

## JOINT MEETING - LOCAL LICENSING FORUM AND LICENSING BOARD

ABERDEEN, 3 July 2014. Minute of Meeting of the JOINT MEETING - LOCAL LICENSING FORUM AND LICENSING BOARD. Present:- Sandy Kelman, Convener; Councillors Boulton, Carle, Lawrence and Townson; and Ruary Campbell, Ken Eddie, Tara-Erin Gilchrist, Inspector Jim Hume, Shamini Omnes (as substitute for Linda Smith), Emily Queen and Diane Sande. Officers in attendance:- Eric Anderson, Lynn May and Stephanie Dunsmuir.

### WELCOME AND INTRODUCTIONS

1. The Convener welcomed everyone to the annual joint meeting of the Licensing Board and the Local Licensing Forum. He advised that as the Convener of the Licensing Board had chaired the previous year's meeting, it was the turn of the Local Licensing Forum Convener to chair today's meeting.

### MINUTE OF PREVIOUS MEETING

2. The Joint Meeting had before it the minute of its previous meeting of 27 June 2013.

In relation to article 5(2) - Equalities Act 2010, it was noted that the text should read 'the Board has replaced three policies (**race**, disability and gender)' and not 'the Board has replaced three policies (**rule**, disability and gender) as set out in the minute.

#### The Committee resolved:-

subject to the amendment of article 5(2) as outlined above, to approve the minute as a correct record.

### MATTERS ARISING

3. The Convener referred to article 8 of the minute of the previous meeting (Door Supervisors' Working Group) and asked if there was any update. Eric Anderson advised that the Working Group had held several meetings, but there had been difficulty getting the necessary information from the licensed trade in relation to the number of door stewards employed. He added that imposing a condition in relation to the number of door stewards would also have involved a series of review hearings for the particular premises involved. The consensus of those involved had therefore been that the issue had been investigated as far as possible, but that it was difficult to bring the matter to a conclusion. Councillor Boulton added that the licensed trade had given the impression that they felt it was an operational matter for them to take forward, and that they recognised that if a problem arose as a result of a lack of door stewards, their licence could be in jeopardy. Inspector Hume agreed, and advised that national advice had been sought, however there was no onus on the Licensing Board to dictate the

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number of stewards employed. The Security Industry Authority (SIA) was looking nationally to develop a policy in relation to risk assessment for premises. The Police were in contact with the National Licensing Policy Unit to see how they could assist, and Inspector Hume advised that this this would come back to either the Licensing Board or the Local Licensing Forum in due course.

Finally, Inspector Hume advised that the Police had recently given a presentation to both the licensed trade and the Local Licensing Forum on how Police Scotland was operating with licensed premises, and suggested that the Licensing Board might also find the presentation to be of interest, as it gave clarity on how the Police took decisions.

### **The Joint Meeting resolved:-**

- (i) to note the update in relation to the Door Stewards' Working Group, and the fact that the issue had been taken as far as it could be at present; and
- (ii) to agree that the Police give their presentation to the Licensing Board, at a date to be arranged.

## **STATEMENT OF LICENSING POLICY 2013-2016**

### **GENERAL OBSERVATIONS**

4. The Convener began by welcoming the finalised Statement of Licensing Policy, particularly the sections on over-provision and off-sales, as he noted that few Licensing Boards had included this in their policies. He added that the Forum had felt that the Policy could have been more aspirational, and not simply tied to legislation. The Forum had recognised the time pressures involved in preparing the new Policy but had felt that much of the Policy had been lifted from the last document, as opposed to taking a fresh look at how it could operate. The Convener suggested that the Board and the Forum work together over the next couple of years on the next version of the Policy, particularly as there would be new legislation coming forward. Finally, the Convener advised that the Forum had noted some inaccuracies and layout errors.

Councillor Townson stated that he felt that the Policy was not working as hoped in relation to over-provision of off-sales. He agreed that the Policy should be more aspirational, particularly in terms of sale and display. Councillor Boulton added that the Policy was in a 'bedding-in' period and that was important to strike the right balance with the licensed trade. She hoped that the Policy came across as constructive, and noted that it would evolve through legislation and input from the Local Licensing Forum. Councillor Boulton added that she liked the idea of the Policy containing an aspirational statement, and suggested that this could be considered by the Board and officers.

