

WEST DUNBARTONSHIRE LICENSING BOARD

LICENSING (SCOTLAND) ACT 2005

STATEMENT OF LICENSING POLICY



30 November 2010 to 29 November 2013

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Foreword

This is West Dunbartonshire Licensing Board's second Licensing Policy Statement, covering the period from 30 November 2010 to 29 November 2013. The Board's first Licensing Policy Statement came into force at the beginning of the transitional period of the new Licensing (Scotland) Act 2005. The challenge at that time was to make sure that all existing premises and licence holders had licences granted in time for the commencement of the new Act, something which the Board was able to do. This was largely due to excellent relations and co-operation with the licensed trade, West Dunbartonshire Licensing Forum, Strathclyde Police and other agencies, something which the Board is particularly keen to maintain. It was in part also due to the relative simplicity of the Board's previous Licensing Policy Statement and the Board has tried to maintain a similar simplicity of policy.

Inevitably issues arose during the transitional period which were not fully addressed by the policy or which became less of an issue than originally envisaged. As a result, in June 2010 the Board agreed the terms of a Supplementary Policy Statement, which has been incorporated into this new Statement. Further changes were introduced following a consultation in September/October 2010.

Since the first statement in 2007 there has been an increased focus on the licensing objective of protecting and improving public health. Improving Scotland's relationship with alcohol has been a key priority of the Scottish Government and nowhere is this more important than in West Dunbartonshire, an area which has the unenviable record of having the third highest rate of alcohol related deaths in the UK, and over 6% of the population with alcohol addiction problems. There is international evidence that there is a direct link between the availability of alcohol and alcohol related health problems. It is perhaps no coincidence that at the same time as having significant alcohol related health problems, the area has one of the highest numbers of licensed premises per head of population in Scotland. The Board's extensive Overprovision Policy is a step towards dealing with these issues, as well as promoting the other licensing objectives.

**Councillor Jim Brown,
Chair of West Dunbartonshire Licensing Board**

PART 1

INTRODUCTION

1. Legal Background

- 1.1 The Licensing (Scotland) Act 2005 (“the Act”) makes provision for the sale of alcohol and for regulating licensed premises and other premises on which alcohol is sold.
- 1.2 Section 6 of the Act places a requirement on every Licensing Board to publish a Statement of their Policy in respect of their functions under the Act. Section 7 of the Act provides that the Board’s Licensing Policy Statement will include a statement as to the extent to which the Board considers there to be overprovision of (a) licensed premises or (b) licensed premises of a particular description in any locality within the Board’s area. This statement fulfils these statutory requirements for West Dunbartonshire Licensing Board. The Board is committed to ongoing consultation with West Dunbartonshire Licensing Forum and all other interested parties on the content of this document.

2. West Dunbartonshire Licensing Board

- 2.1 West Dunbartonshire Licensing Board (referred to in this Statement of Licensing Policy as “the Board”) is the licensing authority for the West Dunbartonshire Council area for the purposes of the Licensing (Scotland) Act 2005 and any subsequent regulations and guidance. Located in the West of Scotland and stretching from the outskirts of Glasgow to the Banks of Loch Lomond, West Dunbartonshire is the fourth smallest local authority in terms of land coverage (159 square km). It has a population of 90,920 people (General Registrar Office for Scotland 2009) concentrated in the main settlements of Clydebank, Dumbarton and Alexandria. A map of the Council area is appended to this Statement of Licensing Policy.

3. Licensing Objectives

- 3.1 In exercising their functions under the Act and in preparing their Licensing Policy Statements, licensing authorities must have regard to the licensing objectives, as set out in Section 4 of the Act. These licensing objectives are:-
 - preventing crime and disorder
 - securing public safety
 - preventing public nuisance
 - protecting and improving public health
 - protecting children from harm

Further details of how the Board will seek to promote these objectives are set out in Part 2.

4. Licensing Board Functions

4.1 The Board is responsible for various functions under the Act including, for example granting:-

- Premises Licences
- Personal Licences
- Occasional Licences
- Provisional Licences
- Temporary Licences
- Extension to Licensing Hours
- Transfers of Licences
- Variations of Licences

In respect of the sale of alcohol for retail consumption on or off the premises

4.2 The Board is also responsible for certain gambling licensing functions. The Board's Gambling Policy is contained in a separate document available at <http://www.wdcweb.info/law-and-licensing/licensing/licensing-board/gambling-act-2005/>.

5. Declaration

5.1 In producing this Statement, the Licensing Board declares that it has had regard to the licensing objectives set out in the Act, to the guidance issued by the Scottish Government and the responses from those consulted on the Supplementary Policy Statement, the Statement of Overprovision and on the Licensing Policy Statement generally.

5.2 This policy covers a wide variety of issues including procedural matters, licensed hours and the protection of children. It cannot provide for every eventuality but the intention is to outline the general policy followed by the Board. If issues arise which are not fully covered by this policy the Board may issue guidance and may also publish a Supplementary Policy Statement during the three year period, in terms of Section 6 of the Act.

6. The Licensing Policy Statement and Individual Applications

6.1 A clear policy has a number of advantages. It promotes consistency of decision and gives advance notice to applicants as to the Board's likely approach to certain decisions. When dealing with individual applications there is a presumption that, all other things being equal, the Board will follow the terms of its Policy Statement. However it is perfectly open to applicants to seek decisions which are contrary to the Board's Policy. Similarly the Statement of Policy does not override the right of any person to make objections or representations on an application or to seek the review of a licence. However where applicants, objectors or representees wish the Board to make a decision which is inconsistent with the terms of this Statement of Policy, the Board expects such persons to fully address the Board on why the Statement of Policy should not be followed. In particular it would be helpful if

such persons addressed the Board on the benefit to the licensing objectives of the decision which they seek.

