premises complying with relevant legislative requirements.

**ON-SALES**

- 9.3 In premises where the provision of alcohol is the principle activity and no significant entertainment facilities are offered, the Board will generally look favourably on applications for premises licences where the proposed trading hours commence not earlier than 11.00 a.m. and terminate not later than 11pm on any day of the week.
- 9.3.1 In premises where significant entertainment is provided in a separate function room, e.g. in members clubs where there is a function room with a separate entrance, a terminal hour of not later than 1am on Saturday and Sunday



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mornings and not later than 12 midnight on every other day will generally be acceptable when such functions are being held. Entertainment and functions considered acceptable for this purpose include dances, discotheques, dinner-dances, wedding receptions and other commemorative parties where a discotheque or band is provided. Entertainment and functions not considered acceptable for this purpose include darts, dominos or pool competitions or karaoke evenings where there is no significant entertainment. Where live entertainment is not an integral part of the function (e.g. background piano music), it would not be considered acceptable for this purpose. The entertainment or function must not be for general public entry and entry should be limited and controlled, e.g. by payment or ticket.

9.3.2 In premises where the provision of alcohol to patrons for consumption on the premises is ancillary to the significant entertainment provided, such as nightclubs and discotheques, a terminal hour of not later than 2am on Monday to Friday mornings and 3am on Saturday and Sunday mornings will generally be acceptable. These hours reflect the contribution which such premises provide to the night time economy and the substantial investment generally incurred in providing the facilities and entertainment. Having regard to the licensing objectives, and without prejudice to any other conditions which the Board may deem appropriate, the Board will impose conditions on the licence of premises which in its view provides significant entertainment, as follows:

- The provision of alcohol is for consumption on the premises only
- The provision of alcohol is ancillary to the entertainment provided
- The entertainment provided must be on a continuous basis with breaks of not more than 15 minutes in any hour
- There is a minimum charge for entry which shall be not less than that determined by the Board from time to time

9.3.3 The Board will consider whether there should be a minimum capacity for premises deemed to be offering significant entertainment facilities.

9.3.4 Applicants wishing to trade outwith the hours specified above will be expected to show that they have considered the following matters:

- The effect of the grant of a licence for later or earlier hours on crime and disorder, public safety, public nuisance, public health and children
- The proposed hours when any music, including incidental music, will be played
- The hours when customers will be allowed to take food or drink outside the premises or be within open areas which form part of the premises
- The existing hours of licensable activities and the past operation of the premises, if any, and hours of licensable activities in the vicinity
- Whether customers and staff have adequate access to public transport when arriving at and leaving the premises, especially at night
- The capacity of the premises
- The type of use, recognising that premises which sell alcohol, play music for dancing, provide late night refreshment or takeaway food, are more likely to be associated with crime and disorder and public nuisance than restaurants, theatres, cinemas or other performance venues
- The hours at which noise may occur and the disturbance of nearby residents' rest, relaxation and sleep

9.3.5 Restricted licensing hours may be appropriate in cases where licensed premises are situated in the vicinity of residential property or where the trading hours of

the premises and competing businesses in the vicinity are likely to lead to undue pressure on public transport systems, additional public nuisance disorder or anti social behaviour, and where licensed premises include external areas. Where the circumstances relating to a particular premises dictate, the Board may impose different restrictions on hours for different premises and for different days of the week in order to achieve the licensing objectives.

- 9.3.6 Consideration will always be given to an applicant's individual case and the Board will take into account any proposals the applicant has to minimise the risk of nuisance or disorder caused or exacerbated by customers departing from the premises.
- 9.3.7 The Board is of the view that by adopting an approach which is sufficiently flexible it is possible to ensure that restrictions on the hours of trading will only be applied where this is necessary in order to promote the licensing objectives.

## **ADDITIONAL CONSIDERATIONS**

- 9.4 Premises operating as hotels should note that if they wish to serve alcohol to residents beyond the standard licensed hours, they must specify the hours during which they wish to do so in their operating plan. Applicants should note that the Act creates a presumption against 24 hours drinking.
- 9.4.1 In determining applications where more than one activity takes place in the premises or where parts of premises fall under different categories as specified above, the Board will have regard to when the activities take place and the nature of the principle activity taking place. The Board may impose further conditions to ensure other activities do not take place or remain ancillary to the principal activity for those licensed hours.
- 9.4.2 Premises where more than one of the categories applies in different parts of the same premises will be given careful consideration. The Board may impose conditions and/or different licensed hours to those parts of the premises to ensure the activities remain separate.

## **FESTIVE TRADING**

- 9.5 The Board has an existing policy of permitting longer licensing hours over the festive period and that will continue to be the case. The festive period for the purposes of this aspect of the policy will be determined by the Board on an annual basis.

## **EXTENDED HOURS APPLICATIONS**

- 9.6 The Board may extend the licensed hours in respect of premises by such period as it considers appropriate. Applications can be made for (a) a special event or occasion to be catered for on the premises or (b) a special event of local or national significance. Such extensions have effect for such period as is specified in the application or as is determined by the Board but, in any event, cannot exceed one month.
- 9.6.1 Where the hours sought fall outwith the on-sales hours specified in this statement, the applicant will have to provide information to enable the Board to make a decision on the application. This will include:

- the hours sought
- a description of the special event or occasion
- what activities are proposed to take place during those hours
- when each activity will take place
- why the event or occasion is considered to be special, and
- why the event or occasion cannot take place within the on-sales hours as specified herein.

9.6.2 If the Board receives a number of applications to extend licensed hours in respect of the same premises, it will expect the applicant to consider whether an application should be made to vary the premises licence by a suitable adjustment of the operating plan.

## OCCASIONAL LICENCES

9.7 It is possible to make an application for an occasional licence authorising the sale of alcohol on premises which are not licensed premises. Applications may be made by:

- the holder of a premises licence
- the holder of a personal licence
- a representative of any voluntary organisation.

9.7.1 An occasional licence can only last up to a maximum of 14 days.

9.7.2 The holders of premises or personal licences may make unlimited applications but there are restrictions on the number of applications which a voluntary organisation can make in any 12 month period.

9.7.3 To allow time to consult the Police and for objections to be made, applications should be submitted as far in advance of the event as possible but not later than 28 days before the event is due to take place.