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The Convener agreed with the importance of working with the licensed trade, and added that he was delighted that the Forum had recently appointed Ruary Campbell of UNIGHT as its Vice Convener. He added that it was still difficult to establish links with supermarkets.

### **The Joint Meeting resolved:-**

to note that the Board and officers would look to include an aspirational statement in the Statement of Licensing Policy.

### **OBSERVATIONS ON ITS USE IN PRACTICE**

5. The Convener asked the Board if they had any comments on how the Policy operated in practice. Councillor Boulton advised that she found it frustrating when applications which seemed on the surface to be straightforward approvals or refusals then became complicated. She advised that the Board would always go to the Policy as their starting point for any decisions. Further training was to be given to members of the Licensing Board in September / October.

Councillor Boulton referred to the objections made to applications by the Police and the NHS, and suggested that the Board would find it particularly helpful if the submissions contained more area-specific information – for example, the number of incidents in that area, or the number of admissions to Accident and Emergency which were alcohol related. The Convener added that although the submissions could include more local information, evidence showed that people would often travel several miles to purchase alcohol, for example, at a supermarket, so this would also need to be taken into consideration. Shamini Omnes advised that the NHS was starting to work with local communities to discuss where alcohol purchases were being made. Councillor Carle agreed that the Board needed to receive localised data which would back up the Policy and link to the Licensing Objectives.

Ruary Campbell suggested that the data should already have been used to determine where there was over-provision. Councillor Boulton explained that the current classification of areas of over-provision had occurred following the experiences of the previous Licensing Board. If, for example, only the city centre was classed as an area of over-provision, the problem would simply be displaced elsewhere. Mr Anderson advised that the Policy was not set in stone, and there could be exceptions and occasions to look at specific evidence. The additional data being requested could then be used in cases where exceptional circumstances were being cited.

Inspector Hume highlighted perceived anomalies in the Board's decisions, stating that two premises in the same street had applied for a licence and one had been granted, while the other had not due to over-provision. He added that the statement of reasons

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was unclear as to why this had occurred. He advised that the Police had the capacity to break down the number of crimes in a particular area which were alcohol related, however there was a risk that perhaps only one or two premises were affecting the statistics in that area, rather than off-sales. He also asked how 'locality' would be defined – for example, if the locality was defined as the city centre, it would be very unlikely for anyone to be granted a licence based on statistics. Where there were incidents, the alcohol might not have been sourced in that area, and Inspector Hume highlighted the issue of 'pre-loading', where people would drink at home prior to going out for the evening. He added that the Licensing Board would require to give clear direction on the information they required for a particular area. Councillor Boulton suggested that a session could be arranged to discuss the type of information the Board would find useful.

It was also agreed that the input of Community Councils was key to obtaining more information about the impact of decisions on local areas. If possible, input should also come from local GP practices.

The Convener referred to section 1.4 of the Statement of Licensing Policy and suggested that the wording "...The pursuit of these five objectives is a principal feature of the Board's policy. The objectives provide a basis for refusal of an application for the grant of a premises licence or of an occasional licence..." could be amended as follows:-

"The pursuit of these five objectives is a principal feature of the Board's policy. The objectives provide a basis **for assessment for determination** of an application for the grant of a premises licence or of an occasional licence..."

Councillor Boulton agreed and stated that she could discuss this with Mr Anderson outwith the meeting.

Councillor Townson referred to alcohol displays in supermarkets, and added that in other cities, the displays were closed off to the public. He asked if the Police had undertaken any discussions with supermarkets around their displays. Inspector Hume advised that the Police would have input to supermarket designs from a security perspective, but the manner in which alcohol was displayed on a premises seemed to be more an issue for the Licensing Board when they consider the licence application. He added that if there was a specific problem at particular premises, the Police would work with that premises. Councillor Boulton stated that she would like people to have to pay for alcohol separately at supermarkets, but this would need to be implemented through a change in legislation, and was not something that the Board could instruct. Mr Anderson added that this had been one of the matters under consideration by the Government, but had not been carried forward into the Bill. The Convener advised that the Alcohol and Drugs Partnership would support this approach, as alcohol should not be seen as an ordinary grocery item, and paying for it separately might change the public's perception of this.