7. Relationships with other Strategies

- 7.1 The Board will also have regard to and work in partnership with other national strategies or local policies insofar as they impact on the licensing objectives or the licensing function. These include the National Strategy on Alcohol, the Development Plan, West Dunbartonshire Single Outcome Agreement, West Dunbartonshire Corporate Action Plan for Alcohol and Drugs, West Dunbartonshire Community Planning Partnership Regeneration Outcome Agreement, West Dunbartonshire Joint Health Improvement Plan and the West Dunbartonshire Integrated Children's Services Plan.

8. Tourism

- 8.1 Tourism is a major contributor to parts of the Board's area, particularly in the Loch Lomond area. The Board's Licensing Policy Statement tries to recognise the particular needs of the tourist area. Arrangements will be made for the Board to receive, when appropriate, reports on the needs of the local tourist economy for the area to ensure that these are reflected in their consideration.

9. Duplication

- 9.1 Insofar as possible the Board shall avoid duplication with other regulatory regimes. Where other legislation or powers exist, the Board will endeavour, as far as reasonably possible, to avoid using the powers under the Act to achieve that same outcome. Where there is a duplication of powers between those of the Board and another regulatory agency, the Board's decision on who should exercise the regulatory powers will be based on which body is best placed to promote the licensing objectives.
- 9.2 It is recognised that the Planning, Building Standards and Licensing regimes require to be kept separate and are dealt with in accordance with their own statutory provisions. In particular it is recognised that the planning system deals with the suitability of land for a particular use and tests for granting of planning permission are different from those relating to the grant of a licensing application. Thus the grant or refusal of planning application will not affect the consideration of applications before the Board, subject to a Section 50 Certificate being lodged where required. Similarly the Board will not normally seek to challenge any decisions taken by the Planning Authority.

10. Equalities

- 10.1 Equalities and disabled facilities – the Board has an Equalities Scheme available at <http://www.wdcweb.info/law-and-licensing/licensing/licensing-board/equality-scheme/>. The Board will at all times act in accordance with the Public Sector Equalities Duties. The Board also expects licence holders to address equalities issues in all aspects of their business.

PART 2

THE LICENSING OBJECTIVES

11. The following sub-sections set out the Board's general approach to how it will seek to promote each of the licensing objectives. The Board expects applicants to be able to demonstrate that they have addressed these issues and measures set out in this part. Similarly the Board expects existing licence holders to be able to demonstrate that they have addressed these issues and measures in their operation of premises. Failure to do so may be taken into consideration by the Board in any Review Hearing. Measures and steps detailed in this part are not an exhaustive list of best practice and part of the education role of the Board's Licensing Standards Officers will be to encourage and share areas of best practice throughout the licensed trade.

12. Preventing Crime and Disorder

12.1 In carrying out the functions under the Act the Board will have regard to the impact licensed activities may have on crime and disorder in the area. In particular, the Board has, as one of its objectives, making the Board's area a safe environment for residents and visitors.

12.2 The Board encourages licence holders to demonstrate both within their Operating Plan and in everyday practice the measures which will be put in place to promote the prevention of crime and disorder. These include addressing problems associated with:-

- Underage drinking including agency purchases;
- Public disorder or violent behaviour;
- Drink driving;
- Anti-social behaviour and illegal possession, supply and/or use of drugs; and
- The sale of illegal or stolen goods on the premises.

12.3 Suggested control measures might include:-

- Appropriate training of staff members;
- Installation of CCTV equipment;
- Effective and responsible management of the premises;
- Suitable external lighting;
- Employment of SIA licensed door supervisors;
- Membership of Pubwatch or another similar scheme where such a scheme is in operation;
- Display of prominent notices which set out the management's policy on illegal substances;
- Participation in responsible purchase schemes e.g. PASS (Proof of Age Standards Scheme);
- Ensuring displays of alcohol in off-sales premises are situated in areas which can be monitored by a member of staff;
- Promoting awareness of schemes such as the designated driver scheme;

- Training staff members on the correct way to pour a measure by hand as required under the Weights and Measures Act 1985.

13. Securing Public Safety

13.1 One of the Board's priorities is ensuring that the licensed premise is a safe environment for members of the public.

13.2 The Board encourages licence holders to demonstrate both within their Operating Plan and in their everyday practice the measures which will be put in place to ensure public safety on the premises. Such measures should take account of the following:-

- the occupancy capacity of the premises;
- the design and layout of the premises;
- the hours of operation; and
- the profile of the customer at the premises.

13.3 Suggested control measures might include:-

- Carrying out risk assessments;
- Installation of CCTV equipment;
- Membership of Pubwatch or another similar scheme where such a scheme is in operation;
- Employment of adequate numbers of suitably trained staff; and
- Proof of regular testing of procedures or equipment which are in place.

14. Prevention of Public Nuisance

14.1 The Board recognises that licensed premises can have an impact on the amenity of the local area. The Board intends to protect local communities from any negative impact from the operation of licensed premises. The Board will take a wide view of the phrase "public nuisance" to include noise, light, odour, litter and anti-social behaviour where they impact on the local community.

14.2 The Board encourages licence holders to demonstrate both within their Operating Plan and in their everyday practice the measures which will be put in place to prevent public nuisance. Such measures should take account of the following:-

- Any proposed curfew times;
- The location of the premises;
- The type of neighbouring properties in the vicinity;
- The nature of the activity to be carried out on the premises;
- The licensed hours; and
- The occupancy capacity of the premises.

14.3 Suggested control measures include:-

- Sufficient management of people entering and leaving the premises;
- The installation of sound-proofing and sound-limiting devices;
- The control of operating hours for different parts of the premises;
- Restricting use of outside areas (e.g. beer gardens) at night;
- Membership of Pubwatch or another similar scheme where such a scheme is in operation;
- Supporting local schemes which encourage safe dispersal of patrons at closing time, for example, taxi marshalling;
- Liaising with the providers of public transport; and
- Appropriate training of staff members.

