

# **RENFREWSHIRE LICENSING BOARD**

## **The Licensing (Scotland) Act 2005**

### **Statement of Licensing Policy**

**2013 – 2016**

**As amended by Supplementary Statement on 24 August 2015**

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## **SECTION A - STATEMENT OF LICENSING POLICY**

### **1. INTRODUCTION**

- 1.1 This Statement of Licensing Policy has been prepared by Renfrewshire Licensing Board in terms of Section 6 of the Licensing (Scotland) Act 2005 (“the Act”) to assist in the implementation and administration of the licensing of premises for the sale of alcohol within Renfrewshire and to outline the way in which it intends exercising its functions under the 2005 Act. The Board is required to ensure that its policy promotes the licensing objectives.

These are set out in Section 4 of the Act and are:-

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

Subject to the promotion of the licensing objectives the Board recognises and supports the contribution which licensed premises make to the economy of the area, to employment, tourism and the vitality of the area.

- 1.2 The Board will have regard to this policy when undertaking any of its functions. This includes officers of the Board when determining applications of a type delegated to them.

- 1.3 This Statement of Policy (hereinafter referred to as “the Statement”) came into effect on 30 November 2007 was reviewed in 2010 and a revised Statement

published for the period November 2010 – November 2013. This Statement will remain in effect from 30 November 2013, subject to review, for a period of three years. It will be subject to regular review and monitoring and further consultation during this period. If necessary, the Board will prepare and publish supplementary Statements of Licensing Policy. If you wish to make comment on the statement or wish the contents to be reviewed, please contact the Licensing Section at the contact point stated on the front page.

1.4 The review of liquor licensing law in Scotland commenced with the appointment of the Nicholson Committee in June, 2001 and was fully implemented on 1st September, 2009 when all the provisions of the Act came into force.

1.5 The Act introduces a modernised statutory framework for liquor licensing which introduces more flexibility for the licensed trade balanced by extensive and, in appropriate cases, immediate enforcement powers for the Board.

## **2. CONTEXT - RENFREWSHIRE**

2.1 Renfrewshire is situated to the West of Glasgow on the south bank of the River Clyde and covers nearly 103 square miles. Renfrewshire's population is estimated at approximately 178,000 making it the ninth largest Council area in Scotland in terms of population.

2.2 Paisley with an estimated population of 78,000 forms the commercial and transport hub for Renfrewshire.

2.3 Renfrewshire has a rich and diverse environment. Paisley, Scotland's largest town, has a rich architectural heritage and is complemented by the Royal Burgh of Renfrew, Erskine New Town, the 18<sup>th</sup> Century planned town of Johnstone and several villages amidst countryside. There are, as at November 2013, 437 licensed premises in Renfrewshire, which includes 66 registered clubs.

2.4 In Renfrewshire's Local Plan adopted by Renfrewshire Council in March 2006 and emerging Renfrewshire Local Development Plan (LDP) due to be adopted Spring 2014 reference is made to the key role of Renfrewshire as "the main international gateway to Scotland and makes a major contribution to the life of the rest of Scotland."

### **3. PREPARATION OF STATEMENT**

3.1 The Statement of Licensing Policy has been prepared having regard to:-

- the Licensing Objectives;
- the Guidance for Licensing Boards and Local Authorities issued by the Scottish Executive;
- the Scottish Executive's "Plan for Action on Alcohol Problems: Update" and the accompanying Partnership Agreement between the alcohol industry and the Scottish Executive; and
- the terms of the Act with particular reference to Section 6.
- the terms of the Alcohol Etc., (Scotland) Act 2010 and the Criminal Justice and Licensing (Scotland) Act 2010

3.2 In preparing the Statement, the Board consulted widely and took account of the views submitted in its adoption.

#### **4. GENERAL PRINCIPLES**

4.1 This Statement of Licensing Policy seeks:-

- to promote the five licensing objectives; and
- to comply with the terms of the 2005 Act and ancillary licensing legislation.

4.2 The Statement sets out a general approach to the way the Board will make licensing decisions but nothing in this Statement will:-

- undermine the rights of any person to apply under the Act and to have that application considered on its individual merits; or
- override the right of any person to make representations on any applications or seek a review of a licence where permitted to do so under the Act.

4.3 It relates to how the Board will exercise its licensing functions under the Act, specifically as regards the regulation of the sale of alcohol and premises in which alcohol is sold all within the terms of the Act. Only material relevant to the Act and the Licensing Objectives will be taken into account by the Board when determining applications or considering reviews.

4.4 It should be recognised also that licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals

once they are no longer in the licensed premises and beyond the direct control of the individual, club or business holding the premises' licence. If, however, the nuisance or anti-social behaviour is caused by misuse of alcohol, then supply of alcohol could be a relevant factor in that misuse and the Board, when provided with appropriate information about the misuse, may consider using its powers appropriately in the circumstances. For example, if the anti-social behaviour is linked with unlawful or inappropriate sales of alcohol, relating to particular premises whether to someone under 18 years of age, to a drunken person or as part of an irresponsible drink promotion the Board would be entitled to consider a premises licence review proposal under Section 37 of the Act.

## **5. TYPES OF APPLICATIONS AND SCHEME OF DELEGATION**

5.1 The Board is responsible for the consideration of applications for:-

- premises licences;
- occasional licences;
- temporary licences;
- provisional licences;
- personal licences;
- variations of licences;
- review of licences;
- transfer of licences;
- extensions of licensing hours;
- the sale of alcohol by retail; and

- the supply of alcohol in members' clubs.

5.2 The Board will provide an efficient and cost effective service to all those who are involved in the licensing process. The Board recognises that any application should only be submitted to the Board when necessary and, where straightforward, should be decided by officers to create as little inconvenience to applicants as possible.

5.3 The Board has therefore agreed that only those applications and matters which by statute are required to be considered by the Board will be submitted to it and the other applications will be determined by the Clerk and Depute Clerks to the Board.

5.4 Those applications and matters which require to and will be submitted to the Board are:-

- a premises licence application;
- a premises licence variation where the variation applied for is not a minor variation;
- an application for transfer of a premises licence where the applicant has been convicted of a relevant offence or a foreign offence;
- determining a personal licence application or a personal licence renewal application where the applicant has been convicted of a relevant offence or a foreign offence;
- conducting any hearing including issuing a written warning, revoking or suspending the licence, making a variation of a licence or, in respect of

a personal licence, making an order revoking, suspending or endorsing a personal licence;

- making a closure order; and
- refusing an application for confirmation of a provisional premises licence.

