

# **WEST DUNBARTONSHIRE LICENSING BOARD**

**LICENSING (SCOTLAND) ACT 2005**

**STATEMENT OF LICENSING POLICY**

**NOVEMBER 2007 TO NOVEMBER 2010**

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## **Foreword**

This Statement of Licensing Policy was drafted at a time when the publication of regulations was awaited. Should anything contained in regulations or any further guidance issued by the Scottish Government impact upon the content of this document then amendments to this Policy may be required at a later stage.

Consultation on the Draft Statement of Licensing Policy took place during the period from September to October 2007.

The Statement of Licensing Policy shall be applied during the three year period to November 2010. It will be kept under review and revised if appropriate by the issue of supplementary statements during the three year period.



## **PART A**

### **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 The Act, which will be brought into force incrementally over the next 18 months, repeals the Licensing (Scotland) Act 1976.
- 1.3 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. This Licensing Policy Statement must be published every three years. This Statement fulfils the statutory requirement for West Dunbartonshire Licensing Board. The Board is committed to on-going consultation with 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 just over 91,000 people (General Registrar for Scotland's 2005 mid-year estimate) 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. The 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 B.

3.2 The Board recognises that whilst responsible licensing is important to public and community health and well-being, licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are no longer on the licensed premises and beyond the direct control of the individual business or club holding the Licence or authorisation concerned. Other mechanisms such as planning controls, police enforcement in relation to anti-social behaviour and the provision of CCTV surveillance can be utilised to reduce nuisance and anti-social behaviour once an individual has left the licensed premises.

#### **4. Consultation on the Statement of Licensing Policy**

4.1 When preparing the Licensing Policy Statement, the Act requires that the following parties are consulted by the Board:-

- (a) the local Licensing Forum for the Board's area;
- (b) the following categories insofar as they are not already represented in the membership of the local Licensing Forum -
  - holders of premises licences and personal licences;
  - the Chief Constable for the Police area in which the Forum's area is situated;
  - persons having functions relating to health, education or social work;
  - young people; and
  - persons resident within the Forum's area.
- (c) such other persons as the Board thinks appropriate.

4.2 The Licensing Authority consulted on the Statement before it was finalised and published.

4.3 Our consultation took place between September and October 2007. The draft Statement was sent to all members of the Local Licensing Forum for comment. In addition, it was also sent to representatives from West Dunbartonshire Council's Environmental Health Section, Social Work Department, Education Services and the Chief Executive's Policy Unit together with a number of solicitors in the area who represent licence holders. It was also published on the West Dunbartonshire Council website to allow for comment from members of the public and local businesses.

4.4 The Statement of Principles was approved at a meeting of the West Dunbartonshire Licensing Board on 6 November 2007 and was published via our website on 15 November 2007. Copies were placed in the public libraries of the area as well as being available in the offices of West Dunbartonshire Council at Garshake Road, Dumbarton and Rosebery Place, Clydebank.

- 4.5 Should you have any comments as regards this Policy Statement please send these by e-mail or letter to the following contact:-

Name: Stephen Brown, Clerk to the Licensing Board.  
Address: West Dunbartonshire Licensing Board, Council Offices,  
Garshake Road, Dumbarton, G82 3PU.

E-mail: [stephen.brown@west-dunbarton.gov.uk](mailto:stephen.brown@west-dunbarton.gov.uk)

## 5. Declaration

- 5.1 In producing this Statement, this Licensing Authority declares that it has had regard to the Licensing Objectives set out in the Act, the guidance issued by the Scottish Government and any responses from those consulted on the Statement.
- 5.2 This Policy covers a wide variety of issues including procedural matters, licensing 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.

## 6. Licensing Board Functions

- 6.1 The Board is responsible for various functions under the Act including, for example, granting –

Premises Licences  
Personal Licences  
Occasional Licences  
Provisional Licences  
Temporary Licences  
Extensions of Licensing Hours  
Transfers of Licence  
Variations of Licence

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

## 7. Objections and Representations

- 7.1 The Act allows **anyone** to object or make representations to the Licensing Board in relation to:-
- an application for a premises licence;
  - an application for a major variation of a premises licence i.e. a variation of a type which would have to come before the Board for a hearing or one which has been referred before the Licensing Board for a hearing; and
  - an application for an occasional licence.