9.7.4 The Board will consider that activities such as fund raising events and other activities organised by community groups, concerts, dinners, dances, discotheques, dinner-dances, wedding receptions and other commemorative parties where a discotheque or band is provided are generally acceptable for granting an occasional licence. Darts, dominos or pool competitions, karaoke evenings or private parties where there is no significant entertainment are not considered acceptable activities and nor is live entertainment which is not an integral part of the function. A terminal hour of not later than 1am on Saturday and Sunday mornings and not later than 12 midnight on every other day will generally be acceptable in respect of such occasions.

## CONDITIONS

9.8 The Board is aware of the mandatory conditions which are set out both in the Act and in Regulations. The Board will also consider in relation to each application whether it is necessary or expedient to impose additional conditions to promote one or more of the licensing objectives or otherwise to give effect to the provisions of this policy statement or to the provisions of the Act. The decision whether to impose a condition will be made on an objective basis having regard to any representations made and any other relevant information available to the Board when considering the application. The Board will not impose disproportionate conditions.

**EXTRACT of MINUTE of MEETING of the LICENSING BOARD SUB-COMMITTEE held in the COMMITTEE SUITE, MUNICIPAL BUILDINGS, FALKIRK on WEDNESDAY 12 MARCH 2008 at 11.30 a.m.**

**PRESENT:** Provost Reid; Councillors Kenna and Nicol.

**CONVENER:** Councillor Nicol.

**ATTENDING:** Clerk; Director of Development Services; Consumer Protection Manager; Democratic Services Manager; Solicitor (P Gilmour); Licensing Co-ordinator (R Watson); Senior Licensing Assistant (L McGarva), and Committee Services Officer (B Douglas).

**5. LICENSING (SCOTLAND) ACT 2005 STATEMENT OF LICENSING POLICY – TRADING HOURS**

There was submitted Report (circulated) dated 11 March 2008 enclosing responses received to the consultation undertaken in relation to the Trading Hour's section of the Board's Statement of Licensing Policy. In total, 17 responses were received with the report advising that the majority of respondents favoured retention of the Board's existing policy with regard to the closing time of premises.

Following discussion, **AGREED:-**

(1) to note the responses received to the consultation on trading hours, and

(2) to recommend to the Board that:-

- (a) it maintain existing policy as per appendix 3 subject to (b) below;
- (b) the maximum trading hours permitted with regard to off sales shall conform to the legislative provisions contained in the Licensing (Scotland) Act 2005 i.e. 10.00 a.m. to 10.00 p.m. Monday to Sunday, and
- (c) there be no minimum charge for entry to entertainment licensed premises but there will be a charge.

**REGULAR EXTENSION OF PERMITTED HOURS POLICY – APPROVED 11 OCTOBER 2000**

LICENCE TYPE		MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
HOTEL	AM	-	-	-	-	-	-	-
	PM	11pm – 12mid	11pm – 12mid	11pm – 12mid	11pm – 12mid	11pm – 1am	11pm – 1am	2.30pm – 6.30pm 11pm – 12mid
PUBLIC HOUSE	AM	before 11am if demand proven	before 11am if demand proven	before 11am if demand proven	before 11am if demand proven	before 11am if demand proven	before 11am if demand proven	2.30pm – 6.30pm 11pm – 12mid
	PM	11pm – 12mid	11pm – 12mid	11pm – 12mid	11pm – 12mid	11pm – 1am	11pm – 1am	2.30pm – 6.30pm 11pm – 12mid
RESTAURANT	AM	-	-	-	-	-	-	Section 57
	PM	Section 58 used	Section 58 used	Section 58 used	Section 58 used	Section 58 used	Section 58 used	5.30pm – 6.30pm Section 58 used
DISCOS	AM	-	-	-	-	-	-	-
	PM	11pm – 2am	11pm – 2am	11pm – 2am	11pm – 2am	11pm – 3am	11pm – 3am	11pm – 2am
ENTERTAINMENT (Bingo, snooker, etc)	AM	10am – 11am	10am – 11am	10am – 11am	10am – 11am	10am – 11am	10am – 11am	11am – 12.30pm
	PM	11pm – 12mid	11pm – 12mid	11pm – 12mid	11pm – 12mid	11pm – 1am	11pm – 1am	2.30pm – 6.30pm 11pm – 12mid
REGISTERED CLUBS	AM	10am – 11am (9.30am – 11am for outdoor bowling clubs only: Apr-Oct inclusive)	10am – 11am (9.30am – 11am for outdoor bowling clubs only: Apr-Oct inclusive)	10am – 11am (9.30am – 11am for outdoor bowling clubs only: Apr-Oct inclusive)	10am – 11am (9.30am – 11am for outdoor bowling clubs only: Apr-Oct inclusive)	10am – 11am (9.30am – 11am for outdoor bowling clubs only: Apr-Oct inclusive)	10am – 11am (9.30am – 11am for outdoor bowling clubs only: Apr-Oct inclusive)	10am – 11am (9.30am – 11am for outdoor bowling clubs only: Apr-Oct inclusive)
	PM	11pm – 1am	11pm – 1am	11pm – 1am	11pm – 1am	11pm – 1am	11pm – 1am	2.30pm – 6.30pm 11pm – 1am



**FALKIRK COUNCIL LICENSING BOARD**

**Subject:** STATEMENT OF PRINCIPLES – THE GAMBLING ACT 2005  
**Meeting:** Licensing Board Special Meeting  
**Date:** 20 March 2008  
**Author:** Director of Development Services

**1. INTRODUCTION**

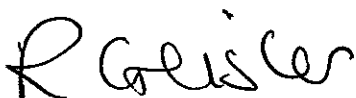
- 1.1 In terms of Section 349 of the Gambling Act 2005 every Licensing Board is required to prepare and approve "a statement of principles that they propose to apply in exercising their functions under this Act".
- 1.2 A draft Statement of Principles was considered by members at the Licensing Board Adjourned meeting on 21 November 2007 when it was agreed that the draft Statement of Principles be issued to appropriate consultees with comments to be submitted to the Licensing section by 21 February 2008; and that a revised Statement of Principles, taking cognisance of comments received where appropriate, be considered by the Licensing Board at its meeting in March 2008.
- 1.3 The proposed Statement of Principles is attached as Appendix 1 to this report

**2. CONSULTATION**

- 2.1 In preparing its statement, the Board is bound to consult with the police, those representing the interests of persons carrying on gambling businesses in the area and those representing the interests of persons who are likely to be affected by the Board's functions under the Act.
- 2.2 A consultation process was undertaken which concluded on 21 February 2008. One response was received from NHS Forth Valley's Public Health Directorate who advised that they had no comment to make.