5.5 All other matters with the exception of the specific delegations to Board Members narrated at paragraph 5.6 hereof are delegated to the Clerk and Depute Clerks to deal with, including:-

- granting an application for confirmation of provisional premises licence;
- all applications for transfer of a premises licence where the transferee has not been convicted of a relevant offence or a foreign offence;
- all applications for variation of a premises licence where the variation is a minor variation as defined in the Act;
- all applications for personal licences or for the renewal of personal licences where the applicant has not been convicted of a relevant offence or a foreign offence;
- all applications for occasional licences where there is no objection or representation received or no notice from the Chief Constable recommending refusal or where conditions proposed by the Chief Constable or other consultees have been accepted by the applicant;
- grant of occasional extensions of licensed hours for a special event of local or national significance (following consultation with the Convener);

- grant of extended hours applications within the Board's normal licensing hours policy and when there is no notice of objection or representation or where conditions have been proposed by the Chief Constable or other consultees and have been accepted by the applicant;
- to decide, where an application for an occasional licence or for extended hours is lodged late, whether the reason given for lateness is sufficient for the application to be processed;
- where satisfied that an application for an occasional licence or for extended hours requires to be dealt with quickly and if so to determine a shortened period for notification being not less than 24 hours.

5.6 Determination of the following are delegated to the Convener and one other Board Member, or in the absence of the Convener, two other Board Members:-

- grant of extended hours or occasional licences for hours which are outwith the Board's Licensing Policy Hours or where objections/representations have been received or conditions proposed and not accepted and which in the opinion of the convener and one other member may be determined without a hearing;
- authority to decide whether any application for a premises licence review is vexatious or frivolous and if so to reject it on behalf of the Board;

5.7 The Board will receive regular reports regarding licences determined under delegated powers.

## **6. OPERATING PLANS**

6.1 All applications for premises licences must be accompanied by an operating plan and a layout plan all complying with the Act and Regulations made under that Act. Operating Plans must make clear how the premises are to be run, what activities will be undertaken on the premises and at what time.

6.2 More specifically, an “operating plan” in relation to any premises is a document in the prescribed form containing:-

- (a) a description of the activities to be carried on in the premises;
- (b) a statement of the times during which it is proposed that alcohol be sold in the premises;
- (c) a statement as to whether the alcohol is to be sold for consumption in the premises, off the premises, or both;
- (d) a statement of the times at which other activities, in addition to the sale of alcohol, are to be carried on in the premises;
- (e) where alcohol is to be sold for consumption in the premises, a statement as to whether children or young persons are to be allowed entry to the premises and, if they are allowed entry, a statement of the terms on which they are allowed entry including, in particular:-
  - (i) the ages of children or young persons to be allowed entry;
  - (ii) the time at which they are to be allowed entry; and
  - (iii) the parts of the premises to which they are to be allowed entry;
- (f) information as to the proposed capacity of the premises;

- (g) prescribed information about the individual who is to be the premises manager; and
- (h) such other information in relation to the premises and the activities to be carried on as may be prescribed.

6.3 Where alcohol is to be sold both for consumption on and for consumption off any premises, the operating plan for the premises may state different times for:-

- (a) the sale of alcohol for consumption on the premises; and
- (b) the sale of alcohol for consumption off the premises.

6.4 In preparing and presenting the operating plan, applicants should be aware that the Board expects premises to be run in a way compliant with, and promoting, the five licensing objectives:-

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

6.5 Although basic guidance may be sought from the Clerk and Licensing Standards Officers, it is for the applicant to make sure that the operating plan is in the correct form and covers all aspects of the operation of the premises.

It is strongly recommended that any applicant, objector or representor seeks independent legal advice.

## **7. BOARD MEETINGS**

7.1 The proceedings of the Board shall be conducted in accordance with the provisions of paragraph 12 of Schedule 1 to the Act. Unless there are justifiable reasons for or as provided in regulations made under the Act, the Board will meet in public.

## **8 HEARINGS**

8.1 Where a hearing is to take place, the Board will attempt to make the experience as informal as possible consistent with the carrying out of the Board's quasi-judicial function.

8.2 The normal procedure will be to hear the submission of the objector or representor in relation to an application or person seeking review of the premises licence. The applicant or agent will then have an opportunity to address the hearing and Board members may ask questions of any of the parties. There will then be an opportunity for final submissions by all parties before the Board makes a decision.

8.3 The Board is entitled to adjourn to consider the application in private. If they do so, the Board will thereafter reconvene in public to resume consideration of, or make a decision on, the application, as appropriate.

8.4 Normally formal evidence will not be called for. It is noted, however, that under Section 133 of the Act, Scottish Ministers may make Regulations providing procedures to be followed at any hearing.

## **9 NOTIFICATIONS OF APPLICATIONS, OBJECTIONS AND REPRESENTATIONS**

The Board will give notice of each premises licence application it receives to those persons referred to in Section 21 of the Act, namely:-

- each person having a notifiable interest in neighbouring land;
- any community council within whose area the premises are situated;
- Renfrewshire Council;
- Chief Constable of Police Scotland; and
- Scottish Fire and Rescue Service

Additionally the Board will list all applications received on Renfrewshire Council's website, [www.renfrewshire.gov.uk](http://www.renfrewshire.gov.uk).

## **10. CONSIDERATION OF PREMISES LICENCE APPLICATIONS**

10.1 The grounds for refusal of a premises licence are set out in full at Section 23 of the Act. If the Board consider that none of these grounds apply it must grant the application and if it considers that one or more apply it must refuse the application.

10.2 When considering whether or not any application should be granted, the Board will take into account relevant matters including:-

- the nature of the premises, the style and type of use, the potential number and profile of the customers likely to attend the premises;
- the proposed hours of operation;
- the means of access to the premises including the location and adequacy of customer entrances and exits;
- the location of the premises which could include such matters:-
  - the level of public transport accessibility for customers either arriving or leaving the premises and the likely means of public transport that will be used by them;
  - the likely level of car parking demand on principal roads and surrounding residential streets in comparison with the existing situation, its effect on local residents and on residential parking and emergency access;
- the provision of appropriate and suitable toilet facilities and ventilation of the premises.

10.3 Where it is possible to take steps to mitigate or prevent any potential impact, the Board may still be able to grant a licence subject to conditions; each case will be considered on its own merits and appropriate advice will be sought by the Board.

10.4 When considering any application for premises which have been previously licensed or in any review of an existing licence, the Board will take into account any historical evidence, especially of the impact on local residents

and will also look at the measures put into effect by the applicant to mitigate the adverse impact.