- 7.2 This Policy does not seek to override the right of any person to make an objection or representation. The Board will have regard to any representations or objections made to it. However, the Board does have a right to reject frivolous or vexatious objections.

## **8. Relationship with Other Strategies**

- 8.1 The Board will also seek to discharge its responsibilities identified by other national strategies or local policies so far as they impact on the objectives of the licensing function, for example, the Local Plan, West Dunbartonshire Community Planning Partnership Regeneration Outcome Agreement, West Dunbartonshire Corporate Action Plan for Alcohol and Drugs, West Dunbartonshire Joint Health Improvement Plan and the West Dunbartonshire Integrated Children's Services Plan.

## **9. Tourism**

- 9.1 Arrangements will be made for the Licensing 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 considerations.

## **10. Duplication**

- 10.1 In as far as is possible, the Board shall avoid duplication with other regulatory regimes. Where other legislation exists or other enforcement agencies have sufficient powers the Board will endeavour, as far as reasonably possible, to avoid using the powers under the Act to achieve that same outcome.
- 10.2 The Board will endeavour to ensure that the Planning, Building Standards and Licensing regimes will be properly managed to avoid duplication and inefficiency. It is recognised that the Planning, Building Standards and Licensing regimes require to be kept separate and dealt with in accordance with their own statutory provisions. The grant or refusal of a Planning or Building Standards application will not necessarily affect decisions taken by the Board. Similarly the Board will not normally seek to challenge any decisions taken by the Planning Authority.
- 10.3 The Board shall ensure proper communication between the Board and the Planning Authority about the licensed premises in the area.

## **PART B**

### **The Licensing Objectives**

The following sub-sections set out the Board's general approach to how we will seek to promote each of the Licensing objectives.

#### **1 Preventing crime and disorder**

1.1 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.

1.2 The Board encourages licence holders to demonstrate within their Operating Plan 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.

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

#### **2 Securing Public Safety**

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

2.2 The Board encourages licence holders to demonstrate within their Operating Plan 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.

2.3 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.

### **3 Prevention of Public Nuisance**

3.1 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.

3.2 The Board encourages licence holders to demonstrate within their Operating Plan 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.

3.3 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. beers 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.

## **4 Protecting and Improving Public Health**

4.1 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.

4.2 The Board encourages licence holders to demonstrate within their Operating Plan the measures which will be put in place to protect public health.

4.3 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.

4.4 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.

4.5 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.

## **5 Protecting Children from Harm**

5.1 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.

5.2 The Board encourages licence holders to demonstrate within their Operating Plan 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.

5.3 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;
- 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.

5.4 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;
- (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 or parts of the premises to which children have access should, when not in use, have plug caps thereon; and
- (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.

#### Access to Premises by Children and Young Persons

5.5 As a general rule, 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 licensed premises where the primary purpose of allowing them access is to consume a meal or to attend a pre-booked and ticketed function. Children and young people will not be permitted in the licensed premises after 10 pm (other than in exceptional circumstances, for example, a wedding or other pre-booked and ticketed function being held on a licensed premises where the presence of children and young people after 10 pm can be justified). A condition to this effect will be imposed by the Board on the licences of all premises where children are permitted access.

- 5.6 For the avoidance of doubt the foregoing paragraph does not apply to premises where no on-sales take place and the sale of alcohol is for consumption off the premises only. However, the Board would expect licence holders to have in place sufficient measures to ensure that children or young people do not access part or parts of premises where alcohol is displayed.
- 5.7 Applicants are reminded of the requirement under Section 110 of the Act to display a prominent notice in respect of the prohibition of the sale of alcohol to persons under the age of 18.

## PART C

### LICENCES

There are three types of Licence under the Act.

#### 1. Premises Licence

##### 1.1 Applications for a Premises Licence

Each premises that intends to sell alcohol for consumption on or off the premises will require to have a Premises Licence. A draft Operating Plan and Layout Plan must be lodged with any application for a Premises Licence. Applicants should ensure that they comply with the provisions of the Regulations made under the Act when submitting their applications. In particular applicants for premises licences in respect of off-sales should bear in mind the Licensing (Mandatory Conditions No. 2) (Scotland) Regulations 2007 which provide that alcohol may be displayed only in one or both of the following (a) a single area of the premises agreed between the Licensing Board and the holder of the licence, or (b) a single area of the premises which is inaccessible to the public.