**3. RECOMMENDATIONS**

Members consider the terms of this report and agree to formally adopt the Statement of Principles.



.....  
Director of Development Services

**Date: 17 March 2008**

**Contact Officer: Robert Watson, Licensing Co-ordinator**

**LIST OF BACKGROUND PAPERS**

1. Nil





## **FALKIRK COUNCIL LICENSING BOARD**

### **GAMBLING ACT 2005**

### **STATEMENT OF PRINCIPLES**

## **FOREWORD**

This statement attempts to reflect the requirements of the Gambling Act 2005 but also to demonstrate that this licensing authority will carry out its role under that Act in a transparent manner and in the public interest.

This statement was agreed by Falkirk Licensing Board at its meeting on XX

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# **GAMBLING ACT 2005**

## **STATEMENT OF PRINCIPLES**

### **FALKIRK COUNCIL LICENSING BOARD**

#### **1. INTRODUCTION**

This is the Statement of Principles (the Policy) that the Falkirk Council Licensing Board (the Board) is required to publish under the Gambling Act 2005 (the Act) in terms of Section 349(1).

The Policy has been prepared having regard to the Licensing Objectives, the Guidance prepared by the Gambling Commission ("Guidance to Licensing Authorities April 2006") and the provisions of the Gambling Act 2005 and Regulations made under that Act.

The final Statement of Principles will be adopted by the Board following full consultation.

The Policy will come into effect on \_\_\_\_\_ and will last for a maximum period of three years. The Policy will be reviewed, updated and modified as and when the Board considers it appropriate and at least every three years.

##### **1.1 Declaration**

In adopting the final Statement the Board has had regard to the licensing objectives set out in the Act, the guidance issued by the Gambling Commission and responses from persons consulted.

##### **1.2 Geographical Area**

The area covered by this Statement is the local government area served by Falkirk Council and includes the main settlements of Falkirk, Grangemouth, Denny, Larbert and Bo'ness.

##### **1.3 Scope – Licensing Functions**

This Board will make decisions upon applications or notifications made for:-

- premises licences
- temporary use notices
- occasional use notices
- permits as required under the Act and
- registrations as required under the Act

This statement of principles relates to all those licenseable premises, notices, permits and registrations identified as falling within the provisions of the Act, namely:-

- casinos
- bingo premises
- betting premises
- tracks
- adult gaming centres
- licensed family entertainment centres
- unlicensed family entertainment centres
- club gaming permits
- prize gaming and prize gaming permits
- occasional use notices
- temporary use notices
- registration of small society lotteries

The Board will not be involved in licensing remote gambling, regulation of which will fall to the Gambling Commission through operator licences.

#### 1.4 The Licensing Objectives

In exercising its functions under the Act the Board will have regard to the licensing objectives set out in Section 1 of the Act. These are:

##### 1.4.1 Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime

The Board will, when determining applications, consider whether the grant of a premises licence will result in an increase in crime and disorder.

The Gambling Commission, in its Guidance, has noted that "*disorder is intended to mean activity that is more serious and disruptive than mere nuisance. Factors to consider in determining whether a disturbance is serious enough to constitute disorder would include whether police assistance was required and how threatening the behaviour was to those who could see or hear it*".

The Board agrees with this statement.

The Board will, in considering licence applications, take into particular account the following:-

- (a) the design and layout of the premises;

- (b) the training given to staff in crime prevention measures appropriate to those premises;
- (c) physical security features installed in the premises. This may include matters such as the position of cash registers or the standard of CCTV that is installed;
- (d) where premises are subject to age-restrictions, the procedures in place to conduct age verification checks; and
- (e) the likelihood of any violence, public order or policing problem if the licence is granted.

#### **1.4.2 Ensuring that gambling is conducted in a fair and open way**

The Gambling Commission has stated that generally, it would not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be a matter for either the management of the gambling business, and therefore subject to the Operating Licence, or will be in relation to the suitability and actions of an individual and therefore subject to the Personal Licence, both of which are the responsibility of the Gambling Commission.

The Board agrees with the view of the Gambling Commission.

#### **1.4.3 Protecting children and other vulnerable persons from being harmed or exploited by gambling**

##### **1.4.3.1 Protecting Children**

The Board has designated the Scottish Children's Reporters' Administration as the body competent to advise the Board about the protection of children from harm.

The Board will consult with the Scottish Children's Reporters' Administration on any application that indicates there may be concerns over access for children or young persons.

The Board will seek to limit the advertising for premises so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children.

##### **1.4.3.2 Access to Licensed Premises**

With limited exceptions, the intention of the Gambling Act is that children and young persons should not be permitted to

gamble and should be prevented from entering those gambling premises which are adult only environments.

Significant weight will be given to all matters relating to the protection of children and young persons. An applicant for a premises licence must comply explicitly with the Act regarding the permitted access or exclusion of children and young persons. No children or young person must be permitted to have access to, close observation of, or be invited to participate in any gambling activities. Subject to the exemptions within the Act applicants for a premises licence may also be required to provide evidence that employee age checks are carried out to ensure no child or young person is being employed when facilities for gambling are being provided.

Where the Board determines that there may be a risk of harm to children in relation to particular premises, it may (where permitted) exclude or limit the access of children to the premises at specific times or when certain activities are taking place.

The Board will not impose any condition that requires a licensed premises where this is simply permitted by the Act, to allow access to children, but will in appropriate circumstances attach conditions to the premises licence specifically to ensure the protection of children and young persons. Issues of concern may be:

- The configuration of the premises;
- Supervision of entrances;
- Clear signage externally regarding age restricted premises (over 18 years of age);
- Age verification checks;
- Clear segregation of gambling and non-gambling areas;
- Clear signage regarding age restricted areas;
- Supervision of access to gambling areas;
- Supervision of gambling machines;
- Age verification checks for employees, and persons employed through an employment agency.

The Board may, in appropriate circumstances, attach conditions to a premises licence in order to ensure adequate supervision by adult staff. It may also set requirements regarding the appropriate number of adult staff to be present at the premises based on the numbers of children present.



The Act provides for a Code of Practice on access to casino premises by children and young persons and the Board will work closely with the police to ensure the appropriate enforcement of the law.

#### **1.4.3.3 Vulnerable Persons**

The Board does not seek to prohibit particular groups of adults from gambling in the same way that it seeks to prohibit children but it will assume, for regulatory purposes, that 'vulnerable persons' includes:-

- persons who gamble more than they want to;
- persons who gamble beyond their means; and
- persons who may not be able to make an informed or balanced decision about gambling due to a mental impairment, excessive alcohol consumption or drug taking.