15. Protecting and Improving Public Health

- 15.1 The Board has, as a priority, the health and well-being of patrons of the licensed premises. The Board will have regard to the views of any other bodies responsible for or having an interest in public health.
- 15.2 The Board encourages licence holders to demonstrate both within their Operating Plan and in their everyday practice the measures which will be put in place to protect public health. The Board commends the examples of good practice detailed in the document Licensing for Public Health published by Alcohol Focus Scotland and the Scottish Health Action on Alcohol Problems in June 2009.
- 15.3 Suggested measures might include:-
- Making available information which promotes moderate drinking along with awareness of units of alcohol and recommended guidelines;
 - Providing information on contact details where assistance for alcohol related problems may be sought;
 - Displaying anti drink driving materials and promoting awareness of campaigns such as designated driver schemes;
 - Having in place a policy to deal with patrons who have consumed excessive alcohol;
 - Providing tap water fit for drinking, free of charge, and a wide selection of non-alcoholic drinks at reasonable prices at all times whilst the licensed premises are open; and
 - Appropriate training of staff members.
- 15.4 There is evidence that those involved in the licensed trade are more likely to suffer from an alcohol related problem than those in other professions. Therefore the Board would like to see businesses in the licensed trade having in place 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 an alcohol related problem arises.
- 15.5 Licence holders especially are reminded of the offences relating to the sale of alcohol; especially the offences of sale of alcohol to a drunk person and allowing drunkenness to take place on the premises.

16. Protecting Children from Harm

16.1 The Board welcomes applications from licensed premises which will accommodate children and young people. However, the Board recognises the additional responsibilities placed upon such premises and the importance that such premises have in place appropriate measures to protect children and young people from harm.

16.2 The Board encourages licence holders to demonstrate both within their Operating Plan and in their everyday practice the measures which will be put in place to protect children and young people from harm. The Plan should also set out the terms on which children and young people are permitted access to the licensed premises.

16.3 Suggested control measures may include:-

- Appropriate measures to ensure children or young people do not purchase or consume alcohol on the premises (unless such consumption is permitted by a young person in terms of the restricted provisions of Section 105(5) of the Act);
- Appropriate checks for staff who will be working in premises where children or young people are present;
- Acceptance of accredited proof of age schemes and training in spotting counterfeit or forged identity documents;
- Means to ensure that children and young people are not exposed to strong language, violence or disorder;
- Siting cigarette vending machines in locations where their use can be monitored by staff; and
- Appropriate training of staff members.

16.4 In addition the Board recommends the following:-

- a) The part or parts of the licensed premises where children and young people are permitted should be free of gaming and/or amusements with prizes machines and pool tables;
- b) Gaming and amusements with prizes machines should not be located in walkway areas of the parts of the premises which children or young people will have access to;
- c) No live entertainment or the use of karaoke machines should be permitted in the part or parts of the premises where children or young people are permitted;
- d) Where televisions or video machines are intended to be used in areas where children are permitted, the programmes or video films must be of a type suitable for family and children's' viewing;
- e) Toilets will require to be of a suitable type and standard for children;

- f) When meals are sold within a licensed premises, a children's menu shall be necessary. This would not be satisfied by the provision of lemonade and crisps but would require to be of the plated food variety in addition to any form of sandwiches etc, which may be available;
- g) Electrical sockets within the part of parts of the premises to which children have access should, when not in use, have plug caps thereon;
- h) Where open fires or electrical or gas fires or radiators are within part or parts of the premises to which children have access, it is expected that such fires and radiators etc. will be securely guarded.
- i) Use of a Challenge 21 or Challenge 25 policy.

PART 3

LICENCES

17. The purpose of this Statement of Licensing Policy Statement is to state the Board's Policy. It is not a comprehensive statement of the law or procedures relating to liquor licensing. Accordingly this statements needs to be read alongside the provisions of the Licensing (Scotland) Act 2005, the Statutory Guidance and Statutory Instruments made thereunder and the developing volume of case law. This statement tries to avoid where possible repeating provisions already detailed in the Act, Guidance or Regulations.

18. Premises Licence

18.1 The Board policies relevant to premises licences and applications for such licences are:-

18.2 Access to premises by Children and Young Persons

18.2.1 The Board's Policy is that children and young people under the age of 18 will only be permitted into licensed premises which are considered to be restaurants or into other licences premises where:-

- a) The primary purpose of allowing them access is to consume a meal; or
- b) To attend a pre-booked function; or
- c) Hotels – the Board accepts that children and young persons under the age of 18, who are resident in the premises, are allowed free access throughout the premises with the exception of the bar area. No children and young persons will be permitted in the bar area except where the primary purpose of allowing them access is to consume a meal or to attend a pre-booked function. Within the bar area, children and young persons will not be permitted to remain after 10 p.m. other than in exceptional circumstances, for example a wedding or other pre-booked function being held in the bar where the presence of children or young people after 10 p.m. can be justified. A condition to this effect will be imposed by the Board on the licences of all premises where children may be resident; or
- d) In tourist areas children may be present in premises other than for the purpose of attending a pre-booked function or having a meal providing that individual premises can satisfy the Board that tourism is a very significant part of their trade. In such cases children shall not be entitled to remain after 10 p.m. nor to remain in the vicinity of the bar.
- e) In relation to clubs whose primary object is sport, children and young persons under the age of 18 are permitted to have the following access to the premises:-

- Children and young persons who are junior members of such a club, plus junior guests, are permitted to access all areas of the premises (excluding the bar) until half an hour after closure of the sporting facilities to which they have access;
- In relation to the bar area, children under 16 are permitted to purchase non alcoholic drinks at the bar area but are not permitted to drink in the bar area. Young persons aged 16 to 18 are permitted to purchase and consume non alcoholic drinks in the bar area providing there are no gaming machines or pool tables in the area;
- Children and young persons are not permitted to access any area of the premises in which gaming machines are located.
- Children under 16 are permitted to remain in the bar area in compliance with paragraph 5.5 of the Board's Licensing Policy Statement (i.e. for the purpose of consuming a meal or attending a pre-booked function).