##### 1.2 Operating Plan

The Operating Plan should set out clearly the Applicants proposals. It should be in the prescribed form and contain the following information:-

- (a) a description of the activities to be carried on in the premises,
- (b) a statement of the times during which it is proposed that alcohol be sold on the premises,
- (c) a statement as to whether the alcohol is to be sold for consumption on the premises, off the premises or both,
- (d) a statement of the times at which any other activities in addition to the sale of alcohol are to be carried on in the premises,
- (e) where alcohol is to be sold for consumption on the premises, a statement as to whether children or young persons are to be allowed entry to the premises and, if they are to be allowed entry, a statement of the terms on which they are allowed entry including, in particular -
  - (i) the ages of children or young persons to be allowed entry,
  - (ii) the times at which they are to be allowed entry, and
  - (iii) the parts of the premises to which they are to be allowed entry,\*
- (f) information as to the proposed capacity of the premises,
- (g) prescribed information about the individual who is to be the premises manager, and
- (h) such other information in relation to the premises and the activities to be carried on there as may be prescribed.

\* Applicants are referred to Part B Section 5 which outlines the Boards policy on access by children and young persons to licensed premises

The Operating Plan should be specific to each premises and should not be completed in general terms. If different parts of the premises are to be used for different activities and different operating hours etc the Operating Plan should reflect this.

### 1.3 Layout Plan

The Layout Plan for the premises should show, amongst other things, the area where alcohol will be sold, seating arrangements and areas suitable for children. Each specific area should be clearly delineated and where the premises covers more than one floor there requires to be a layout plan for each floor.

Applicants are reminded to pay particular attention to the Operating Plan and the Layout Plan. If a particular activity is not mentioned in the Operating Plan then that activity cannot take place on the premises unless the Board formally varies the licence.

### 1.4 Premises Manager

Each premises licence will have to specify a premises manager for the premises. A person can only be the designated premises manager for one licensed premises. The Board would draw specific attention to Section 54 of the Act which places a specific duty on premises licence holders following the dismissal, resignation, death etc of the premises manager.

### 1.5 Convictions

The Board draws attention to Section 24 of the Act which places a duty on anyone applying for a premises licence to notify the Licensing Board of any convictions obtained whilst the application is pending. Similarly, Section 43 requires holders of a premises licence to inform the Board of relevant convictions within one month of the date of conviction.

### 1.6 Duties of a Premise Licence Holder

Once a licence is granted, a premises licence holder must, not later than one month after the occurrence of any change in (a) the licence holder's name or address, or (b) the name or address of the premises manager specified in the licence, give the appropriate Licensing Board notice of the change. The requirements in relation to this are set out in Section 48 of the Act. Licence holders should note that a premises licence holder who fails, without reasonable excuse, to comply with this requirement, commits an offence.

### 1.7 Duties in respect of the Premises Licence

Licence holders are asked to note the requirements of Section 52 of the Act in relation to the duty to keep, display and produce the premises licence.

## **2. Personal Licence**

### **2.1 Applications for a Personal Licence**

Every premises will require one or more Personal Licence holders. In terms of the mandatory conditions in Schedule 3 of the Act, the premises manager will have to hold a personal licence. A personal licence permits that person to supervise and authorise sales of alcohol on the premises. Applicants are reminded that in terms of Schedule 3, paragraph 5 of the Act every sale of alcohol made on a licensed premises must be authorised (whether generally or specifically) by (a) the premises manager, or (b) another person who holds a personal licence. The personal licence is intended to ensure that anyone managing premises is suitable to do so. Applicants for a personal licence should ensure that they comply with provisions of the Regulations made under the Act when submitting their applications. The Board will consider applications from individuals ordinarily resident within the West Dunbartonshire area.