Applicants for premises licences, permits and authorisations will be expected to have an awareness that for some persons gambling activities can present a potential harm. An applicant will be required to ensure that all members of their staff receive adequate training and clear instruction regarding this issue, and will also be required to comply with any code of practice and guidance issued by the Gambling Commission.

The Board may also consider it appropriate to attach a condition to all premises licences requiring the holder to display in a prominent position, posters/leaflets providing the contact details for various Support Groups and Organisations specifically set up to assist persons who may wish to seek help or advice regarding gambling related issues.

### **1.5 Responsible Authorities**

For the purposes of the Act, the following are responsible authorities in relation to premises:

- Falkirk Council Licensing Board
- The Gambling Commission
- Chief Constable of Central Scotland Police
- Chief Fire Officer, Central Scotland Fire and Rescue Service
- Falkirk Council

- H M Revenue and Customs

## 1.6 Interested Parties

A person is an interested party in relation to a premises licence or in relation to an application for or in respect of a premises licence if, in the opinion of the Board to which the application is made, the person:-

- (a) lives sufficiently close to the premises to be likely to be affected by the authorised activities;
- (b) has business interests that might be affected by the authorised activities;
- or
- (c) represents a person who satisfies paragraph (a) or (b).

## 1.7 General Principles

- (i) Every application received will be treated fairly and will be considered on its own merits.
- (ii) Nothing in this Policy will override the right of any person to make representations on any application or seek a review of a licence or permit where they are permitted to do so under the Act.

The Board will aim to permit the use of premises for gambling as long as such use is considered to be:-

- in accordance with any relevant Codes of Practice issued by the Gambling Commission;
- in accordance with guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with this Policy.

Premises licences will be subject to the requirements set out within the Act and Regulations, as well as any specific mandatory and default conditions issued by the Scottish Ministers.

The Board may exclude default conditions and also attach other conditions where they are considered necessary to promote one or more of the licensing objectives.

The Board may consider it appropriate to attach specific conditions to a premises licence where existing legislation does not cover the unique circumstances that may arise in connection with a specific premises.

The Board will avoid, in so far as is possible, duplication with other regulatory regimes and legislation.

Any conditions imposed by the Board will be proportionate to the circumstances they are intended to address and the Board will not impose conditions which would make it impossible to comply with an operating licence condition imposed by the Gambling Commission.

All applicants for premises licences will be required to set out how they will promote the Licensing Objectives, as specified in Section 1.4 above, and what measures they intend to employ to ensure compliance with them. If no relevant representations are received then the licence will be issued with such conditions attached, as are mandatory under the Act, specified by Scottish Ministers or attached by the Board, in order to promote the licensing objectives. Where relevant representations are made (and not withdrawn) a hearing will be held before the Licensing Board or sub committee as appropriate and the application will be determined once the application and representations have been considered. However, where allowed, the Board may determine applications without a hearing with the consent of the applicant and any interested party or responsible authority who has made (and not withdrawn) representations. The Board will determine the application using and considering evidence from the applicant and any parties who have made representations.

Representations which are made outside the period prescribed by Scottish Ministers or which are, in the Board's opinion, frivolous or vexatious, will not be considered by the Board as relevant representations.

Any decisions of the Board will be relayed to the applicant as soon as is reasonably practicable and in writing.

## **1.8 Exchange of Information**

Subject to the Data Protection Act 1998 the Board will share any information it receives through the application process with the Gambling Commission and other enforcement agencies. The Board will have regard to the Act itself and any guidance issued by the Gambling Commission and Regulations issued by the Scottish Ministers.

The Board will maintain a register of premises licences and permits issued where required and will ensure that the register is open for public inspection at all reasonable times. The information held will be in accordance with the Regulations set by the Scottish Ministers.

## **2. LEGISLATION, POLICIES AND STRATEGIES**

### **2.1 Legislation**

In undertaking its licensing function under the Gambling Act 2005, the Board is also bound by other legislation, including:-

1. Human Rights Act 1998;
2. Health and Safety at Work etc. Act 1974;
3. Environmental Protection Act 1990; and
4. Race Relations Act, 1976 (as amended)

However, the Board has a firm commitment to ensuring the avoidance of duplication with other regulatory regimes so far as possible. For example, it will be unwilling to use its powers under the Act when an issue is better dealt with under, for example, health and safety at work or fire safety legislation.

### **2.2 Relationship with Planning Policies**

When determining an application, regard cannot, under the terms of the Act, be given to planning or building control permissions and/or any planning restrictions.

Unmet demand is not a criterion that can be taken into consideration when determining an application for a premises licence under the Gambling Act 2005.

The issue of a Provisional Grant of a premises licence is a separate and distinct process to the granting of Planning Permission. Planning and Building Control permissions will have to be sought and approved before any development takes place.

The Board recognises that licensing applications should not be seen as a re-run of the planning application process and there will be a clear separation of the planning and licensing regimes to avoid duplication and inefficiency.

### **2.3 Location – Special Policy Regarding Cumulative Impact**

The Board may take into account the impact that the existence of premises may have on one area, and specifically matters relevant to the licensing objectives. The cumulative impact of new premises licences in a particular area may lead to the area becoming a focal point for certain groups of people, and thereby undermine the principles of the licensing objectives. Proper regard will be given to new premises licences and the differing impact they

will have on the local community. A new premises licence may undermine the principles of the licensing objectives due to its proximity for example to:-

- a school or other educational facility;
- a residential area with high concentration of families with children;
- a centre for children;
- a centre for vulnerable adults.

The Board will therefore consider representations from any responsible authority or interested party based on the impact on the licensing objectives if a particular application were to be granted. The onus will be on the person making the representation to provide evidence to support their assertions that the addition of the premises would have the suggested impact on the licensing objectives. Further, the Board may adopt a special policy regarding cumulative impact where it considers that a significant concentration of licensed premises will have, or is having an impact on the licensing objectives and the granting of further licences in that area would add to this impact. If it does adopt such a policy, this statement will be updated and published.

A special policy regarding cumulative impact will not be used to try and revoke an existing licence or authorisation. When representations are made about a premises licence, representations would be considered and determined in respect of the licensing objectives only. However the special policy may be a justification to refuse an application, or to vary a premises licence.

The Board recognises the difference between cumulative impact and the commercial need of premises in an area. Need is not a matter for the Board to consider as part of its licensing function.