18.2.2 Children and young people will not be permitted in the licensed premises after 10 p.m. (other than as detailed in paragraph (c) hereof or in exceptional circumstances, for example a wedding or other pre-booked function being held on a licensed premises where the presence of children and young people after 10 p.m. can be justified). A condition to this effect will be imposed by the Board on the licence of all premises where children are permitted access.

18.2.3 For the avoidance of doubt paragraph 18 does not apply to premises where no on-sales takes place and the sale of alcohol is for consumption off the premises only.

18.3 Adult Entertainment

This part of the Policy Statement details the Licensing Board's approach to adult entertainment and the steps which it will generally require premises to take if they are proposing to offer adult entertainment of an erotic or explicitly sexual nature in order to promote the licensing objectives of Preventing Crime and Disorder and Protecting and Improving Public Health.

The following policy will require to be adhered to where the operating plan states that the premises will be offering adult entertainment in addition to the mandatory conditions applied in terms of the Act.

This policy only applies where (a) items of underwear are removed or (b) the adult entertainment lasts in excess of five minutes.

"Adult Entertainment is defined as any form of entertainment which (a) involves a person performing an act of erotic or sexually explicit nature and (b) is provided wholly or mainly for the sexual gratification or titillation of the audience.

18.3.1 The Performers – the licensee must maintain a register of performers engaged to perform in the licensed premises. The register must show the name, age and current address of the performer. The licensee must require photographic proof of identity which must be via the production of the performer's passport if available. Foreign Nationals must be asked for their passport and the licensee must take appropriate steps to ensure that there are no restrictions on the performer's entitlement to stay and work in the United Kingdom. No performer below the age of 18 shall be engaged.

18.3.2 Changing Facilities – the licensee must provide suitable changing facilities for the performers to comply with the following basic standards:-

- a) The facilities must have a minimum floor area of 1.86m² per performer engaged to perform at any one time;
- b) The facilities must be secure, private and for single sex use only and should not be accessible by patrons;
- c) The facilities must be located near to, but not within, sanitary conveniences;
- d) The facilities must include private and lockable storage units for each performer for the safe-keeping of valuables and clothing;
- e) The facilities must include a plentiful supply of wholesome chilled drinking water for all performers.

18.3.3 Performances – performers must only perform in open public areas within the licensed premises which must at all times be appropriately stewarded and covered by CCTV cameras. Performers' genitalia must be covered at all times. There must be no touching between performers and patrons at any time during a performance, the only contact allowed being the hand to hand payment of money at the conclusion of the performance. Performers remaining in the public areas before, following or between performances must be clothed at all times with no exposure of breasts or genitalia. Any advertising of performances outwith the licensed premises, including newspaper advertisements, 'flyers' or other promotional material or notices at the premises, must only depict performers clothed as aforesaid. Performances involving the removal of clothing must not be visible from outwith the premises.

18.3.4 Supervision – the licensed premises must be appropriately stewarded by personnel who are licensed by the Security Industry Authority in terms of the Private Security Industry Act 2001. Licensed stewards must be provided in all public dance areas in addition to the entrance to/exit from the premises. All public dance areas and entrances and exits must be monitored constantly whilst the premises are open to the public via the use of CCTV. CCTV must be of a high quality to ensure that individuals may be clearly identified whilst in any part of the premises. The licensee must ensure that the CCTV cameras

operate properly whenever performers are performing on the premises, and that it provides full coverage of the performance and door areas. CCTV recordings must be retained for a period of at least 28 days.

18.3.5 General Health & Safety Issues

- A risk assessment must be undertaken and appropriate control measures must be implemented in respect of.
- The precise work activities required of performers.
- The personal safety of performers.
- The use of chemicals which may come into contact with performers' skin.

This is not an exhaustive list and premises licence holders must ensure that all hazards are assessed.

In addition the premises must be subject to a fire risk assessment to the standard of Fire Precautions (Workplace) Regulations 1997 as amended. This assessment must be recorded and kept available for inspection by a duly authorised fire safety officer of Strathclyde Fire & Rescue.

18.3.6 Ventilation – all dance areas and the changing facilities provided for performers must be mechanically ventilated with fresh or purified air. There must be at least 10 air changes per hour.

18.3.7 Temperature – all dance areas and the changing facilities provided for performers must be maintained with a minimum temperature of 25 Celsius / 72 Fahrenheit. A clearly visible wall mounted thermometer must be provided in all rooms used by performers. Portable LPG heaters would not be deemed an acceptable form of permanent heating.

18.3.8 Lighting – all dance areas, changing facilities provided for performers and sanitary conveniences must have lighting of a sufficient standard to enable performers and others to move around safely, and to enable clear recording of images by CCTV.

18.3.9 Cleanliness – all dance areas, changing facilities provided for performers and any furniture, fittings, etc., must be kept clean. The surfaces of the floors, walls and ceilings of all dance areas, changing facilities and other parts of the licensed premises to which performers have access must be capable of being kept clean.

18.3.10 Sanitary Conveniences – sanitary conveniences must be provided in accordance with the requirements of the Workplace (Health, Safety & Welfare) Regulations 1992 and the currently Approved Code of Practice made thereunder. The facilities must be for the exclusive use of staff and performers and must provide privacy and security for changing and from intrusion by members of the opposite sex and from patrons.