## **11 OCCASIONAL LICENCES**

11.1 An occasional licence authorises the temporary sale or supply of alcohol which is not authorised by a premises licence.

11.2 It may be applied for by:-

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

to cover a period of a maximum of fourteen days.

11.3 The grant of an occasional licence is subject to the mandatory conditions laid out in Schedule 4 to the Act.

11.4 While premises and personal licence holders can make unlimited applications there are restrictions on the number of applications a voluntary organisation can make, in any period of twelve months. Voluntary organisations are required to submit a copy of their organisation's constitution with each application made. Guidance on applications and the number that can be applied for in any twelve month period can be obtained from the Licensing Standards Officer.

11.4.1 While the Licensing Board is aware that the Act does not refer to the holding of an “event” in the provisions dealing with occasional licences, given their short-term nature and that they are not subject to any requirements for certification, neighbourhood notification or public site notices then where an application is to allow premises to trade on a regular basis prior to a premises licence application having been determined, the application will generally be referred to the Board for consideration in the first instance.

11.5 Event organisers are encouraged to provide as much notice of their event as possible to the Board and to the Chief Constable. Information relating to the event will require to be detailed on the application form and the applicant may be asked to provide supporting documentation. The Board will consult with the Chief Constable and the Licensing Standards Officer on all applications. The Board will normally require at least 28 days notice and if applications are lodged later than this date then no assurances can be given that they will be processed in time. Accordingly applicants lodge them at their own risk. In exceptional cases having regard to the circumstances of the application, the Board, if satisfied that there is a reason to process the application more quickly, may reduce the period of notification to a period of not less than 24 hours.

11.6 The Board will consider on a case by case basis whether it is necessary to impose conditions to give effect to the licensing objectives.

## **12 EXTENDED HOURS APPLICATION**

- 12.1 Extended hours applications allow for an occasional extension of licensed hours and operate only for a period of up to one month. If the Board receives a number of applications to extend licensed hours, it will expect the applicant to consider whether an application should be made to vary the premises licence by adjustment of the operating plan.
- 12.2 The Board may make a determination under Section 67 of the Act to extend licensed hours to enable premises to remain open longer for certain special occasions. In addition to consulting the Renfrewshire Licensing Forum, the Board will request observations from the Chief Constable and from other relevant parties on the issues of crime prevention, public safety and preventing public nuisance. It will notify its determination to the Chief Constable, to holders of licences and other relevant parties and will take appropriate steps to publicise the determination as widely as possible.
- 12.3 Each year the Licensing Board will issue a Statement of its Policy on trading hours for on sale premises for the festive period as stated at paragraph 15.4 . Such extended hours will apply automatically to all those premises which make reference to the Board's Policy on the festive period within Part 4 of the Operating Plan, without the need for an extended hours application.
- 12.4 The timeous lodging of an application set out at paragraph 11.5 above in respect of occasional licences applies equally in terms of the processing of extended hours applications and all applications should be lodged at least 21

days before the proposed date. Late lodged applications are lodged at applicants' own risk. The Board, if satisfied that there is a reason to process the application more quickly, may reduce the periods of notification to a period of not less than 24 hours.

### **13 EXCLUDED PREMISES**

13.1 In terms of Section 123 of the Act, excluded premises includes:

- premises used as a garage; and
- premises used as a garage which form part of larger premises.

No premises licence or occasional licence can be obtained for excluded premises.

13.2 Premises are used as a garage if used for one or more of the following:-

- the sale by retail of petrol or fuel for diesel engined road vehicles (DERV);
- the sale of motor vehicles; or
- the maintenance of motor vehicles.

13.3 There is an exception to this exclusion but only if persons resident in the locality of the garage are or are likely to become reliant to a significant extent on the garage as a principal source of:

- petrol or DERV; or
- groceries.

If that is the case the garage is not excluded premises and may therefore be the subject of a premises or occasional licence.

13.4 The Board will expect an applicant making an application to provide evidence of local residents' reliance on the service together with an impact assessment in relation to the anticipated impact taking into account the licensing objectives.

### **13A MEMBERS CLUBS**

13.A.1 Members' clubs have been included in the premises licensing system. The Scottish Government acknowledges that it would be reasonable to reflect their special characteristics.

13.A.2 In order to benefit from the exemptions available members' clubs will require to meet the criteria prescribed in the Licensing (Clubs) (Scotland) Regulations 2007.

13.A.3 When members' clubs apply to the licensing board they will be asked to certify whether or not they comply with the criteria referred to at paragraph 13.A.2 in order to benefit from the exemptions. If they do the members' clubs will have to submit to the board a copy of their written constitution and rules. They will be subject to inspections by Licensing Standards Officers, who will check clubs for compliance.

13.A.4 Members' clubs will be subject to the same provisions regarding access by children as other licensed premises. They will require to specify in their operating plans whether or not it is proposed that children and young persons are to be allowed entry to the premises and, if so, to specify the terms, to include the times, the ages of such children and the parts of the premises to which they would be permitted access. Appropriate conditions relating to access by children may be attached by the licensing board.

13.A.5 Members clubs are aware that they benefit from exemptions under the Act and as such functions held within the club premises should be for the benefit of the club and its members. Where a club wishes to use its facilities to allow non-members or non-club functions to take place they should consider applying for an occasional licence for that function. Clubs should note that the number of occasional licences that can be obtained for such functions over a calendar year are limited by regulations. Members clubs requiring further information should contact the Licensing Standards Officer.

## **14 OBJECTIONS**

14.1 The following information should in no way be seen as overriding the right of any person to make an objection to an application or to seek a review of a premises licence.

14.2 Any person may submit an objection or representation to the Board in relation to a premises licence. The objection must relate to one or more of the licensing objectives.

14.3 Although anyone is entitled to object to an application for a premises licence or seek a review of a premises licence, the Board may reject an objection or an application for review where it is considered to be “frivolous” or “vexatious”. “Frivolous” and “vexatious” are the words used in the Act. In determining this, the Board is entitled to recover any expenses incurred by the Board in considering the objection or application for review.

14.4 Objections will be considered on their merits and the ordinary meanings of “vexatious” and “frivolous” will be adopted.

## **15 LICENSING HOURS**

15.1 While each application is assessed on its own merits, the following section sets out the Licensing Board’s policy on licensing hours and the reasons for adopting that approach. For applications for licensed premises at times outwith the Board’s policy, applicants will require to demonstrate to the Board that the additional requested hours are appropriate in the circumstances to those particular premises.