The Board will not operate a quota of any description, including any special policy, that would prejudice an application. Each application will be considered on its individual merits.

The proximity of premises taken into consideration will vary depending upon the size and scope of the gambling premises concerned. Each case will, however, be determined on its merits. Therefore, if an applicant can effectively demonstrate how they might overcome licensing objective concerns, this will be taken into account.

Where a person, whether or not directly affected by an application or living in the vicinity of a licensable premises under consideration, puts themselves forward as representing the interests of residents in the vicinity, the Board will normally ask them to provide evidence that they are acting as representatives of others.

## **2.4 Door Supervisors**

The Board may consider it appropriate to attach a condition to a premises licence requiring door supervisors to be present during opening hours or between specified opening hours. Where a condition is attached to a premises licence requiring door supervisors it will be a requirement that only persons licensed by the Security Industry Authority (SIA) are employed (bingo and casino premises are currently exempt from this requirement, but this may change).

The Board may also specify the number of door supervisors required and whether at least one female supervisor should be available (for example, if female customers are to be the subject of body searches).

In respect of bingo and casino premises the Board may consider it appropriate to attach a condition to a premises licence requiring the premises licence holder to maintain evidence (copies of certificates) that all door supervisors employed have undertaken accredited training.

### 3. DECISION MAKING

#### 3.1 Scheme of Delegation

In terms of Section 155 of the Act, the Board may arrange for the discharge of any of its functions by a Committee of the Board, or member or members of the Board, the Clerk to the Board or any person appointed to assist the Clerk.

The Board cannot delegate certain of its functions.

It is the Board's intention to delegate its powers where it considers appropriate and as set out in Appendix 4 to this Policy.

The Board reserves the right, however, to consider and determine all applications and relevant matters under the Act.

#### 3.2 Licensing Reviews

The Board may review any matter connected to the use made of premises if it has reason to suspect that licence conditions are not being observed, or for any other reason which gives it cause to believe that a review may be appropriate.

The Board will carry out a review of a premises licence where it has received a formal application for review in accordance with the Act that is relevant to one or more of the Licensing Objectives.

Due consideration will be given to all relevant representations unless they fit the following:-

- (a) the grounds are frivolous;
- (b) the grounds are vexatious;
- (c) the grounds are irrelevant;
- (d) the grounds will not cause the Board to revoke or suspend a licence or to remove, amend or attach conditions on the premises licence;
- (e) the grounds are substantially the same as the grounds cited in a previous application relating to the same premises; or
- (f) the grounds are substantially the same as representations made at the time the application for a premises licence was considered.

The purpose of the review will be to determine whether the Board should take any action in relation to the licence. If action is justified, the Board may:-

- (a) add, remove or amend a licence condition imposed by the Board
- (b) exclude a default condition imposed by Scottish Ministers (relating to, for example, opening hours) or remove or amend such an exclusion
- (c) suspend the premises licence for a period not exceeding three months; or

- (d) revoke the premises licence.

In particular, the Board may take action on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent applicants from applying for licences in a speculative manner without intending to use them.

### 3.3 Enforcement

In exercising its functions under the Act with regard to the inspection of premises, the Board will be guided by the Gambling Commission's Guidance and its approach will be:

- proportionate
- accountable
- consistent
- transparent
- targeted

The Board will adopt a risk based inspection programme. Premises will be subject to a scheme of routine inspection, the frequency of which will be determined by the risks posed by the premises i.e. those premises considered to pose a greater risk will be subject to more frequent inspections than those posing a lower risk.

When determining risk, consideration will be given to:-

- (i) the nature of the gambling activities carried out on the premises;
- (ii) the location of the premises in relation to schools, vulnerable adult centres or residential areas where there may be high concentrations of families with children;
- (iii) the procedures put in place by the management to meet the licensing objectives.

Additional random monitoring visits may be made, at the discretion of the authorised officers, where it is considered necessary to meet the needs of the licensing objectives or following receipt of complaints.

The Board's area will be monitored for unlicensed premises.

The Board agrees to work actively with the police and other partners in enforcing licensing legislation.



### **3.4 Complaints Against Licensed Premises**

The Board will investigate complaints against licensed premises in relation to matters relating to the licensing objectives for which it has responsibility. In the first instance, complainers will be encouraged to raise the complaint directly with the licensee or business concerned to seek a resolution.

Where an interested party has made valid representations about licensed premises, or a valid application for a licence to be reviewed, the Board may initially recommend a conciliation meeting to address and clarify the issues of concern. This process will not override the right of any interested party to ask that the Board consider their valid objections, or for any licence holder to decline to participate in a conciliation meeting. Due consideration will be given to all relevant representations unless they are considered to be frivolous, vexatious or repetitious.

## **4. LICENSABLE PREMISES AND PERMITS**

### **4.1 Casino Premises**

There is no resolution to prohibit casinos in the Board's area at present. However, the Board reserves its right to review this situation and may, at some time in the future.

### **4.2 Bingo Premises**

An applicant for a premises licence must comply explicitly with the Act regarding the exclusion of children and young persons from any area where category C or above machines are made available for use.

The Board will expect applicants to offer their own measures to promote the licensing objectives, however, the Board may attach conditions to the licence regarding issues such as:

- proof of age scheme;
- CCTV;
- physical security measures on the premises;
- supervision of entrances;
- physical separation of gambling areas where category C or above gaming machines are made available for use;
- supervision of age restricted areas of the premises;
- self-exclusion schemes;
- clear notices and signage externally and internally regarding age restrictions and restricted areas;
- a notice specifying opening hours;
- policy and procedures regarding the employment of young persons (aged 16 and 17 where applicable);
- display of posters and information leaflets for organisations set up to assist people wishing to seek help and advice regarding gambling related issues.

This is not an exhaustive list and other conditions may be attached relevant to an individual application.

### **4.3 Betting Premises**

An applicant for a premises licence must comply explicitly with the Act regarding the exclusion of children and young persons. No children or young person (under 18 years old) must be permitted access to the premises.

The Board will expect applicants to offer their own measures to promote the licensing objectives, however, the Board may attach conditions to the licence regarding issues such as:-

- proof of age scheme;
- CCTV;
- physical security measures on the premises;
- supervision of entrances;
- physical separation of gambling areas;
- self-exclusion schemes;
- clear notices and signage externally regarding age restrictions;
- notice specifying opening hours;
- display of posters and information leaflets for organisations set up to assist persons wishing to seek help and advice regarding gambling related issues.