- 18.3.11 Washing Facilities – wash hand basins and showers must be provided in accordance with the requirements of the Workplace (Health, Safety & Welfare) Regulations 1992 and the currently approved Code of Practice made thereunder. Such facilities must be for the exclusive use of staff and performers and must have a supply of warm, or hot and cold water and provide privacy and security from intrusion by members of the opposite sex and from patrons. Washing facilities must be provided in the immediate vicinity of the sanitary conveniences and the changing facilities.
- 18.3.12 Condition of Floors – every floor used for dancing or for access to the dancing areas must be of a construction suitable for the intended uses and must be kept free from obstruction and from any substance that may cause a performer to trip or slip.
- 18.3.13 Facilities to Eat Meals – eating facilities to include a table, chairs, kettle and sink with hot and cold water must be provided and be accessible to only staff and performers and comply with the Food Hygiene (Scotland) Regulations 2006.

Where it is proposed to alter or extend premises to provide or upgrade facilities it is recommended that licensees contact Building Standards.

18.4 Garages

Under Section 123 of the Act, premises or parts of premises used as a garage are excluded from authorising the sale of alcohol. The Act permits the Board to make exceptions to this rule if they determine that in relation to such premises persons resident in the locality are, or are likely to become, reliant to a significant extent on the premises as the principal source of (a) petrol or Derv or (b) groceries. West Dunbartonshire is a mainly urban area and before licensing garage premises, the Board would have to be satisfied that the premises will provide a service to local residents which would not be reasonably met otherwise. When considering an application for a premises licence for a garage the Board would remind the applicants that they would expect the premises to satisfy this test.

18.5 Home Deliveries

Premises which intend to provide home deliveries of alcohol must specify this in their Operating Plan and provide details of how this will operate. These details should include the hours of delivery, the steps taken to identify the age of the person ordering, payment arrangements, and arrangements to protect the safety of those delivering alcohol.

18.6 Clubs

- 18.6.1 Clubs which have varied their licence to allow admission to members of the public without being invited, signed in and accompanied by a member of the club or being a member of another club will require to appoint a premises manager, have the sale of alcohol authorised by a premises manager or

personal licence holder and will no longer be able to benefit from the reduced annual fee for clubs.

18.6.2 In relation to outside drinking areas there shall be no amplified music, or other amplified media in outside drinking areas except where this directly relates to the primary object or purpose of the club as defined in its constitution (e.g. to announce a bowling competition).

18.7 Plastic Glasses

The Board retains the option, where glassing attacks or other glass related injuries regularly occur in an individual premises to require these premises to only serve drink from toughened glass, plastic or polycarbonate receptacles.

18.8 Smoking

The Board requires doorways and fire escapes of premises to be kept free from obstruction at all times. The Board may also require litter bins to be installed outside premises, the responsibility for cleaning and maintenance of which would be that of the individual premises. The Board may also impose conditions requiring individual premises to remove cigarette butts from outside their premises at least twice per day.

18.9 Race Nights

The Board's policy is to permit race nights in licensed premises providing these are not undertaken for the direct commercial benefit of the licensee. For the avoidance of doubt, the sale of increased volumes of drink or food through the presence of race night customers will not be viewed as being such a direct commercial benefit.

18.10 Outdoor Drinking

West Dunbartonshire Council has introduced bye-laws prohibiting the consumption of alcohol in designated public places within West Dunbartonshire. Applicants must ensure that their Operating and Layout Plans clearly show which outside area or areas form part of the licensed premises. Any outside areas not clearly identified as part of the licensed premises will, if it falls within the boundaries of the bye-laws, be a "public place" for the purposes of the bye-laws and alcohol must not be consumed there.

The Licensing Board will expect applicants to demonstrate their intention to put in place effective management controls, supervision and other measures to ensure the use of such areas by patrons does not have an adverse impact on the locality, particularly to occupiers of premises in the vicinity of the premises. In relation to noise control and in pursuance of the licensing objective of preventing public nuisance generally, the Licensing Board will not permit amplified sound or music to be played within, or relayed to, outdoor

drinking areas nor live music to be played within these areas. A condition to this effect will be included in the Premises Licence.

Applicants and Licensees will also be expected to follow wherever possible the guidance contained in the document 'Good Practice Guide on the Control of Noise from Pubs and Clubs (2003)' published by the Institute of Acoustics. The Board is of the view that unless outside drinking areas are outwith earshot range of neighbouring premises that there should be no sale or consumption of alcohol in outside areas after 10 p.m. Glasses and other receptacles must be cleared away by 10.15 p.m. A condition to this effect will be included in Premises Licences.

Where the proposed outdoor area is situated in a public footway, the Licensing Board will require applicants applying for such an area to have obtained consent from the Council's Roads Services under Section 59 of the Roads (Scotland) Act 1984. The Licensing Board expects that Premises Licence Holders will comply with all conditions which may be attached to that consent. A Section 59 consent will require to be submitted along with any application which includes an outdoor area situated on a public footway. Such outdoor areas should only be used for the consumption of alcohol by those seated in the area – no external "vertical drinking" should take place on a public footway.

Applicants must be able to advise as to how the proposed licensed outdoor area will be delineated on the ground. If delineated by removable barrier this should allow access and egress for disabled persons.

18.11 Capacity

In their Operating Plan, applicants are required to provide a figure showing the proposed capacity of the premises for consumption of alcohol. The Board will expect applicants to consider various factors when assessing this including:-

- design and layout of the premises
- location, availability and size of the exits and emergency exits
- the nature of the premises or events
- the staff availability to supervise customers both ordinarily and in the event of an emergency

The Board will determine the capacity in accordance with Buildings Standards Regulations. Applicants are recommended to consult with West Dunbartonshire Council's Building Standards Service if they are in any doubt as to the capacity of their premises.

Applicants will be expected to have sufficient measures in place to monitor the number of persons on the premises at any point to ensure the occupancy capacity is not exceeded.