In forming this policy for licensing hours the Board has been mindful of the licensing objectives:-

- Preventing crime and disorder;
- Securing public safety
- Preventing public nuisance;
- Protecting and improving public health; and

- Protecting children from harm

## 15.2 **Off-Sale Premises - Reasons for Approach and Policy**

Where applications relate to premises licences and to occasional licences, the licensed hours for the sale of alcohol for consumption off the premises (off-sale hours) are in terms of the Act 10am until 10pm every day of the week. The Licensing Board must refuse an application which proposes licensed hours outwith these times for off sales premises. It is open to the Board to further restrict off sales where it considers that the hours proposed would be inconsistent with one or more of the licensing objectives. In particular, in determining applications and licensed hours, the Board will, in considering the merits, have particular regard to the effect (if any) which the proposed off-sale hours would have on the occurrence of anti-social behaviour. Unless so restricted, the Board will generally permit off sales hours from 10am until 10pm.

## 15.3 **On-Sale Premises – Reasons for Approach**

The Board recognises that licensing hours are important not only to individual premises but also can have a wider impact on the area in which the premises are situated. Accordingly in determining their policy the Board has had regard to how the dispersal of customers late at night from licensed premises throughout Renfrewshire can be managed.

In particular the Board considers that a policy setting staggered closing times for different types of premises taking into account the policing of the late night

economy and the availability of late night transport within Renfrewshire promotes the licensing objectives of (i) preventing crime and disorder; (ii) securing public safety and (iii) preventing public nuisance.

In considering licensed hours the Board has also taken into account the presumption against 24 hour drinking set out at Section 64 of the Act and the Statutory Guidance for Licensing Boards which states “in considering applications for licensed hours Boards may wish to consider applications for up to 14 hours as being reasonable but local circumstances and views of Local Licensing Forums should always be considered. Any application for licensed hours for more than 14 hours should require further consideration to the effect of granting extra operating hours”.

The Board has also had regard to the views of Renfrewshire Community Health Partnership and NHS Greater Glasgow and Clyde on licensing hours in relation to the link between availability of alcohol and alcohol related harm. The Board therefore considers that the licensing objective of Protecting and Improving Public Health is relevant to its policy on licensed hours, particularly in relation to the number of hours a day during which alcohol may be sold and thereafter consumed.

Although promotion of the licensing objectives is paramount the Board recognises that licensing hours contribute to the development of local economies which may be important for investment, employment and tourism within the area.

After consulting widely on the formulation of their updated policy and taking account of all responses received, the Board is of the view that their previous policy on opening hours for on sales premises should be amended to allow for

a standardisation of commencement hours over seven days a week by removing the restriction on Sunday opening hours. This will allow on sales premises the flexibility to commence trading at 11am every day of the week. The Board considers this amendment of the Policy reflects social changes within Renfrewshire and that such an amendment will not detract from the promotion of the licensing objectives.

### **On Sale Premises - Policy**

Whilst considering every application on its individual merits, the Board therefore considers the following policy to be appropriate:-

#### **Commencement Hours: Monday - Saturday**

9.30am: premises, for the purpose only of funeral purveys/receptions (or in the case of registered clubs where club activities are taking place).

and otherwise

11.00am: all premises

#### **Sundays**

11.00am: all premises

**Terminal hours: Sunday – Thursday**

12.00 midnight: all licensed premises (including registered clubs), except premises, the primary purpose of which is to offer entertainment in the form of dancing.

2.00am premises, the primary purpose of which is to offer entertainment in the form of dancing.

**Friday & Saturday**

1.00am all licensed premises (including registered clubs), except premises, the primary purpose of which is to offer entertainment in the form of dancing.

2.00am premises, the primary purpose of which is to offer entertainment in the form of dancing.

3.00am premises, the primary purpose of which is to offer entertainment in the form of dancing and where such premises are members of Paisley Town Centre Radio Link.

15.4 The Board has an existing practice of permitting longer licensed 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.

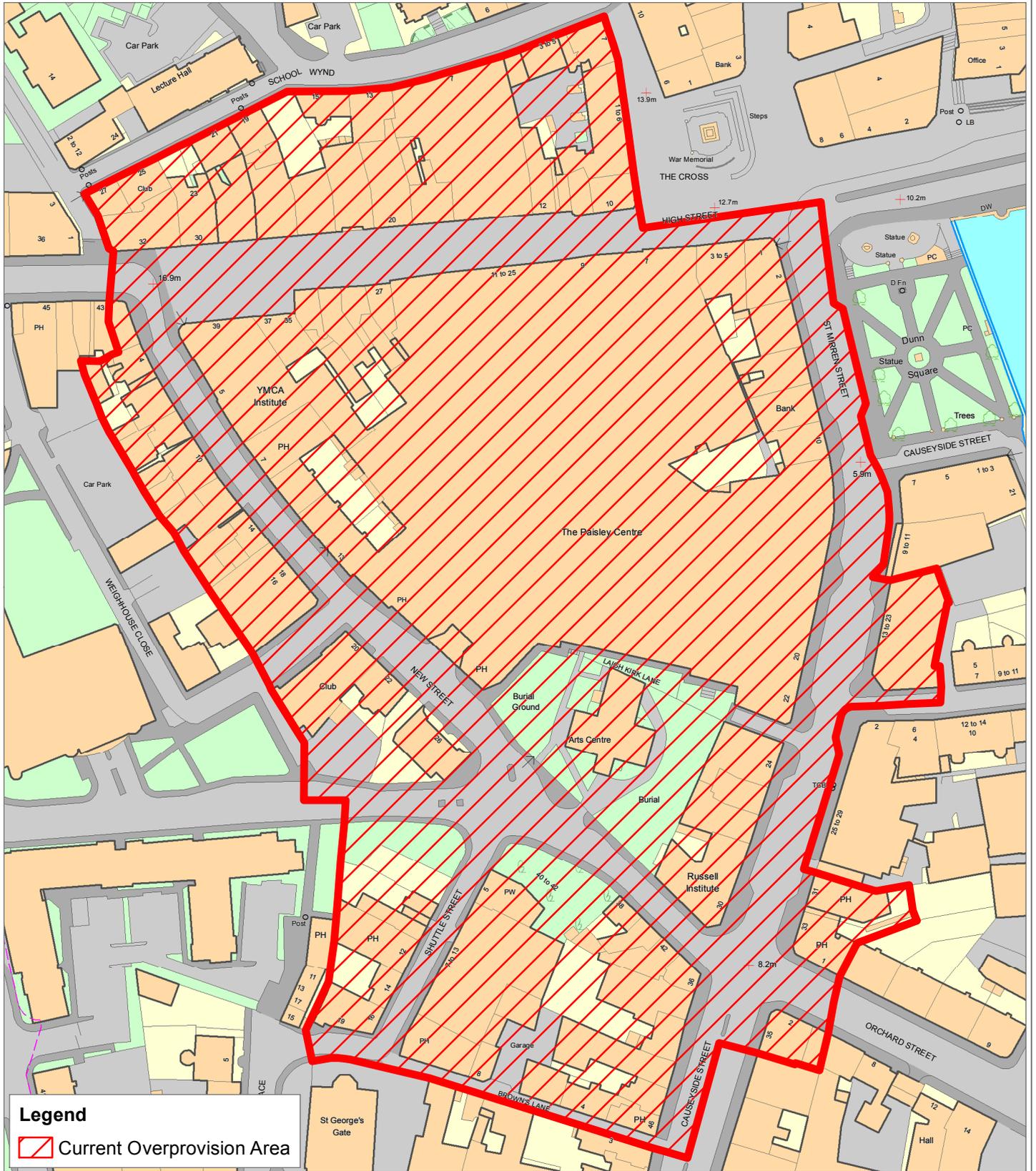
## **16 OVERPROVISION OF LICENSED PREMISES**

