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To: Members of the Licensing Board and the Local Licensing Forum

Town House,
ABERDEEN 23 August 2017

JOINT MEETING - LOCAL LICENSING FORUM AND LICENSING BOARD

The Members of the **JOINT MEETING - LOCAL LICENSING FORUM AND LICENSING BOARD** are requested to meet in **Committee Room 2 - Town House** on **THURSDAY, 31 AUGUST 2017 at 2.00 pm.**

FRASER BELL
HEAD OF LEGAL AND DEMOCRATIC SERVICES

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JOINT MEETING – LOCAL LICENSING FORUM AND LICENSING BOARD

ABERDEEN, 8 June 2016. Minute of Meeting of the JOINT MEETING - LOCAL LICENSING FORUM AND LICENSING BOARD. Present:- Alexander Kelman, Convener; Councillors Boulton, Cameron, Carle, Copland, Donnelly and Lawrence; and Peter Benton, Ken Eddie, Sgt Gill Flett, Tara-Erin Gilchrist, Kerry Laing, Leanne McGowan, Edgar Organesjan (as substitute for Giedre Nenuite), Shamini Omnes, Diane Sande, Miriam Smith (as substitute for Dave Bliss), Sarah Wheeler (as substitute for Stuart McPhee) and Heather Wilson. Officers in attendance:- Ruth O'Hare and Iain Robertson.

Apologies: Cllr Townson, Dave Bliss, Daniel Forbes and Stuart McPhee.

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 2 July 2015.

The Joint Meeting resolved:-

To approve the minute as a correct record.

MATTERS ARISING

3. The Convener referred to article 7 of the minute of the previous meeting (Off Sales Capacities) and confirmed that this information had been received.

The Joint Meeting resolved:-

To note that officers had provided a list of off sales capacities to the NHS and the Licensing Forum.

UPDATE FROM THE DEPUTE CLERK TO THE LICENSING BOARD

4. The Depute Clerk provided the Joint Meeting with an update on licensing developments and areas of legal challenge since its previous meeting on 2 July 2015. She advised that the Statement of Licensing Policy (SLP) would be undergoing a refresh and she was grateful for the initial consultation responses from NHS Grampian and Police Scotland, and explained that the timeframe for the approval of the refreshed SLP had been extended by the Scottish Government by 18 months. The Depute Clerk

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summarised the main provisions of the Air Weapons and Licensing (Scotland) Act (2015) as it pertained to licensing and advised that the Licensing Board was required to produce an annual report on the Board's functions and finances. She highlighted that the Licensing Team was undergoing a period of great change as Fraser Bell had been appointed as the Clerk to the Licensing Board, in his capacity as Head of Legal and Democratic Services and her predecessor as Depute Clerk, Eric Anderson had now retired. She added that she had been appointed as the Licensing Team Leader and the Council was in the process of recruiting solicitors and paralegals to support the Council's licensing functions.

The Joint Meeting resolved:-

- (i) to note the update from the Depute Clerk;
- (ii) to welcome Fraser Bell on his appointment as Clerk to the Licensing Board;
- (iii) to welcome Ruth O'Hare on her appointment as Depute Clerk to the Licensing Board and Licensing Team Leader; and
- (iv) to wish Eric Anderson well on his retirement.

LICENSING FORUM RECOMMENDATIONS FOR THE CONSIDERATION OF THE LICENSING BOARD

5. The Joint Meeting had before it a letter from the Convener of the Licensing Forum to the Convener of the Licensing Board dated 13 January 2016 which outlined the Forum's recommendations to the Licensing Board as per Section 10 of the Licensing (Scotland) Act (2005) and the Alcohol Focus Scotland Community Licensing Toolkit.

ASPIRATIONAL STATEMENT

6. The Convener welcomed the draft aspirational statement and advised that it could be further strengthened through alignment with all five of the licensing objectives. The Depute Clerk explained that she would be happy to revisit the statement in consultation with the Board. Councillor Boulton highlighted that an inclusive statement should be developed that provided the Board with the requisite flexibility to make decisions so careful wording would be needed in order not to alienate key partners. She suggested that the Forum could prepare another draft for the Board's consideration in its capacity as a critical friend.

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SLP REDRAFTED IN PLAIN ENGLISH

7. The Convener noted that the SLP should be as transparent as possible and he recommended that the current legalistic language be replaced in favour of plain English to ensure that the process was as accessible as possible. He informed the Joint Meeting that he would welcome a complete refresh of the SLP in this regard rather a revision of the current policy. The Depute Clerk explained that the licensing process would be undergoing a revamp and would include a refresh of the SLP and noted that she supported the introduction of plain English for the Board's functions insofar as possible. Councillor Boulton reminded members that the current SLP was only in its second iteration and that the timeframe for finalising the new policy had been increased by the Scottish Government so there was greater scope to refresh the policy and transition to the new process.