This is not an exhaustive list and other conditions may be attached relevant to an individual application.

#### 4.4 Tracks

The Act contains rules which apply to applicants for a premises licence in relation to a track. The applicant need not hold an operating licence because the betting that is provided upon the track will be provided by other operators, who come on-course. Since those persons will require the necessary operating licences, the Act allows the track operator to obtain a premises licence without also having to hold an operating licence. This track premises licence then authorises anyone upon the premises with an operating licence to offer betting facilities.

Tracks are different from other premises in that there may be more than one premises licence in effect, each covering a specified area of the track. In accordance with the Gambling Commission Guidance, the Board will particularly consider the impact of the third licensing objective in this area.

An applicant for a track premises licence will be required to submit detailed plans of the premises in order that the Board understands clearly what it is being asked to licence.

The detailed plans must define the site, any area to be used for temporary "on-course" betting facilities, and in the case of dog tracks and horse racecourses any mobile pool betting facilities as well as any other proposed gambling facilities.

An applicant for a premises licence must comply explicitly with the Act regarding the permitted access to, or exclusion of children and young persons from, gambling areas.

The Board will expect applicants to offer their own measures to promote the licensing objectives, however, the Board may attach conditions to the licence regarding issues such as:-

- proof of age scheme;
- CCTV;
- physical security measures on the premises;
- supervision of entrances;
- physical separation of gambling areas;
- supervision of gambling areas;
- appropriate siting of gaming machines;
- self-exclusion schemes;
- clear notices and signage regarding age restricted areas;
- notice specifying opening hours;
- display of gambling rules in prominent positions in or near betting areas;
- display of posters and information leaflets for organisations set up to assist persons wishing to seek help and advice regarding gambling related issues.

This is not an exhaustive list and other conditions may be attached relevant to an individual application.

#### **4.5 Adult Gaming Centres**

An applicant for a premises licence must comply explicitly with the Act regarding the exclusion of children and young persons. No children or young person (under 18 years old) must be permitted to have access to the premises.

The Board will expect applicants to offer their own measures to promote the licensing objectives, however, the Board may attach conditions to the licence regarding issues such as:-

- proof of age scheme;
- CCTV;
- supervision of entrances;
- physical security measures on the premises;
- physical separation of areas;
- self-exclusion schemes;
- notices and signage displayed externally stating access to the premises is restricted to persons 18 years of age and over;

- notices displayed internally stating use of gaming machines is restricted to persons 18 years of age and over.
- notice specifying opening hours;
- members of staff appropriately trained;
- display of posters and information leaflets for organisations set up to assist persons wishing to seek help and advice regarding gambling related issues.

This is not an exhaustive list and other conditions may be attached relevant to an individual application.

#### **4.6 Licensed Family Entertainment Centres**

An applicant for a premises licence must comply explicitly with the Act regarding all category C gaming machines on the premises (see Appendix 3 for machine categorisation). No children or young persons must be permitted access to restricted areas of the premises where category C gaming machines are sited.

The Board will expect applicants to offer their own measures to promote the licensing objectives, however, the Board may attach conditions to the licence regarding issues such as:-

- proof of age scheme;
- CCTV;
- supervision of entrances;
- physical security measures on the premises;
- physical separation of areas for category C gaming machines
- self-exclusion schemes;
- clear notices and signage around the premises regarding age restricted areas;
- notice specifying opening hours;
- display of posters and information leaflets for organisations set up to assist people wishing to seek help and advice regarding gambling related issues.

This is not an exhaustive list and other conditions may be attached relevant to an individual application.

#### **4.7 Unlicensed Family Entertainment Centres**

Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the Board for a Gaming Machine Permit. The applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.

Unlicensed Family Entertainment Centres will be able to offer only category D machines in reliance on a Gaming Machine Permit. Any number of category D machines can be made available with such a permit. Permits cannot be issued to vessels or vehicles.

The Board notes that it can grant or refuse a licence but cannot attach conditions to this type of permit.

The Board will comply with any guidance produced by the Gambling Commission, and when considering a permit application may request further information from an applicant regarding any matters of concern, which may include:-

- the suitability of the applicant;
- the location of the premises;
- evidence that a premises will only operate as an unlicensed family entertainment centre;
- the applicant being required to demonstrate that they fully understand the maximum stakes and prizes permissible in an unlicensed Family Entertainment Centre;
- confirmation of intended opening hours;
- ensuring premises maintains acceptable levels of management supervision at all times during opening hours
- ensuring premises maintain acceptable levels of security at all times during opening hours;
- CCTV provisions at the premises; Surveillance of the premises;
- evidence that members of staff are appropriately trained and that they fully understand the maximum stakes and prizes permissible in an unlicensed Family Entertainment Centre;
- evidence of policy and procedures in respect of unsupervised very young children on the premises, or children causing perceived problems on/or around the premises;
- display of posters and information leaflets for organisations set up to assist people wishing to seek help and advice regarding gambling related issues;
- any other factors that are within the control of the permit holder or designated management.

The Board will give significant weight to all issues relating to the protection of children and young persons.

The Board may not refuse an application unless it has notified the applicant of the intention to refuse and the reasons for it, and given them an opportunity to make representations orally or in writing or both.

#### 4.8 Club Gaming Permit

A Club Gaming Permit authorises Members' Clubs to provide, subject to certain restrictions, no more than three gaming machines (categories B4, C or D) (see appendix 3 for machine categorisation), equal chance gaming and other games of chance as prescribed in regulations.

The Club Gaming Permit also allows the Club to provide facilities for Gambling provided the gambling meets a number of conditions.

The Board may grant or refuse a permit, but it may not attach any conditions. The Board may only refuse an application on the grounds that:

- the applicant does not fulfil the requirements of a members' or commercial club;
- the applicant's premises are used wholly or mainly by persons under the age of eighteen;
- an offence under the Act, or a breach of permit has been committed by the applicant in the course of gaming activities being carried on;
- a permit held by the applicant has been cancelled in the last ten years; or
- an objection to the application has been made by the Gambling Commission or the Police.

#### 4.9 Club Machine Permit

If a Club does not wish to have the full range of facilities permitted by a Club Gaming Permit or, if they are a Commercial Club not permitted to provide non-machine gaming, they may apply to the Board for a Club Machine Permit. A Club Machine Permit allows the holder to have up to three gaming machines (Categories B4, C or D) (see appendix 3 for machine categorisation).