16.1 Overprovision of licensed premises in a particular locality impacts on the promotion of the licensing objectives. The Board is under a duty in terms of Section 7 of the Act to produce a statement as to the extent that the Board considers there to be overprovision of licensed premises or licensed premises of a particular description in any locality within the Board's area.

16.2 In determining any "locality", the Statutory Guidance for Licensing Boards indicates that the process is largely a matter for the Board and will no doubt involve the use of its local knowledge. The Guidance also recommends that the information which the Chief Constable is capable of providing is a reasonable starting point. He would be able to:-

- Identify 'hot spot' areas within the Board's area where it can be demonstrated that crime, disorder and nuisance are caused by customers of a concentrated number of licensed premises;
- Suggest other areas in which the number of licensed premises or premises of a particular description is moving closely towards overprovision; and
- Provide the Board with the geographical boundaries of these areas.

16.3 On the basis of the information provided by the Police and having regard to the Board's own local knowledge the Board have continued to determine Paisley Town Centre, as shown on the plan below, as a locality for the purposes of Section 7 of the Act.



Notes:  
Please enter notes here

16.4 In considering whether there is overprovision for the purposes of Section 7(1) of the Act the Board must have regard to the number and capacity of licensed premises in a particular locality as determined by the Board and in this connection the Board have had regard to the number, capacity and description of licensed premises for the above locality.

Following consideration of (i) the responses received to consultation (and, in particular, representations from Police Scotland which were relevant to “Preventing Crime and Disorder”, “Securing Public Safety” and “Preventing Public Nuisance”), (ii) the number and capacities of licensed premises in this locality and (iii) the Board’s local knowledge of the area, the Board determined that this locality remains overprovided in respect of “Liquor or Pub Type Premises”. The Board considers “Liquor or Pub Type Premises” includes Pub Type Premises used exclusively or predominantly for the sale of alcohol and, as such, does not include restaurant, hotel or nightclub premises.

The effect of this policy, in terms of the statutory guidance, is to create, in this locality, a “rebuttable presumption” against the grant of applications for any further licences (or to increase the capacity of existing licences) of the description stated. Those applications would normally be refused on the ground provided by Section 23(5)(e) of the Act that, having regard to the number and capacity of

(i) licensed premises; or

- (ii) licensed premises of the same or similar description as the subject premises

in the locality in which the application premises are situated, the Board considers that, if the application were to be granted, there would as a result be overprovision of licensed premises, or licensed premises of that description in the locality.

Each application will still be considered on its own merits and there may be exceptional cases in which an applicant is able to demonstrate that the grant of the application would not undermine the licensing objectives or that those objectives would not be undermined if the applicant's operating plan were to be modified or the grant of the licence were made subject to appropriate conditions.

The Board reached its decision to adopt this policy following lengthy consultation, during which it received submissions from a number of interested parties. The material considered by the Board in adopting this policy is published at

<http://www.renfrewshire.gov.uk/webcontent/home/services/business/licensing/liquor+licences/cs-ae-statementoflicensingpolicy>

## **17 PERSONAL LICENCES**

17.1 The Board will consider applications for personal licences from individuals living in the area of Renfrewshire.

17.2 Any individual may seek a personal licence. The Board will grant a personal licence if it is satisfied that the applicant:-

- is over 18 years of age
- possesses a relevant licensing qualification
- has not had revoked in the previous five years, ending with the day on which the application was received, a personal licence
- has not been convicted of any relevant or foreign offence.

17.3 Where the Police have advised that the applicant has an unspent conviction for a relevant offence, the Board will consider whether the application should be refused under the Act. In making a decision the Board will have regard to the seriousness and age of the conviction along with any other circumstances it considers to be relevant.

17.4 The holder of a personal licence issued by the Board must undertake further training prior to the 5<sup>th</sup> anniversary of the issue of the licence and each subsequent period of 5 years during which the licence has effect. The licenceholder must produce evidence that the required training has been completed, to the Board no later than 3 months after the expiry of each 5 year period. Failure to undertake the training as required or to notify the Board will result in the licence being revoked.

17.5 To comply with paragraph 17.4 above all licenceholders are required to return their original personal licence to the Board along with a copy of any certificate issued as evidence of completion of the required training. The licence will be updated and returned.

17.6 All licenceholders are advised that they have a duty to notify the Board of any change in name or address within one month of that change taking place. Any changes should be notified in writing to the Board and be accompanied by the original licence.

## **18. LOCAL LICENSING FORUM**

18.1 The formulation of this policy involved consultation with the Renfrewshire Licensing Forum which will keep under review the operation of the Act in Renfrewshire and will advise and make recommendations to the Board as appropriate. The Board will have regard to any advice given or recommendation made to it. If the Board does not follow the advice or guidance, this will be for good and substantial reasons, which reasons will be given in writing within fourteen days of the decision.

18.2 In order to ensure proper communication with the Renfrewshire Licensing Forum, the Board may from time-to-time provide reports to the Forum to enable it to have an appreciation of, and due regard to, the detail of such matters during their deliberations.

## **SECTION B - PROMOTION OF THE LICENSING OBJECTIVES**

### **19 INTRODUCTION**

19.1 The Board will continually promote the licensing objectives and calls on licence holders and other stakeholders to be mindful of these when providing their services. The Board recognises that there are some types of alcohol misuse issues which are not connected to consumption of alcohol in licensed premises.