19. Personal Licence

19.1 Training

Personal Licence Holders are reminded that it is mandatory for them to undertake prescribed training every five years and to provide the Board with evidence that they have undertaken this training. Should a Personal Licence Holder fail to undertake the necessary training they will have their personal licence revoked.

20. **Occasional Licence**

20.1 Occasional Licence

The policy of the Board is that an Occasional Licence is needed for each separate occasion. For example, if premises have a 21st party on Friday evening, a live band on Saturday evening and a charity race night on the Sunday evening, three separate Occasional Licences will be needed. This reflects the fact that the nature of the events is different, raising different considerations and requiring different conditions.

20.2 Hours

The Board considers that the commencement of the sale of alcohol under an Occasional Licence shall not normally be earlier than 11 a.m. The Board considers the following closing times to be appropriate beyond which alcohol must not be sold on the premises:-

Sunday to Thursday – 12 midnight
Friday and Saturday – 1 a.m.

For applications for licensed hours outwith these times applicants will require to demonstrate that the additional hours requested are necessary in the circumstances. The Board considers that it would be difficult for any application to justify the sale of alcohol after 3 a.m. other than in exceptional circumstances.

20.3 Recommended Training Requirements for Persons Operating under an Occasional Licence who do not hold a Training Qualification

The Board will impose a condition on the grant of Occasional Licences which will require any person selling, pouring or delivering alcohol in terms of the Occasional Licence to either hold a training qualification, or alternatively to be trained to the standard prescribed in the Licensing (Training of Staff)(Scotland) Regulations 2007. Such a condition will be imposed on any Occasional Licence event which the Board feels may pose a higher risk to the licensing objectives. The Board will impose such a condition on events such as weddings, birthday parties, and other celebratory events and concerts or large public events where the consumption of alcohol often forms a significant aspect of the occasion. The Board will not impose it on small community events, such as PTA fund raisers where the consumption of alcohol is

ancillary to the event. The determination of whether such a condition should be imposed is delegated to the Clerk to the Board.

21. Extended Hours Applications

21.1 Special Events

The Board considers activities such as dances, discos and dinner dances, wedding receptions and parties where a disco or band is provided generally falls within the description of a special event or occasion to be catered for on the premises. Darts, dominos or pool competitions, karaoke evenings, parlour derbies or private parties where there is no significant entertainment are generally not considered to fall within the definition and there would be a presumption against granting any Extended Hours Applications in respect of such events.

21.2 National and International Events and Festivals

The Board believes that in many cases such events can be appropriately accommodated within normal licensing hours and should not routinely be regarded as a need for extended licensing hours. Any decision on an extension of normal licensing hours will only be taken after careful consideration of the particular event and will require increased control measures to be put in place aimed at preventing/limiting problems.

21.3 Hours

The Board considers that it would be difficult for any application to justify the sale of alcohol earlier than 11 a.m. or after 3 a.m. other than in exceptional circumstances.

PART 4

OVERPROVISION

22. Section 7 of the Act requires each Licensing Board to include in its Policy Statement a statement as to the extent to which the Board considers there to be an overprovision of licensed premises or licensed premises of a particular description in any locality within the Board's area.
23. The Board, having examined data regarding rates of alcohol related death, alcohol related hospital admissions, police incidents, crime and fire statistics and information regarding the number, type and capacities of licensed premises in localities within West Dunbartonshire, having regard to evidence of a correlation between the density of outlets and alcohol related problems, having regard to its duty to promote the licensing objectives and having undertaken a consultation exercise is of the view that there is overprovision of certain types of licensed premises in a locality within West Dunbartonshire.
24. The Board considers there to be overprovision of the following types of licensed premises namely:-
 - Vertical drinking establishments (i.e. where the majority of capacity is for patrons standing up to drink as opposed to premises which cater predominately for persons taking meals – this includes pubs but will also include hotels where the bar facilities are not ancillary to the accommodation or dining).
 - Nightclubs
 - Off-sales and local convenience stores
 - Supermarkets
25. The Board considers there is an overprovision of these types of licensed premises in a locality within West Dunbartonshire comprising the following 15 sub-localities of:-
 - Clydebank Central/Dalmuir
 - Dumbarton Central - Silvertown West/Townend
 - Jamestown/Old Bonhill
 - Renton – Alexandria (part), Bonhill (part)
 - Goldenhill/Hardgate/Parkhall
 - Alexandria/Balloch
 - Whitecrock
 - Dumbarton North East - Bellsmyre/Silvertown East
 - Mountblow/Parkhall
 - Parkhall/Radnor Park

- Old Kilpatrick
- East and North Kilbowie
- Bonhill
- Faifley/Hardgate
- Dumbarton West - Brucehill/Dennystown/Kirtonhill

This locality, and the fifteen sub-localities, is shown on the plan forming Appendix 1 hereto.

26. The effect of the policy is to create a rebuttable presumption against the grant of an application within this locality for the foregoing types of licensed premise. Each application still requires to be determined on its 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 the objectives would not be undermined if the applicants operating plan were to be modified. The Board will expect applicants who are seeking the grant of a new premises licence or to increase the capacity of an existing premises license within the foregoing categories of premise and locality to provide robust and reliable evidence to the Board why the benefit to the licensing objectives through the grant of their application outweighs the detriment to the licensing objectives and the Overprovision Policy. In particular the Board will expect to be addressed on the benefits of granting the application in terms of each licensing objective.
27. If an existing licence ceases to be in force this does not necessarily mean that there is capacity for a new licence of a similar capacity. The data and consultation responses considered by the Board provide evidence that there is presently an overprovision of licensed premises in West Dunbartonshire but does not quantify the extent of that overprovision. In these circumstances any application seeking to replace capacity relinquished by other premises will be subject to an individual overprovision assessment. This will have particular regard to the data relating to the sub locality to which the new application or application for increased capacity relates. It will also have regard to the type of premises capacity relinquished compared to the type of premises applied for.
28. There are 3 sub-localities within West Dunbartonshire where the board considers that there is not presently overprovision of licensed premises. These are Balloch North East/Gartocharn/Mill of Haldane, Dumbarton East – Barnhill/Crosslet/Milton/Bowling and Duntocher. The Board is aware that some of these sub localities are in close proximity to areas with significant alcohol related health, crime and disorder problems. The Board is also aware that there is local evidence to suggest that persons in West Dunbartonshire, wishing to obtain alcohol from off-licences will travel up to two miles across sub-localities to purchase alcohol. Similarly persons will travel across the whole of West Dunbartonshire to attend nightclubs. Accordingly any application outwith the overprovision locality for new premises or increased capacity of existing premises where there is a likelihood that customers will be drawn from the Board's overprovision locality will also be subject to an overprovision assessment. This assessment will have regard to the alcohol