The Board may grant or refuse a permit, but it may not attach any conditions. The Board may only refuse an application on the grounds that:-

- the applicant does not fulfil the requirements of a members' or commercial club;
- the applicant's premises are used wholly or mainly by persons under the age of eighteen;
- an offence under the Act, or a breach of permit has been committed by the applicant in the course of gaming activities being carried on;
- a permit held by the applicant has been cancelled in the last ten years; or
- an objection to the application has been made by the Gambling Commission or the Police.

#### 4.10 Prize Gaming Permit

Section 288 defines gaming as prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. A prize gaming permit is a permit issued by the Board to authorise the provision of facilities for gaming and prizes on specified premises.

The Board will specify the form and manner in which an application must be made, and will specify the information and supporting documents required, these may include:

- plans of the proposed building;
- Insurance certificates; and
- any other documents deemed necessary or appropriate.

The Board will comply with any guidance produced by the Gambling Commission, and when considering a permit application may request further information from an applicant regarding any matters of concern, which may include:-

- the suitability of the applicant;
- the location of the premises;
- confirmation of intended opening hours;
- confirmation of the types of gaming to be offered;
- the applicant being required to demonstrate that they fully understand the limits to stakes and prizes set out in the Regulations;
- the applicant being required to demonstrate that the gaming offered is within the law;
- ensuring premises maintain acceptable levels of management supervision at all times during opening hours;
- ensuring premises maintain acceptable levels of security at all times during opening hours;
- CCTV provisions at the premises; Surveillance of the premises;
- evidence that members of staff are appropriately trained;
- any other factors that are within the control of the permit holder or designated management.

The Board can grant or refuse an application for a permit, but not add conditions. The Board may grant a permit only if they have consulted the Chief Constable about the application.



The Board may not refuse an application unless they have notified the applicant of the intention to refuse and the reasons for it, and given them an opportunity to make representations orally or in writing or both.

#### **4.11 Alcohol Licensed Premises – Gaming Machine Permit**

On notifying the Board, premises licensed to sell alcohol for consumption on the premises, subject to certain restrictions, have an automatic entitlement to two gaming machines (of category C or D) (see appendix 3 for machine categorisation).

In certain circumstances the Board has the power to remove this right.

An Alcohol Licensed Premises Gaming Machine Permit is required if more than two gaming machines are sought. The issue of such a permit will effectively replace, not be in addition to, any automatic entitlement to two gaming machines.

The Board will comply with any guidance produced by the Gambling Commission, and when considering a permit application may request further information from an applicant regarding any matters of concern, which may include:-

- a plan showing the location and category of gaming machine being sought; and
- details of any proposed precaution for preventing persons under eighteen from using any category of gaming machine being sought and how it would be implemented.

The Board may decide to grant an application with a smaller number of machines and/or a different category of machine but cannot attach any other conditions.

#### **4.12 Occasional Use Notices**

Where there is betting on a track on eight days or less in a calendar year, betting may be permitted by an Occasional Use Notice without the need for a full premises licence. The calendar year will commence on 1 January.

In considering an application for an Occasional Use Notice the Board will consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

A notice must be served on the Board and copied to the Chief Constable. The notice must be served by a person who is responsible for the administration of events on the track, or by an occupier of the track. The notice must specify

the day on which it has effect, and may be given in relation to consecutive days providing the overall limit of eight days is not exceeded in a calendar year.

The Board will maintain a record of the number of notices served in a calendar year to ensure the limit of 8 days is not exceeded.

#### **4.13 Temporary Use Notices**

Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a temporary use notice would include hotels, conference centres and sporting venues.

An application for a Temporary Use Notice must be submitted to the Board not less than three months and one day before the day on which the gambling event will begin.

In addition a copy of the notice must also be served on:-

- The Gambling Commission
- The Chief Constable of Central Scotland Police
- H M Revenue and Customs
- Any other licensing authority in whose area the premises are situated

(see appendix 2 for relevant addresses).

The person who is giving the temporary use notice must ensure that the notice and the copies are with the recipients within seven days of the date of the notice.

Each application for the grant of a Temporary Use Notice will be considered and determined on its individual merits.

The same premises may not be the subject of a temporary use notice for more than 21 days in any 12-month period, but may be the subject of several notices provided that the total does not exceed 21 days.

Should the Board or the other bodies served with copies of the Temporary Use Notice consider that the gambling should not take place, or take place with modifications, they will issue a notice of objection to the applicant within 14 days of the date of the Temporary Use Notice.

Where relevant representations are made a hearing will be held before the Board or sub committee as appropriate and the application will be determined

once the application and representations have been considered. If all participants agree that a hearing is unnecessary, it may be dispensed with.

The Board will determine the application using and considering evidence from the applicant and any objectors who have made representations.

If the Board considers that a temporary use notice should not have effect, a counter-notice will be issued which may:-

- prevent the temporary use notice from taking effect;
- limit the activities that are permitted;
- limit the time period of the gambling; or
- allow the activity to take place subject to a specified condition

If the Board gives a counter notice, it must give reasons for doing so and must copy the counter notice to all those who received copies of the temporary use notice.

If the Board decides not to issue a counter notice, the temporary use notice will take effect. The Board will give notice of its decision to the person who gave the temporary use notice and others to whom it was copied.

#### **4.14 Provisional Statements**

This Board notes the Gambling Commission Guidance which states that "It is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence" and that "Requiring the building to be complete ensures that the authority could, if necessary, inspect it fully".

In terms of representations about premises licence applications following the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account by this authority unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances.

In addition, this authority may refuse the premises licence or grant it on terms different to those attached to the provisional statement only by reference to matters:-

- (a) which could not have been raised at the provisional licence stage or
- (b) which, in the authority's opinion, reflect a change in the operator's circumstances.

The Board has noted the Gambling Commission Guidance that licensing authorities should not take into account irrelevant matters such as the likelihood of the applicant obtaining planning or building consent for the proposal.

#### **4.15 Registration of Small Society Lotteries**

Small society lotteries are non-commercial societies which are established and conducted:-

- for charitable purposes
- for the purpose of enabling or participation in, or supporting, sport, athletics or a cultural activity; or
- for any other non-commercial purpose, other than private gain.

All applications for registration must be made in the form specified by Scottish Ministers, and accompanied by any supporting documents specified by Scottish Ministers or required by the Board.