19.2 The licensing objectives are:-

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

19.3 The following paragraphs set out the Board's general policy in respect of the objectives. The Board may when necessary impose a range of conditions which will be appropriate to a particular licence. The purpose of such conditions will be to promote the licensing objectives.

19.4 In each section relating to the objectives, the Board has defined its intended outcome. Each section lists the influencing factors on the achievement of that objective but, because of the wide variety of premises and activities to which this policy applies, the lists provided are not exhaustive. Applicants will know their own premises best and will be expected to address all aspects relevant

to the individual style and characteristics of their premises and the licensable activities for which they are seeking authorisation.

19.5 In each sub-section, a list of possible control measures is provided. This is intended to be of assistance to applicants, but again is not intended to be an exhaustive list. Many control measures achieve more than one objective but have not necessarily been listed under each objective.

## **20 THE PREVENTION OF CRIME AND DISORDER**

20.1 The Board, in carrying out its functions, will have regard to the likely impact of licensed activities and related crime and disorder when considering the location, operation and management of all licence applications, reviews and variations.

20.2 The Board supports a strategy aimed at making Renfrewshire a safe place to live and visit. The Board is committed to improving the quality of life for the people of Renfrewshire by ensuring that licensed premises are managed in such a way as not to contribute to crime and disorder. Applicants are expected to consider how they will promote the prevention of crime and disorder. The applicants should also be able to demonstrate that all those factors which impact on crime and disorder have been considered. These include:-

- underage drinking;
- drunkenness on the premises;
- public drunkenness;

- illegal possession and/or use of Drugs;
- violent behaviour;
- anti-Social Behaviour; and
- litter.

20.3 Applicants are encouraged to discuss crime prevention procedures in their premises with the Council and Police Scotland. Factors may include underage drinking, drunkenness on premises, public drunkenness, drugs, violent behaviour and antisocial behaviour.

20.4 The following examples of control measures are given to assist applicants who may need to take account of them in their operating plan having regard to their particular type of premises and/or licensable activities:-

- having a written crime prevention strategy;
- effective and responsible management of premises;
- training given to staff to include preventing crime and disorder and conflict management;
- training and effective supervision of staff;
- written policy on mandatory proof of age scheme;
- provision of effective CCTV in and around the premises which complies with current legislative requirements, is fully maintained and an employee trained in its operation always available on the premises;
- security policies and regular toilet checks;

- employment, when necessary, of Security Industry Authority licensed door staff;
- active membership of Pubwatch or Radiolink or similar schemes; participation in initiatives such as 'Best Bar None'.
- provision of litter bins and lighting outside premises;
- provision of plastic or toughened drinking vessels;
- justification for size of measures; and
- choice of size of wine glass.

20.5 Licenceholders are called upon to take positive action to discourage drinking and driving which is a serious offence and can have catastrophic effects on families of both victims and offenders. Licenceholders are, therefore, encouraged to play an active part in preventing drink driving by:-

- displaying anti-drink driving materials;
- supplying reasonably priced non-alcoholic drinks; and
- promoting awareness of campaigns such as designated drivers scheme.

## **21 SECURING PUBLIC SAFETY**

21.1 The Board recognises that "licensed premises" will cover a wide range of premises and activities, each with its own safety risks or issues. The premises must be constructed or adapted and operated in such a manner as to safeguard occupants from those risks or issues. The Board is committed to ensuring that the safety of any person visiting or working in or in the vicinity of licensed premises is not compromised.

21.2 Issues may involve:-

- occupancy capacity of the premises;
- age, design and layout including means of escape;
- nature of activities such as music and dancing;
- hours of operation;
- customer profile (e.g. age, disability, sexual orientation, gender, race, ethnicity); and
- use of special effects such as lasers, pyrotechnics and, smoke machines.

21.3 The following examples of control measures are given to assist applicants who may need to take account of them in their operating plan having regard to their particular type of premises and/or licensable activities:-

- suitable and sufficient risk assessments;
- effective and responsible management of premises;
- sufficient number of staff;
- appropriate instruction, training and supervision of staff;
- training need not only relate to licensing, the sale or supply of alcohol and its misuse but wider issues especially those relating to equal opportunity and diversity;
- having an effective glass management policy either involving the removal of all glassware regularly or by providing toughened or plastic drinking vessels.

- having a written policy on how to deal with customers and any other person in the premises who may become incapacitated or vulnerable due to drink or drugs;
- having first aid facilities;
- informing Police Scotland of any special events taking place in the premises or issues relating to public safety;
- having a written accident recording system;
- displaying local transport information to facilitate safe journeys home for customers;
- adoption of best practice guidance;
- provision of effective CCTV which complies with current legislative requirements, is fully maintained and an employee trained in its operation always available on the premises;
- coverage;
- implementation of crowd management systems; and
- proof of regular testing and certification where appropriate of procedures, appliances and safety systems.

21.4 The Board may request sight of Electrical Safety Certificates, Ceiling or Structural Certificates, Fire Safety Certification, Risk Assessments and a Health and Safety Policy. As other services may have enforcement powers in this connection with these forms of documentation, it is expected that such requests by the Board will be fairly rare and be taken in consultation with those other services.

## **22 THE PREVENTION OF PUBLIC NUISANCE**

- 22.1 Licensed premises have a significant potential to impact adversely on communities, through public nuisances that arise from their operation. The Board wishes to maintain and protect the amenity of residents and local businesses from the potential consequences of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.
- 22.2 Although interpretation is ultimately a matter for the Courts, the Board intends to interpret “public nuisance” widely and understands it to include such issues as noise, light, odour, litter and anti-social behaviour where these impact on those living, working or otherwise engaged in normal activity in an area or locality. Public nuisance may also include waste generated by licensed premises (including where necessary arrangements for dealing with discarded needles) and smoking litter associated with licensed premises.
- 22.3 “Anti-social behaviour” is defined in the Anti-social Behaviour, etc. (Scotland) Act 2004 as behaviour where a person acts in a manner that causes or is likely to cause alarm or distress or pursues a course of conduct that causes or is likely to cause alarm or distress to at least one person who is not from the same household as the person engaging in the behaviour; conduct includes speech.