BASELINE DATA

8. The Convener recommended that the Licensing Board should consider compiling data in order to measure and evidence how successful the Board had been in delivering on the five licensing objectives set out in legislation and he suggested a number of indicators for the Board's consideration. The Depute Clerk advised that there would soon be a statutory requirement for the Board to produce an annual report and this would include information on occasional licenses and the Board's financial performance and expenses. Councillor Boulton noted that if new performance indicators were to be introduced then a narrative on performance should accompany them to set the quantitative data in context.

RECORDING OF DECISIONS

9. The Convener advised that the Licensing Board had not always recorded the specific conditions of the approved license and this made it challenging for Licensing Standards Officers to monitor and enforce the terms of the license. He proposed that the new SLP should articulate the process to ensure that if approved, the full terms would be recorded as part of the conditions of granting the license. Councillor Boulton advised that she would be happy to accept this proposal.

SETTING MINIMUM DISTANCES FOR LICENSED PREMISES

10. The Convener noted that the Board's previous policy had stated that there was an overprovision of licensed premises in Aberdeen City and asked if the Board would consider adding minimum distance criteria to the refreshed SLP, whereby an

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application would be refused unless the proposed venue was a defined distance away from the nearest licensed premise. He added that it would be a matter for the Board to decide at what distance the criteria should be set at. Councillor Boulton explained that she was open to this proposal but would have to check its legality, and Councillor Carle highlighted that the Board had to be mindful that previous overprovisioned policies had been overturned in court. The Depute Clerk advised that the Air Weapons and Licensing Act (2015) had revised provisions relating to designation of overprovisioned areas and explained that she would raise the issue at a meeting of the Society of Local Authority Lawyers and Administrators in Scotland (SOLAR) for discussion with other authorities and would report back to the Forum on the outcome of these discussions.

SETTING SHELF SPACE LIMIT FOR ALCOHOL PRODUCTS

11. The Convener highlighted that in addition to price and availability, recent evidence suggested that the display and prominence of alcohol products in licensed premises could also be having an impact on alcohol consumption levels and he asked the Board to consider introducing a shelf space limit for alcohol products to emphasise the message that alcohol was no ordinary commodity.

Councillor Boulton advised that with regards to the review of SLP, nothing would be off the table but she would have to check the legality of the proposal and undertake appropriate consultation. She noted that licensing applications had to include operational or layout plans for prospective premises and if granted, these plans would be subject to inspection by Licensing Standards Officers who report to the Licensing Board.

LICENSING BOARD GUIDANCE ON SURVEYS TO SUPPORT APPLICATIONS

12. The Convener noted his concern that licensing applicants had been producing their own surveys to evidence community support for their applications and he enquired if the Board would consider discarding these surveys unless conducted or endorsed by community councils. The Depute Clerk advised that she would discuss this issue with the Council's Community Council Liaison Officer to find out if community councils had the capacity to perform this function; and members also highlighted that not all areas of the city had a functioning community council. The Depute Clerk explained that the weight members placed on surveys presented to the Board by applicants would be at the discretion of Board members and each application would be looked at on its merits.

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OVERVIEW OF THE LICENSING PROCESS – PUBLIC ACCESS AND ENGAGEMENT

13. The Convener highlighted a number of issues related to the user friendliness of the Licensing Board's webpage, to which the Depute Clerk and the Clerk to the Licensing Forum advised that they would liaise with each other to provide a more integrated system for service users. The Convener noted that Alcohol Focus Scotland had produced a toolkit which aimed to assist individuals and community groups to navigate the licensing process and asked if this had been uploaded onto the Board's webpage. The Depute Clerk explained that legal colleagues had been looking at the legality of endorsing guidance on the licensing process from an external source and she would report back to the Forum on this matter in due course. She also recognised that the licensing process could be arcane and complex to members of the public and advised that she would speak to other licensing boards to learn best practice with regards to community engagement.

The Joint Meeting resolved:-

- (i) to note the correspondence;
- (ii) to note the Alcohol Focus Scotland Toolkit;
- (iii) to request that the new SLP provide greater detail on how the Board processes decisions, so that on occasions where a license was granted under specific conditions these were recorded as a condition of the license being granted;
- (iv) to request that the Depute Clerk provide an update to the Licensing Forum on her discussions with SOLAR on the development of an overprovision policy in localities;
- (v) to request that the Depute Clerk contact the Community Council Liaison Officer to discuss the capacity of community councils to be consulted on or conduct surveys in support of licensing applications;
- (vi) to request that the Depute Clerk liaise with the Clerk to the Licensing Board to increase the capacity and user friendliness of the Licensing Board's webpage; and
- (vii) to request that the Depute Clerk correspond with the Clerk to the Licensing Forum with the Licensing Board's response to the Forum's recommendations.

MESAS ANNUAL REPORT

14. The Joint Meeting had before it the Monitoring and Evaluating Scotland's Alcohol Strategy (MESAS) Annual Report from March 2016.