related crime, disorder and health data relating to both the sub locality in which the application premises are located and the sub localities from where the customers are likely to be drawn.

PART 5

LICENSED HOURS/HOURS OF TRADING

The Board's general policy is as follows:-

29. Off-Sales

For applications relating to premises licences and to occasional licences, the licensed hours for the sale of alcohol for the consumption off the premises (off-sales hours) are 10 a.m. to 8 p.m. every day.

The Board may consider extending the closing time for off-sales up to 10 p.m. if suitable enhanced control measures have been put in place to promote the licensing objectives. Enhanced control measures must include CCTV cameras covering the interior of the premises and the exterior area adjacent to the entrance to the premises. The Board requires CCTV records to be kept for 28 days and requires all cameras covering areas of high footfall, customer staff interaction areas, and areas immediately adjacent to the premises to give clear recognisable images of all persons as defined in the "Home Office CCTV Operational Requirements Manual". The Board also requires that all staff shall be trained to the highest standard and that premises must have a written training plan in place, to include ongoing refresher training for staff. The Board also expects that an appropriate proof of age scheme, including a refusals book will have been put in place and rigorously enforced.

The Board will not generally require proof of enhanced control measures for any on-sales or club applying to have off-sales approved to 10 p.m. However the Board may require proof of enhanced control measures for individual premises where circumstances merit it. The Board will normally expect that the off-sales hours for premises seeking or holding an on-sales licence will not commence prior to or finish after the hours for on-sales.

The Board reserves the right to revoke any extensions to the closing time if it is deemed reasonable to do so in light of any incidents or occurrences at the licensed premises.

Applicants should note that the Board must refuse an application for off-sales that would result in alcohol being sold outwith 10 a.m. to 10 p.m. each day.

It should be noted that the Board will not automatically grant a licence to applicants who request an off-sale licence for the times permitted. The Board will determine such applications having regard to the licensing objectives. In

particular the Board will consider the effect which the proposed off-sales hours may have on the occurrence of anti-social behaviour.

30. On-Sales

For applications relating to premises licences including extensions of hours for the sale of alcohol for consumption on the premises (on-sale hours) the Board considers that the commencement of the sale of alcohol shall be no earlier than 11 a.m. The Board will recognise the importance of tourism in certain locations within the Board's area and other determining factors such as the location of the licensed premises and may allow exceptions to this general rule.

The Board also recognises that earlier opening hours may also be appropriate for certain types of premises, for example, bowling clubs during the bowling season and also for events such as funerals. However, the Board will not allow opening any earlier than 10 a.m. If the Board grants a licence which permits premises to be open prior to 11 a.m. for the purposes of funerals, it will impose a condition that on each occasion when it is intended that alcohol will be sold on the premises before 11 a.m. in connection with a funeral, 24 hours notice must be given to the Office of the Clerk to the Licensing Board and the Local Police Authority.

31. The Board considers the following closing times to be appropriate beyond which alcohol must not be sold on the premises:-

31.1 Restaurants

The Board considers that restaurants are premises where the supply of alcohol is ancillary to a table meal taken by persons within the premises. Licence holders should note that snacks, sandwiches and crisps are not considered to constitute table meals.

Monday to Sunday – 2 a.m.

31.2 Premises offering no significant entertainment facilities

For premises or parts of premises where the consumption of alcohol is a main activity and significant entertainment facilities throughout the licensing hours are not provided. Public houses, hotel bars and members clubs would fall within this category.

**Sunday to Thursday – 12 midnight
Friday and Saturday – 1 a.m. the following day**

31.3 Premises offering significant entertainment facilities and subject to conditions the Board may impose

Premises or parts of premises where the provision of alcohol for consumption on the premises is ancillary to the significant entertainment provided and

subject to such conditions that the Licensing Board sees fit to impose in relation to such premises. Nightclubs would fall within this category.

Monday to Wednesday – 1 a.m. the following day
Thursday to Sunday – 3 a.m. the following day

The Board will interpret the phrase “significant entertainment” strictly and will only grant a licence if the entertainment offered is an integral part of the application. The entertainment should be provided at all times during the licensing hours. The Board considers that entertainment such as dances, discos, dinner dances, and parties where a disco or band is provided would fall within the scope of significant entertainment. Pool competitions, karaoke evenings or darts would not be acceptable. Where entertainment is provided only on part of the premises, applicants should ensure that their Operating Plan reflects this.

32. Festive period

The Board may allow longer licensing hours over the festive period. This will not be an automatic right and an application to the Board will have to be made for each business wishing to open for longer hours. The Board may at their own discretion impose additional conditions on such premises in order to promote the five licensing objectives.

The festive period for the purposes of this aspect of the policy will be determined by the Board on an annual basis in consultation with the Local Licensing Forum. The Board has previously calculated the festive period as being the two weeks prior to Christmas Day until the 3rd or 4th January depending on which day of the week New Years Day falls.

