

EAST AYRSHIRE LOCAL LICENSING FORUM

**Minute of the Meeting of East Ayrshire Local Licensing Forum
held on Wednesday 24 October 2007 at 4.00pm within the Main Meeting Room,
Council Headquarters, London Road, Kilmarnock**

SEDERUNT : Jack Campbell (Resident) (Chair), Kyle Burns, Youth Representative, Eric Brown (SLTA), Sharon Flynn, NHS Ayrshire & Arran, James Kelly (Community Warden & Resident), James Boyd (Resident), David Little (Licensee), Councillor John Campbell (Licensing Board Member), Carolyn McEwan and Ian Hiles (Licensing Standards Officers).

ATTENDING : Mr D Mitchell (Clerk to the Licensing Board), Mr S McCall (Depute Clerk to the Licensing Board) and Ms S Gillies (Licensing Board Administrator).

1. WELCOME AND INTRODUCTIONS

The Chair welcomed everyone to the meeting and acknowledged the amount of work which would be involved in implementing the Licensing (Scotland) Act 2005.

The Clerk to the Licensing Board explained that the purpose of this meeting was to discuss the draft Statement of Licensing Policy which was previously circulated to the members of the Forum for consultation. The Clerk also explained that under the Licensing (Scotland) Act 2005 it is the responsibility of the Council to establish the Local Licensing Forum and accordingly the administration of the Forum will be undertaken by Christine Baillie, Administrative Officer. The Clerk also stressed that the Forum was independent of the Licensing Board on any licensing matter which would require to take account of any views expressed by the Forum.

The Clerk then welcomed the following new Members to the Forum:- Kyle Burns, Scottish Youth Parliament; James Boyd, Resident, Sharon Flynn, NHS Ayrshire and Arran, Carolyn McEwan and Ian Hiles, Licensing Standards Officers and hoped the membership would continue to reflect a broad section of the community.

The Clerk also pointed out that the format for conducting forum business and future topics for discussion would be dealt with later in the meeting.

2. MINUTE OF PREVIOUS MEETING

The previous minute of the meeting of 4 September 2007 was proposed for approval by Jack Campbell and seconded by James Kelly. The minutes were accordingly approved.

3. LICENSING POLICY STATEMENT

The Clerk explained that the Forum was only one mechanism for consultation on the draft Licensing Policy Statement and that views were also being sought via press advertisement, the Council's web site, Council Members, all Council Departments, Community Planning Forums, Community Councils, SLTA, Strathclyde Police, Strathclyde Fire and Rescue, Alcohol Focus Scotland and Local Solicitors.

There followed a full discussion of the contents of the draft Licensing Policy Statement. The Clerk reminded the Forum that Members could submit views at any time during the consultation period.

The following were the main issues identified by the Forum:-

- **Bye-Laws**

The Clerk advised that the 1997 Bye-laws for the prohibition of consumption of alcohol in public places had been updated and approved by the Council. The updated bye-laws make it a criminal offence to be in the possession of an open container in public, which makes it easier for Strathclyde Police to issue fixed penalty fines. NHS Ayrshire and Arran would be informed through Sharon Flynn of the content of the amended bye-laws and this information would be taken account of in their National Plan on Alcohol.

- **Children in Licensed Premises**

Forum members raised concerns regarding the permission of children within licensed premises and whether it was the licensee or the Board who determines whether children should be permitted.

The Clerk advised that in terms of the Act the onus is on the licensee to state on their operating plan that they want children within their premises and must indicate the age, times and parts of the premises to which children will have access. The Clerk further advised that even though licensees have grandfather rights the Board still has to determine that the premises are suitable for the inclusion of children taking account of the Act's responsibility for protecting children from harm. One of the roles of the new Licensing Standards Officers will be to monitor premises and ensure licensees are complying with their operating plan.

- **Mandatory Conditions**

The Clerk referred to the mandatory conditions in Appendix II of the Licensing Policy Statement and advised that legislation is still to be finalised in relation to additional conditions and once these are approved further discussions may be required to include these additional conditions.

- **Off-Sale Premises**

The Depute Clerk advised that provisions in Section 2 of Act in relation to irresponsible drinking had been extended to off-sale premises. This additional legislation means that off-sales must display alcohol for sale in one area only and not have it spread over different parts of the premises as currently seen in supermarkets. Operating plans for these types of premises must show the area alcohol is to be sold and again the LSOs will monitor that there is no encroachment from these areas. The Depute Clerk further advised irresponsible drinking promotions has been rolled out to include off-sales premises which should tackle the policy of “Buy One Get One Free” and bulk selling at reduced price. Members also asked for clarification at which point does bulk retail buying become wholesale. The Clerk stated that this matter would be clarified for the next meeting.

Members also raised the issue of alcohol being given as prizes within on-sales premises and whether this may be consumed on the premises. The Clerk confirmed that in terms of the mandatory conditions which may be attached to licences it would be a criminal offence to consume any alcohol on the premises which was obtained by way of a prize.

The Clerk advised that once the legislation has been approved the changes would be reflected in the final Policy Statement.

The Clerk stated that the current Voluntary Code of Conduct for Off-Sale premises would be retained within the final Policy Statement as it has been a success under the current legislation.