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### **The Joint Meeting resolved:-**

- (i) to note the request that the Police and the NHS provide more area-specific information for the Licensing Board, and to note that a session could be arranged to enable the Board to provide guidance to partners on the type of information it would find useful; and
- (ii) to note the suggestion in relation to the wording of 1.4 of the Statement of Licensing Policy (as set out above) and to note that Councillor Boulton and the Clerk to the Licensing Board would discuss this outwith the meeting.

### **CHALLENGES**

6. The Joint Meeting noted the challenges which had already been discussed, and Councillor Boulton reiterated that the main challenge for the Board was not to undermine the Policy with its decision-making. She asked that the Forum allow time for the Policy to bed in, highlighting that it was a new document and that it worked in a different way to the previous Policy. She added that it was important for there to be trust between the Board, the licensed trade and the consultees. Councillor Townson added that the Board found it a challenge when solicitors interpreted the policy in a certain way which did not correspond with the Board's view.

### **GENERAL REASONS FOR ANY DECISIONS BEING MADE CONTRARY TO POLICY**

7. The Convener referred to recent Licensing Board meetings and suggested that it seemed that high volume, low cost sales were the main problem and as a result, high cost, low volume sales would be granted a licence against the policy of over-provision. Mr Anderson advised that there would be occasions when the Board decided that the Policy could be relaxed, or that a licence could be granted with conditions, noting that the Board had to weigh up the evidence it had before it. Councillor Boulton added that the training planned for later in the year would assist the Board in taking decision which supported the Policy. She added that the Board would also often divide on decisions which seemed to be going against policy. Each application had to be judged on its own merits, against the backdrop of the Policy. Councillor Carle highlighted some positive aspects of the new Policy, noting that solicitors now had to come before the Board and explain how the application would promote the Licensing Objectives. The Board had also been able to implement more conditions on granted licences.

### **EVALUATION OF IMPACT ON POLICY**

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8. The Convener referred to the letter sent by the Forum to the Board in April 2013 which suggested how the Policy could be measured and evaluated. He asked how the Board would evaluate the Policy in 2016 against the Licensing Objectives to know if it had been successful. He advised that he and the Clerk to the Licensing Forum had attended a meeting with a representative from Alcohol Focus Scotland where it had become apparent that the Aberdeen policy and the Local Licensing Forum were seen as being good examples in comparison to some of the other Scottish areas. He added that the Forum had recently considered how to measure the impact of the statistics reported to each meeting, as well as the type of information that the Forum should be receiving on a regular basis, and advised that the Forum was to hold a workshop session later in the year to discuss this in more detail. Given the earlier discussions, he added that members of the Board were welcome to attend that workshop.

Councillor Boulton noted that simply measuring the number of refusals would not necessarily show the impact of the Policy, and added that it was important to note that the context of a decision would not be reflected by simply looking at statistics, or the conditions imposed. She suggested that the Policy could be measured through other means, such as the retention of the Purple Flag, the relationship between partners, an improved relationship with the media, and the public perception in relation to alcohol. She referred to the previous City Voice questionnaire and suggested this could be run again in future. It was suggested that a measure of the Policy's success could be as straightforward as any adjustments made as a result of the Policy. Another improvement could be the use of additional information which was being requested from the consultees, as this could have a positive impact on the Board's decision-making. Councillor Boulton added that it had been encouraging for the Board to have input at a recent meeting from a local Community Council, and suggested that their attendance and input could also be part of measuring how the Board was improving.

The Convener referred to the Scottish Government request for statistical information from ADP on legal highs, and advised that this was set out in a red, amber and green format. He suggested that this might be useful to illustrate statistical information against the five Licensing Objectives. He added that it would be useful to have a snapshot of the current status against the Objectives and then this could be compared against where things were at the end of the Policy's lifespan. He stated that he felt that ADP and the Licensing Forum could support the Board through provision of information and performance data, and suggested that this could be discussed at the workshop to be arranged for later in the year.