The Board will comply with any guidance produced by the Gambling Commission, and when considering an application for registration may request further information from an applicant regarding any matters of concern, which may include evidence that:-

- the application is on behalf of a *bona fide* non-commercial society;
- that all persons to be connected with the promotion of the lottery have no relevant convictions or cautions recorded against them;
- the purpose of the Society and the purpose of the fund raising are appropriate;
- there has been appointment of two members of the society who have the authority to sign and complete the required financial returns.
- an external lottery manager holds an operator's licence issued by the Gambling Commission.

If the Board is intending to refuse an application to join the register the applicant will be notified in writing of the reasons why it is considering refusal and the evidence on which it has based that preliminary conclusion. The applicant will then be given the opportunity to provide further evidence in support of the application or to make representations regarding these matters.

#### **4.16 Travelling Fairs**

Travelling Fairs wholly or principally provide amusements and they must be on a site that has been used for fairs for no more than 27 days per calendar year.

The Board will consider whether a fair falls within the statutory definition of a travelling fair and that the facilities for gambling amount to no more than an ancillary amusement. The Board will monitor the number of days a piece of land is used as a fair to ensure the maximum statutory 27 days is not exceeded in a calendar year.

## APPENDIX 1

### FURTHER INFORMATION

Further information about the Gambling Act 2005, this Statement of Principles and about the application process, including application forms and guidance notes can be obtained from:-

Clerk to the Licensing Board  
Abbotsford House  
David's Loan  
Falkirk  
FK2 7YZ

Email [licensing@falkirk.gov.uk](mailto:licensing@falkirk.gov.uk)  
Direct Dial: 01324 504 795  
Direct Fax: 01324 504 852  
[www.falkirkcouncil.gov.uk/licensing](http://www.falkirkcouncil.gov.uk/licensing)

Information is also available from the  
Gambling Commission  
Victoria Square House  
Victoria Square  
Birmingham  
B2 4BP  
Tel: 0121 230 6500  
Fax: 0121 233 1096  
[info@gamblingcommission.gov.uk](mailto:info@gamblingcommission.gov.uk)  
[www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

Scottish Executive  
Tel: 0131 556 8400  
[www.scottishexecutive.org.uk](http://www.scottishexecutive.org.uk)

## APPENDIX 2

### USEFUL ADDRESSES

Gambling Commission  
Victoria Square House  
Victoria Square  
Birmingham  
B2 4BP  
Tel: 0121 230 6500 Fax: 0121 233 1096  
[info@gamblingcommission.gov.uk](mailto:info@gamblingcommission.gov.uk)  
[www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

Central Scotland Police  
Divisional HQ  
West Bridge Street  
Falkirk  
Tel: 01324 678 812

HM Revenue & Customs  
National Registration Unit  
Portcullis House  
21 India Street  
Glasgow  
G2 4PZ  
[www.hmrc.gov.uk](http://www.hmrc.gov.uk)

### APPENDIX 3

#### CATEGORISATION OF GAMING MACHINES

Category of Machine	Maximum Stake	Maximum Prize
A	Unlimited	Unlimited
B1	£2	£4,000
B2	£100	£500
B3	£1	£500
B4	£1	£250
C	50p	£25
D	10p 30p when non-monetary prize	£5 cash or £8 non-monetary prize

		Machine Category						
Premises Type		A	B1	B2	B3	B4	C	D
<b>Regional Casino</b> (machine/table ratio of 25-1 up to maximum)		Maximum of 1250 machines. Any combination of machines in categories A to D, within the total limit of 1250 (subject to table ratio)						
<b>Large Casino</b> (machine/table ratio of 5-1 up to maximum)		Maximum of 150 machines. Any combination of machines in categories B to D, within the total limit of 150 (subject to table ratio)						
<b>Small Casino</b> (machine/table ratio of 2-1 up to maximum)		Maximum of 80 machines. Any combination of machines in categories B to D, within the total limit of 80 (subject to table ratio)						
<b>Pre-2005 Act Casino</b> (no machine/table ratio)		Maximum of 20 machines. Categories B to D <u>or</u> C or D machines instead						
<b>Betting Premises and Tracks</b> occupied by Pool Betting		Maximum of 4 machines. Categories B2 to D						
<b>Bingo Premises</b>	Maximum of 4 machines in categories B3 or B4	No limit on machines in categories C or D						
<b>Adult Gaming Centre</b>	Maximum of 4 machines in categories B3 or B4	No limit on machines in categories C or D						
<b>Family Entertainment Centre</b> (with premises licence)		*in categories C or D						
<b>Family Entertainment Centre</b> (with permit)		No limit on category D machines						
<b>Clubs or Miners' Welfare Institutes</b> (with permit)		Maximum of 3 machines in categories B4 to D						
<b>Qualifying Alcohol Licensed Premises</b>		Automatic entitlement for 1 or 2 machines in C & D						
<b>Qualifying Alcohol Licensed Premises</b> (with gaming machine permit)		Number of machines as specified on the permit						
<b>Travelling Fair</b>		No limit on category D machines						



## APPENDIX 4

## Scheme of Delegation

Matter to be dealt with	Licensing Board	Sub Group of Licensing Board	Officers
Final approval of three year licensing policy	✓		
Fee setting (when appropriate)	✓		
Application for Premises Licence <ul style="list-style-type: none"> <li>Where representations have been received and not withdrawn</li> <li>Where no representations have been received/representations have been withdrawn</li> </ul>	✓  ✓	✓	
Application for variation to a Licence <ul style="list-style-type: none"> <li>Where representations have been received and not withdrawn</li> <li>Where no representations have been received/representations have been withdrawn</li> </ul>	✓  ✓	✓	
Application for transfer of a Licence <ul style="list-style-type: none"> <li>Where representations have been received from the Commission</li> <li>Where no representations have been received from the Commission</li> </ul>	✓  ✓	✓	
Application for Provisional Statement <ul style="list-style-type: none"> <li>Where representations have been received and not withdrawn</li> <li>Where no representations have been received/representations have been withdrawn</li> </ul>	✓  ✓	✓	
Review of a Premises Licence	✓		
Application for a Club Gaming/Club Machine Permit <ul style="list-style-type: none"> <li>Where objections have been received and not withdrawn</li> <li>Where no objections have been received/objections have been withdrawn</li> </ul>	✓  ✓	✓	
Cancellation of Club Gaming/Club Machine Permit	✓		
Consideration for Temporary Use Notice	✓		
Decision to give a Counter Notice to a Temporary Use Notice	✓		
Application for Registration of Small Society Lotteries <ul style="list-style-type: none"> <li>Where representations have been received and not withdrawn</li> <li>Where no representations have been received/representations have been withdrawn</li> </ul>	✓  ✓	✓	