The Clerk pointed out that under the new legislation off-sale premises hours of sale had been reduced, and Boards also had the power to further reduce these hours for premises that could be demonstrated to have contributed to anti-social behaviour in their locality through the supply of alcohol. Strathclyde Police are introducing test purchasing in December 2007 and the Licensing Board will assist with this policy. This policy is an addition to the current bottle marking initiative. The Members commented that supermarkets were excluded from the bottle marking initiative and the Clerk advised that Strathclyde Police were of the opinion that supermarkets were not as pressing an issue as small off-sales.

Sharon Flynn stated that NHS regularly received information from Dialogue Youth and Young Scott and would report this information to the Members. She further commented that it was important that steps are being taken to change the whole culture of drinking and welcomed the changes produced by the new legislation.

The Clerk advised the Members that the biggest problem with off-sale premises is Agents buying for underage persons. The Members discussed the possibility of creating a dedicated telephone line similar to the one for smoke cessation to enable the public to anonymously report any off-sale premises selling to underage persons or agents. This line would be monitored by the Licensing Standards Officers. The Clerk confirmed that this would be added to the final Policy Statement and advertised in the local press.

- **Over - Provision**

The Clerk advised that a view on over-provision could not be formed at present as secondary legislation has still to be approved. He further advised that during the 18 month transitional period the Council's Building Control Section and Strathclyde Fire and Rescue would be assessing the occupant capacity for each premise and once this information is complete and the 18 month transitional period is over then the Licensing Board will be able to form the policy on overprovision. This policy will build in the occupant capacity, historical knowledge and it may also be possible to use the same sequential test as in planning.

After a full discussion the Members had the view that overprovision is an important issue in terms of the licensing objective which relates to protecting and improving public health. The amount of licensed premises, both off and on sales has a huge impact on health within communities.

The Clerk confirmed that facilities, operator's right to free trade and health issues would all be considered when the Licensing Board makes its overprovision policy and the LSOs will continually monitor all communities to determine whether a review is required of the policy.

- **Occasional Grants**

The Members were of the opinion that the 5 Licensing Objectives should also be applied to occasional licences. Members were particularly concerned that everyone who is responsible for occasional licences should be adequately trained and this provision should be included in the Policy Statement.

The Clerk advised that the legislation had omitted to include training specifically in relation to occasional licences and it would be difficult for Licensing Boards to add additional conditions in terms of the legislation. He further advised that the Board would be able to monitor the operation of occasional licences and where there were found to be problems it would be possible to refuse future applications.

- **Licensing Standards Officers**

The Clerk reminded the Members that the Licensing Standards Officers were appointed to maintain good standards within licensed premises, monitor and report back to the Licensing Board and provide information and assistance in the transitional period of the new Act.

- **Disability Discrimination Act**

The Clerk advised Members that the Disability Rights Commission were primarily responsible for the compliance with the Disability Discrimination Act in both unlicensed and licensed premises. He further advised that the Policy Statement would, however, set out the Board's very clear expectation that all licensed premises should comply with the DDA.

- **Personal Licences**

The Members wanted clarification on whether a Personal Licence holder is required to be on the premises at all times. Members also wanted clarification on the situation with Registered Clubs as they were now included in the new Act, specifically in relation to who was required to have a Personal Licence and whether a Members Book was still required.

The Clerk advised that Registered Clubs do not need a Personal Licence holder. The Clerk stated that he would clarify this point as the standard mandatory conditions did not include whether a Personal Licence holder is required on premises at all times. This may be an additional condition which has to be added.

- **Adult Entertainment**

The Clerk advised that there was no secondary legislation in relation to entertainment in licensed premises as had been expected. He further advised that the Licensing Board would require to take a view on the current status of entertainment in the local and wider area.

The Members were of the strong view that the current policy operated by the Licensing Board which does not permit adult entertainment involving male strippers, female strippers, erotic dancers and/or exotic dancers within any licensed premises should be continued.

Sharon Flynn of NHS Ayrshire and Arran welcomed this view as there is evidence that immigrant workers are vulnerable to exploitation in the sex industry, which has a huge adverse impact on sexual health.

The Clerk advised that the views of the Forum would be taken account of when the Board forms their policy of entertainment in licensed premises.

- **Promotion Of The Licensing Objectives**

The Clerk stated that the operational plans submitted for all premises would be scrutinised to ensure that the five licensing objectives are being adhered to.

Sharon Flynn stated that it was important to focus on the protection and improvement of public health and she would liaise with the National Communication Alcohol Drug Action Teams to provide up to date literature for licensees to display on their premises.

The Clerk confirmed that a condition could be added to the Policy Statement and Licences which stated that all reasonable and appropriate materials should be displayed by licensees on their premises.

4. FUTURE MEETINGS AND BUSINESS OF THE FORUM

The Clerk advised that future topics for Forum meetings should be intimated to the Chair. Any Members who have specific business they wish to be dealt with should contact the Licensing Board staff initially until the administration is taken over by Christine Baillie. The Depute Clerk reminded the Members that the Forum requires to meet four times a year and one of these requires to be a full meeting with the Licensing Board.

Eric Brown suggested that the Forum members details should be circulated along with the Minutes to enable Members to contact each other. This was agreed by Members.

There being no other competent business the Chair thanked everyone for attending, the meeting ended at 6.10pm.