**The Joint Meeting resolved:-**

- (i) to note the suggestions around how performance could be measured and evaluated; and
- (ii) to note that the Local Licensing Forum was to hold a workshop session on this topic later in the year and that the date would be conveyed to the Licensing Board so that they could attend if they wished.

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**AOCB****9. UNIGHT**

Ruary Campbell advised that while the media occasionally reported on decisions of the Licensing Board, it was difficult to get any media interest on issues such as the Purple Flag and the work being done by ADP in relation to educational material, and suggested that this could be something for the Board and Forum to look at in future.

He also asked for an update on the refresher certificates. Mr Anderson advised that all the procedures were in place, and it was now up to licence holders to submit their paperwork for processing. He added that it was a huge job for the service and asked that if there were any concerns with the process, that these be raised with the team. The general message was that licence holders should communicate with officers and not leave the organisation of their training to the last minute.

Mr Campbell added that the training had not been updated in the last five years, and suggested that this could be looked at in future. He also added that there were potential issues with the role of premises manager, namely that there was no criteria which stipulated that the premises manager required to hold a personal licence, nor any additional qualifications which were necessary. He suggested that there could be a qualification for premises managers. He also noted that although he had submitted his paperwork in February, he had yet to receive his certificate.

Mr Anderson advised that although there might be delays in the certificates being received due to the volume of paperwork to be processed, the important factor was for the training to have been undertaken prior to the deadline, so as long as this had been done, licence holders should not be concerned if they did not receive their certificate before the deadline had passed.

In relation to the issue of premises manager, Councillor Boulton advised that any qualification for premises managers would have to be progressed via legislation, although she added that the Licensing Board could lobby for this if required. She added that the Licensing Standards Officers could also highlight any concerns to the Board. Inspector Hume noted that there had been issues with the level of management at some premises, and suggested that the Police presentation could be given to a wider audience, through UNIGHT.

**BEST BAR NONE**

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Emily Queen took the opportunity to remind the Joint Meeting of the Best Bar None scheme, highlighting that it showed willingness on the part of premises to work towards best practice. She suggested that the Board could be mindful of this where applications were received from premises who had membership of either UNIGHT or Best Bar None.

### **AIR WEAPONS AND LICENSING BILL**

Eric Anderson updated the Joint Meeting on the above Bill which was to take effect from 2015. He highlighted particular changes to the legislation, including:-

- the creation of a new offence for supplying alcohol to children and young people for consumption in a public place
- the amendment of Licensing Objective 5: Protecting Children From Harm to include 'young people'
- a change to the duration of the Statement of Licensing Policy to better align with the term of the Licensing Board
- changes to the fit and proper person test
- the removal of the automatic requirement for a hearing
- spent convictions would no longer be disregarded
- it would be the duty of the Licensing Board to prepare an annual financial report
- the removal of the five year restriction in relation to refresher training

Mr Anderson advised that officers would look at the impact of the Bill and identify if any further response was required.

Inspector Hume noted that the Police had written to the Licensing Board about proof of identity for applicants, and asked if the issue had been resolved. Mr Anderson advised that the matter was still to be determined.

### **MEMBERSHIP OF LICENSING FORUM**

Councillor Lawrence asked about the off-sales representation on the Local Licensing Forum and suggested that a truer picture in relation to off-sales would be available if other partners were invited to participate in the Forum. The Convener advised that it had proved difficult in the past to engage with off-sales retailers and Councillor Lawrence stated that his son worked for Morrisons, and would be happy to be involved.

### **ACTIVITIES FOR YOUNG PEOPLE**



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Ken Eddie suggested that the Council could look to open up venues such as the Beach Ballroom for young people who wanted somewhere to go, but might not want to go to a licensed premises. The Convener suggested that this suggestion would probably be better directed to youth workers, and Councillor Lawrence advised that with the recent changes to community centres, although there were many youth workers who were keen to set up activities for young people, at the moment, the staff and volunteer levels were such that this was proving to be difficult. The Convener thanked Mr Eddie for the contribution however, noting that there was evidence that diversionary activities were a contributing factor to avoiding the intake of alcohol.

Finally, the Convener thanked all members for their attendance, and advised that the Clerk to the Licensing Forum would liaise with the Clerk to the Licensing Board about the date of the next annual meeting.

- **ALEXANDER KELMAN, Convener**