The Convener informed the Joint Meeting that the MESAS Annual Report had been presented to the Forum at its meeting on 25 May 2016 and explained that the report

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had reported an increase in year on year alcohol sales in Scotland and that the average Scot consumed 10.8 litres of alcohol per week which was well above the recommended intake. He added that 74% of sales were purchased from off licenses and that the average unit price was 52p from off sales and £1.54 from on sales premises.

Councillor Boulton advised that she found the figures to be alarming and thereafter members of the Licensing Board explained that they had to hear applications based on merit and that a very small proportion of Board decisions had been appealed as they had been mindful to apply the criteria of the SLP as judiciously as possible.

The Joint Meeting resolved:-

- (i) to note the report; and
- (ii) to note the information provided.

MAINSTREAMING EQUALITY OUTCOMES

15. The Joint Meeting had before it the Licensing Board's Equality Outcomes – 30 April 2013 to 29 April 2017 and the Licensing Board's Mainstreaming Report dated 30 April 2016.

Shamini Omnes (Health representative to the Forum) explained that Dr Tara Shivaji (NHS Grampian) had presented to the Forum at its meeting on 25 May 2016 and requested that health impact assessments and mainstreaming equality outcomes be raised at the Joint Meeting. Ms Omnes advised that Dr Shivaji would like the Licensing Board to consider reviewing this area during the development of the refreshed SLP.

The Joint Meeting resolved:-

- (i) to note the reports; and
- (ii) to request that the Depute Clerk to the Licensing Board meet with Dr Tara Shivaji to discuss the Board's approach towards mainstreaming equality outcomes during the development of the refreshed SLP.

THE LOWERING OF THE DRINK DRIVING LIMIT AND ITS IMPACT ON THE LICENSED TRADE

16. Leanne McGowan (Off Sales Representative to the Forum) advised that her premises had recorded a reduction in alcohol sales over the previous year and she surmised that customers were increasingly purchasing their alcohol from supermarkets. Sarah Wheeler (UNIGHT) explained that her premises had also been affected in terms of sales but highlighted that there were clear benefits to the policy as customers were more aware of what they could drink if they also wanted to drive. She added that they

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had introduced promotions to target designated drivers but noted that they had lost customers who ordered a beer on the journey home from work or those who had a glass of wine with a meal.

Councillor Bolton asked the licensed trade representatives if they stocked non-alcoholic beers and cocktails. Ms McGowan replied that her premises had been but they were not popular amongst her customers and Ms Wheeler added that these drinks could be expensive and it would take a period of time for suppliers to recognise trends and cultural changes in drinking habits. Heather Wilson noted that Public Health had been working with the licensed trade and the Community Safety Partnership to promote alcohol free events and she highlighted that Aberdeen had once again secured Purple Flag accreditation which recognised the safeness of the night time economy.

Sgt Flett informed the Joint Meeting that the recorded increase in the number of drink driving convictions had been levelling out and she advised that Police Scotland would be spotlighting this campaign over the summer and again during the festive period. To this point, Councillor Copland requested Police Scotland's statistics on the number of drivers who had exceeded the prescribed limit before and after the introduction of the zero tolerance regulations.

Thereafter the Joint Meeting discussed how a more continental and responsible drinking culture could be fostered in Aberdeen, with particular focus on how young people could be introduced to alcohol in a safe and inclusive setting such as restaurants.

The Joint Meeting resolved:-

- (i) to note the update provided; and
- (ii) to request information on the number of drivers who had exceeded the prescribed limit before and after the introduction of the zero tolerance regulations.

THE DOWNTURN IN THE OIL AND GAS SECTOR AND ITS IMPACT ON THE LICENSED TRADE

17. Leanne McGowan advised that she had recorded a reduction in the number and value of luxury alcoholic purchases and impulse buys from her customers over the previous 12 months. She also informed the Joint Meeting that a recent part time vacancy in one of her premises attracted over 120 applications, a number of which were former oil and gas workers who were over qualified for the post.

Sarah Wheeler explained that UNIGHT had also been detrimentally impacted by the downturn and she highlighted that although they continued to host special occasions

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they had seen a notable reduction in casual drinkers and the number of customers who spent under £20 per night.

The Convener added that all partners should be aware of the link between unemployment and increased alcohol use and this should be something that members should continue to monitor over the course of the next twelve months.

The Joint Meeting resolved:-

To note the information provided.

AOCB

18. Heather Wilson advised that NHS guidance on safe alcohol consumption had been revised recently and it was now recommended that both men and women should limit their alcohol intake to 14 units per week.

Councillor Boulton thanked Heather Wilson and Sgt Flett for their submissions and representations to the Licensing Board on behalf of Public Health and Police Scotland over the previous year and advised that if members had any follow up to today's meeting they should contact herself or the Depute Clerk.

The Joint Meeting resolved:-

- (i) to note the information provided; and
- (ii) to thank Heather Wilson and Sgt Flett for their constructive submissions and representations to the Licensing Board which had supported the Board's functions over the previous 12 months.

- **ALEXANDER KELMAN, Convener**

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