- 22.4 The Board acknowledges that smoking is not a licensing matter but one for other legislation. The Board expects that licenceholders will be aware of their own statutory responsibilities concerning smoking in public places.
- 22.5 The Board expects that licenceholders will have regard to good practice. It is their responsibility to ensure that patrons do not create a nuisance or disturbance for residents living nearby. This includes noise arising as a result of patrons smoking outside the premises and any associated littering of the area. Licenceholders are reminded that they are responsible for sweeping up cigarette ends and other smoking related waste left by customers when taking a smoking break immediately outside the premises and then re-entering the premises.
- 22.6 Every business has a duty to ensure that waste is disposed of securely and to keep their premises clear of all litter generated by staff and customers. The Board expects licenceholders to be aware of their responsibilities and of the possibility of statutory street litter control notices in the case of non-compliance.
- 22.7 When applicants propose to provide outside seating, tables or other facilities in any outdoor area, whether covered or not, regard should be had to the need to ensure that the use of such areas will not cause disturbance or nuisance to the occupiers of other premises in the vicinity. Licenceholder are responsible for ensuring that all other consents and permissions are obtained including from Planning, Building Standards and any road consent or permit.

22.8 When addressing the issue of preventing public nuisance, the following factors are relevant and should be considered:-

- The location of premises and proximity to residential and other noise sensitive premises such as hospitals, hospices, care homes and places of worship.
- The hours of opening, particularly after 11pm.
- The nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside the premises.
- The design and layout of premises and in particular the presence of noise limiting features and a CCTV system, which complies with current legislative requirements, is fully maintained and an employee trained in its operation always available on the premises.
- The occupant capacity of the premises.
- The availability of public transport and taxis.
- The wind down time between the end of the licensable activities and the closure of the premises.
- The last admission time.

22.9 The following examples of control measures are given to assist applicants who may need to take account of them in their operating plan, having regard to their particular type of premises and/or licensable activities:-

- Effective and responsible management of premises.

- Appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance.
- Control of operating hours for all or parts of the premises – for instance, garden areas, bottle disposal and deliveries.
- Adoption of best practice guidance.
- Installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices which should also be used for external equipment brought onto the premises.
- Management of people, including staff and vehicular traffic and resulting queues, arriving and leaving the premises.
- Liaison with public transport providers.
- Siting of external lighting, including security lighting and installation of an effective CCTV system which complies with current legislative requirements is fully maintained and an employee trained in its operation always available on the premises.
- Effective ventilation systems to prevent nuisance from odour.

## **23 PROTECTING AND IMPROVING PUBLIC HEALTH**

23.1 Licenceholders can help promote this objective in many ways. They can use materials such as posters, beer mats which promote moderate consumption of alcohol along with awareness of units of alcohol and the recommended guidelines for consumption of alcohol by men and women. A wine list, for example, might state how many units of alcohol per glass or bottle together

with a reminder of the guidelines. The Board is concerned about the link between the consumption of alcohol and public health. The Board wishes to see premises thriving in Renfrewshire but this cannot be at the expense of patrons' health and wellbeing. The Board will have regard to the views of, and take advice from the relevant bodies responsible for and interested in the protection and promotion of public health in Renfrewshire.

23.2 Licence applicants, door stewards where employed and premises managers as well as other staff employed in the premises must remain vigilant at all times to the risks of excessive consumption. There should be an established practice within the premises to ensure that a standard approach is taken where a patron's demeanour demonstrates an excessive consumption of alcohol. There should also be a clear understanding of the offences committed in connection with the service of alcohol to children or persons who appear drunk and allowing drunkenness on the premises.

23.3 Reference is also made to paragraph 22.4 of this statement relating to smoking.

23.4 The following examples of control measures are given to assist applicants who may need to take account of them in their operating plan having regard to their particular type of premises and/or licensable activities:-

- displaying anti-drunkenness materials along with information on units of alcohol in the context of recommended guidelines;

- having a workplace alcohol policy in order to raise awareness, minimise harm and ensure that staff are able to access help (without fear of a job loss) when a problem arises; and
- ensuring customers are aware of choice in relation to alcohol measures particularly wine eg small, medium or large glasses should be available.

## **24 PROTECTING CHILDREN FROM HARM**

24.1 The Act defines children as persons under the age of sixteen. The Board encourages applications that make venues family friendly and safe for children. The Board, however, will have particular regard to this objective when:-

- there have been convictions of staff or licenceholders for serving alcohol to underage persons or where premises are in an area where there is a history or other evidence of underage drinking;
- there is a serious element of gambling within the premises;
- entertainment of an adult nature is provided;
- the operating plan shows that the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the service provided (referred to as vertical drinking establishments);
- licenceholders or staff have criminal convictions for offences against children or have otherwise been found unsuitable to work with children.

24.2 The Board wishes to see family friendly premises thriving in Renfrewshire. Where applicants wish to operate such premises, the Board expects them to

appreciate that this places additional responsibilities upon them at the same time recognising that parents and other adults accompanying children also have responsibilities.

24.3 The following examples of control measures are given to assist applicants who may need to take account of them in their operating plan having regard to their particular type of premises and/or licensable activities:-

- effective and responsible management of premises;
- appropriate instruction, training and supervision of staff;
- adoption of best practice, including a written policy on prevention of sales of alcohol to children;
- limitation on the hours when children may be present, in all or parts of the premises;
- limitations or exclusions by age;
- written policy on mandatory proof of age scheme;
- measures to ensure children do not purchase, acquire or consume alcohol;
- measures to ensure children are not exposed to incidences of strong and offensive language, violence or disorder; and
- use of fixed fire guards on open fires and prohibition of mobile heaters when young children are in the premises; and
- availability of high chairs and suitable drinking vessels for young children.

- ensuring staff involved with the delivery of alcohol along with takeaway food have appropriate training.

24.4 When preparing the operating plan or submitting an application or an occasional licence, applicants must set out the terms on which children are to be allowed entry including the ages of children to be allowed entry, times and parts of the premises to which children will have access. The Board will have regard to these terms and if the Board consider it to be necessary will arrange a visit to the applicant premises to inform their determination of the application.

## **25 RELATIONSHIP WITH OTHER STRATEGIES**

25.1 The Board will endeavour to secure proper integration with local crime prevention, community safety, health, planning, transport, tourism and equality and cultural strategies.

25.2 There are a number of wider issues which require to be given due consideration when dealing with applications. The Board will receive, when appropriate, reports on the needs of tourism in relation to Renfrewshire, from the Council's Director of Development and Housing Services and the Town Centre Action Plan to make sure that these are reflected in the Board's consideration.

25.3 The Board recognises that licensing applications are not, and should not be seen as, a re-run of the planning application process and that there is a clear separation of the planning and licensing regimes. There will, however, continue to be proper liaison and communication between these two regimes.

25.4 In addition, the Board will not attach conditions to a premises licence unless these are considered necessary for the promotion of the licensing objectives. Conditions will generally be considered unnecessary where these would relate to matters already also covered by other legislation.