Where Applicants are applying for licensed hours for times outwith this general policy, they will require to demonstrate that these additional hours are reasonable and do not unduly conflict with the Licensing Objectives.

33. Late Opening

Late opening will be considered as any premises which applies to remain open after 1.00 a.m. Such premises will be subject to mandatory late opening conditions and the Board may decide it is appropriate to attach additional conditions. The applicant will be required to justify their request for late hours bearing in mind the licensing objectives. The Board considers that it would be difficult for any application to justify the sale of alcohol after 3 a.m. other than in exceptional circumstances.

34. Early Opening

Similarly, if any premises wishes to open before 11 a.m., the applicant will be required to justify the need for early opening. The applicant will be expected to demonstrate that sufficient measures will be in place to promote the licensing objectives. The Board considers that it would be difficult for any

application to justify the sale of alcohol before 10 a.m., other than in exceptional circumstances.

35. British Summer Time

Applicants should note that in relation to the changing of the clock for British Summer Time the closing times of those licensed premises which are authorised to open later than the hour when the change takes place, should be determined by reference to the number of hours after midnight when they are authorised to be open rather than by the actual time shown on the clock.

PART 6

BOARD PROCEDURE

36. General

36.1 The Board will follow the principles of openness and transparency when carrying out its functions. It shall provide all reasonable assistance and information to those wishing to apply for a licence, to make representations or to object to an application, for example, providing information in different languages/formats. The Board recognises the importance of the licensed trade to the local economy but proportionate and firm action will be taken against those who commit offences.

36.2 The Board will meet in public to determine both policy matters and applications. It may however adjourn at times to take legal advice. Copies of the Board Agenda and Minutes of Board Meetings will be made available on the Board's website, maintained by West Dunbartonshire Council at <http://www.wdcweb.info/law-and-licensing/licensing/licensing-board/>.

37. Delegation of Functions

37.1 It is of importance to the Board that the service they provide is efficient and cost effective to all those involved in the licensing process. The Board has agreed that only those matters which are required by statute to be considered by the Board will be put before them. Decisions on all other applications will be delegated to the Clerk to the Board who will refer the matter to the Board as and when necessary.

37.2 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 sought is not a minor one;
- An application for a 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 a hearing including issuing a written warning, revoking or suspending a 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.

38. Enforcement

38.1 At its meeting on 3 February 2010 the Board adopted an Enforcement Policy, which is available at <http://www.wdcweb.info/law-and-licensing/licensing/licensing-board/information/policy-guidelines/>. The Board will apply this policy in dealing with all enforcement issues. The Board's aims in undertaking enforcement or compliance work is to:-

- Ensure that regulated persons take action immediately to deal with serious risks;
- Promote and achieve sustained compliance by regulated persons;
- Treat all regulated persons fairly;
- Be helpful to regulated persons who wish to comply;
- Support those who comply by targeting those who don't, in particular by taking firm action against those who flout the law or act irresponsibly;
- Protect the public in a way which does not stifle enterprise, hinder economic progress or place unnecessary burdens on businesses;
- Communicate this policy effectively to those people who are affected by it.

38.2 The Enforcement Policy is based on the principals of helpfulness, openness, proportionality, consistency, fairness and equality and targeted action (known as the Hampton Principles¹).

38.3 The strategy to be employed to ensure that the Board meets its obligation will be to:-

- Undertake a priority based inspection program;
- Investigate all complaints in accordance with West Dunbartonshire Council Complaints Procedure;
- Provide advice and guidance on request;
- Strive to achieve consistency in enforcement standards through staff training, equality procedures and active participation in liaison arrangements with other local authorities, both locally and nationally;
- Provide advice and guidance to new businesses during the planning stage of their venture;
- Seek to educate those with an interest in licensed premises to promote the licensing objectives;
- Work in partnership with Strathclyde Police for specific enforcement initiatives and the development of a formal enforcement protocol;

¹ Published in March 2005 by HM Treasury in a report by Sir Philip Hampton entitled Reducing Administrative Burdens: Effective Inspection and Enforcement

- Particular initiatives will be undertaken in response to local intelligence and/or when there is sufficient evidence from inspection activity to demonstrate a need for specific targeted action.

39. Licensing Standards Officers

- 39.1 Licensing Standards Officers will be employed by West Dunbartonshire Council. The Licensing Standards Officers will have three main roles:-
- Guidance
 - Mediation
 - Compliance
- 39.2 The Licensing Standards Officer will also be a member of the Local Licensing Forum. The Board recognises that the Licensing Standards Officers will have a key role to play in the new licensing regime and that they will be the first port of call for most licensing matters. However, they will not give legal advice nor make any applications or objections on behalf of any party.
- 39.3 The Licensing Standards Officer will carry out the roles and responsibilities set out under the Act including:-
- Providing guidance and information on the Act.
 - Checking that licence holders are complying with the terms of the legislation and their licence conditions.
 - Providing a mediation service in order to try to resolve disagreements and disputes.
- 39.4 Section 15 of the Act gives Licensing Standards Officers power to enter and inspect licensed premises to establish compliance with the premises or occasional licence and any other requirements of the Act. In addition, along with the police, they have powers under Section 137 to enter premises for the purposes of assessing the likely effect on the promotion of the licensing objectives of the grant of the application or the effect of the sale of alcohol under the licence. The Act also provides that anyone preventing those persons from undertaking this task will be guilty of an offence.
- 39.5 Licence holders and those managing and working on the premises are under a duty to co-operate with and assist the Licensing Standards Officers in the performance of their functions and to provide any information or documents requested. It is an offence not to provide such co-operation and assistance.

40. West Dunbartonshire Local Licensing Forum

- 40.1 The Board recognises and values the work of West Dunbartonshire Local Licensing Forum and will consult with it on policy matters wherever possible.