## **26 AVOIDING DUPLICATION**

26.1 The Board will, so far as possible, avoid duplication with other regulatory regimes such as health and safety at work, fire safety, building standards and planning. However the Board recognises that there will be areas where responsibilities overlap between the Board and other public authorities or bodies e.g the Boards responsibilities under Equalities legislation.

## **27 CONDITIONS**

27.1 The Act, in Schedule 6, provides mandatory conditions for premises licences. The Board also has power to impose licence conditions. These conditions will not be inconsistent with or seek to strengthen or restrict mandatory conditions and will only be imposed when considered necessary for the promotion of the licensing objectives.

27.2 In line with the above, the Board have agreed various local conditions to be applied to particular premise type/activities. These are attached at Appendices I, II and III hereof.

## **28 THE HUMAN RIGHTS ACT 1998**

28.1 The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for bodies such as the Board to act in a way which is incompatible with a Convention Right. The Board will have particular regard to the following relevant provisions of the European Convention on Human Rights in respect of its licensing responsibilities:-

- Article 6: that in the determination of civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law;
- Article 8: that everyone has the right to respect for their home and private life; and
- Article 1 of the First Protocol: that every person is entitled to the peaceful enjoyment of their possessions including, for example, the possession of a premises licence.

## **29 EQUALITY**

29.1 The Board values and celebrates the diversity that exists within Renfrewshire and wants to ensure that everyone can fully participate in the social, cultural, political and economic life of Renfrewshire.

- 29.2 The Board opposes all forms of unlawful discrimination including discrimination on the grounds of race, ethnicity, gender, sexual orientation, age, religion and disability and recognises that discrimination creates barriers to achieving equality for all people.
- 29.3 The Equality Act 2010 provides Scottish Ministers with power to impose “specific duties” through regulations on Scottish Public Authorities. The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 came into force on 27 May 2012 and can be accessed online at:  
<http://www.legislation.gov.uk/sdsi/2012/9780111016718/contents>.
- 29.4 The “specific duties” set by the Scottish Ministers support and enable better performance of the “general duty” which requires public authorities to pay due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations as set out in Section 149(1) of the Equality Act 2010.
- 29.5 Renfrewshire Licensing Board as a public authority is required to publish progress made in mainstreaming the equality duty and a set of equality outcomes in order to meet the requirements of the equality duty. Equality outcomes are defined by the Equality & Human Rights Commission as results intended to achieve specific and identifiable improvements in people’s life chances.

29.6 Reference is made to the Progress Reports on Mainstreaming Equalities and Equality Outcomes of the Board and Renfrewshire Council which are set out in full at

<http://www.renfrewshire.gov.uk/webcontent/home/Services/Community+and+living/Equality+and+diversity/>.

### **30 ENFORCEMENT**

30.1 The Board will follow best practice in enforcement including adoption of the best Regulation Principles and the Hampton Standards, namely, that its actions will be: proportional, accountable, consistent, transparent and targeted.

30.2 Renfrewshire Council have agreed to appoint two Licensing Standards Officers (LSOs) (i) to investigate allegations of unlicensed activities, (ii) to ensure that licence conditions are complied with and (iii) to provide information, guidance and a mediation service. It is a mandatory condition of the Act that the LSOs are fully trained thus enabling them to carry out their functions efficiently. The LSOs will be members of the Renfrewshire Licensing Forum.

30.3 Initially, it is anticipated that resources will be targeted towards high-risk premises and activities that require greater attention whilst a lighter touch will be provided in respect of low-risk premises which are well operated.

30.4 The Board will liaise closely with its partners to assist licenceholders to comply with the law and the five licensing objectives it seeks to promote. Proportionate but firm action will be taken against those who commit offences. In particular the Board anticipates co-operation with the Police and to share information where appropriate in order to enhance the promotion of the five licensing objectives.

30.5 When a matter is submitted to the Board by the Licensing Standards Officer, it is expected, except in the most serious cases, that attempts will already have been made through advice, mediation and negotiation to address the matter. It is, therefore, envisaged that very few such cases will need to be submitted to the Board.

It should be appreciated, however, that, in appropriate cases, the Board will not hesitate to use its powers to suspend or revoke a licence, notwithstanding that this may have a detrimental impact on the business.

## **31 TRANSPORT**

31.1 In time there will be a statement of arrangements agreed between Police Scotland and Licensing Standards Officers for reporting concerns to Renfrewshire Council's Community Resources (Roads).

**FUNERAL CONDITION**

Funeral purveys taking place from 9.30am where alcohol has to be sold require a formal intimation to the Board 24 hours before the function.

## APPENDIX II

### Local Conditions for Nightclub Type Premises

1. The premises licence holder at all times when the premises are open to the public during the permitted hours shall operate a mechanical or electronic counting system which is capable of accurately recording the number of persons entering and leaving the premises.
2. In relation to the said counting system, the premises licence holder or person or persons appointed by the premises licence holder for that purpose shall at any time upon a request being made by a Police Constable, a Licensing Standards Officer or any member or person authorised in writing by the Licensing Board immediately provide accurate information on the number of persons within the premises.
3. During the licensed hours when the premises are open to the public, the premises licence holder shall have present on the premises stewarding personnel licensed by the Security Industry Authority to provide for the maintenance of public order and the proper management control, safety and the general well being of patrons on the premises.
4. During hours when the premises are open to the public, the premises licence holder shall ensure that empty glasses and bottles from the premises are reasonably cleared from areas to which the public have access. No glasses or bottles shall be permitted in cloakrooms, toilets or on dance floors located in the premises. Sufficient shelves, ledges, tables and counters shall be provided in the premises to accommodate glasses and bottles for collection. It is recommended that any receptacles used in the premises are made of plastic.
5. A person trained to the satisfaction of the Licensing Board in administering first aid must be present on the premises from the initial time of opening the premises to the public.
6. The premises licence holder shall prominently display at the entrance to the premises a noticeboard with a warning in the following terms:-  
  
WARNING  
  
DRUGS AND OFFENSIVE WEAPONS  
  
Under no circumstances will the use of illegal drugs or the carrying of offensive weapons be permitted on these premises.  
  
As part of our commitment to our customers and to achieve a safe and drug free environment, all persons entering these premises are liable to be asked as a condition of entry to submit to a search.  
  
If you are found in possession of drugs or offensive weapons, these will be taken from you and the Police will be informed.
7. Unless there are good reasons for not implementing a search policy in relation to all patrons which reasons shall have been intimated to the Licensing Board in advance of any change in practice, the premises licence holder shall implement a system of searching of all patrons at the point of entry using appropriate search techniques.