### **2.2 Convictions**

When considering applications, the Board will work closely with the police to establish if the applicant has been convicted of any relevant offences. Applicants are reminded of the provisions of Section 75 of the Act which places a duty on them to inform the Board of any relevant or foreign offence that they have been convicted of in the period between making their application and it being determined by the Board. Similarly if a licence holder is convicted of a relevant offence after they have been granted a licence they are also required to inform the Board.

### **2.3 Training**

Personal licence holders are reminded that it is mandatory for them to undertake prescribed training every 5 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.

### **2.4 Duties of the Personal Licence Holder**

In terms of Section 88 of the Act, the holder of a personal licence must notify the Board of any change of name or address within one month and must enclose the personal licence (or a statement of reasons for failure to produce the licence) with such notice. Failure to do so is an offence. Where the holder of a personal licence is working on licensed premises, a constable or Licensing Standards Officer may require the holder to produce his or her personal licence. Failure to produce the licence is an offence under Section 93 of the Act.

### **3. Occasional Licence**

#### **3.1 Applications for an Occasional Licence**

An Occasional Licence can be granted to the holder of a Premises Licence, the holder of a Personal Licence or a representative of a voluntary organisation. Occasional Licences allow the sale of alcohol at an occasion/function for a period of not more than fourteen days where the event is taking place outwith licensed premises.

#### **3.2 Notice of an Event**

Applicants are encouraged to provide as much notice of the event as possible to the Board. The minimum period of notice required will normally be twenty eight days.

#### **3.3 Required Information**

An application for an occasional licence must contain the following information:-

- (a) the name and address of the person applying for the licence,
- (b) a description of the premises in respect of which the licence is sought,
- (c) a description of the activities to be carried on in the premises,
- (d) a statement of the period for which the licence is sought,
- (e) a statement of the times during which alcohol is intended to be sold on the premises,
- (f) a statement as to whether alcohol is to be sold for consumption on the premises, off the premises or both,
- (g) a statement of the times at which any other activities in addition to the sale of alcohol are to be carried on in the premises,
- (h) where alcohol is to be sold for consumption on the premises, a statement as to whether children or young persons are to be allowed entry to the premises and, if they are to be allowed entry, a statement of the terms on which they are allowed entry including, in particular -
  - (i) the ages of the children or young persons to be allowed entry,
  - (ii) the times at which they are to be allowed entry, and
  - (iii) the parts of the premises to which they are to be allowed entry,\*
- (i) the conditions to which the licence is subject, or, in relation to any such condition, a reference to another document in which details of the condition can be found, and
- (j) such other information as may be prescribed.

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

\* Applicants are referred to Part B Section 5 which outlines the Boards policy on access by children and young persons to licensed premises

## **PART D**

### **1. OVERPROVISION**

- 1.1 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 with the Board's area.
- 1.2 This duty will not come into effect until 2009 so the Board will issue and consult on an amendment to the Statement in relation to this matter in due course.
- 1.3 In addition to the above duty, Section 23(5)(e) of the Act makes overprovision one possible ground for refusal for a premises licence. Regulations, which are not yet in force, indicate that the Board will not be able to use overprovision as a ground of refusal where the application relates to a premises where a licence or certificate of registration is in force under the Licensing (Scotland) Act 1976 and the premises licence application is substantially the same (regarding size, capacity and general nature of the premises, any entertainment on the premises and licensed hours). The Licensing Board will require to give consideration to overprovision as a possible ground of refusal in all other cases.

### **2. OCCUPANCY CAPACITY**

- 2.1 Occupancy capacity is one factor which the Board will take into account when assessing overprovision.
- 2.2 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:-
  - The design and layout of the premises;
  - The location, availability and size of the exits and emergency exits;
  - The nature of the premises or events; and
  - The staff availability to supervise customers both ordinarily and in the event of an emergency.
- 2.3 The recommendation of the National Licensing Forum, agreed by the Scottish Ministers, is that for the purposes of the overprovision assessment, the operating capacity of licensed premises should be determined by local authority building standards officers.
- 2.4 The definition of operating capacity for on-sales and off-sales is set out in Section 147 of the Act.
- 2.5 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.

## **PART E**

### **1. CONDITIONS**

- 1.1 The Act sets mandatory conditions which apply to Premises, Licences and Occasional Licences. The Board also has discretion to impose additional conditions.
- 1.2 The Board will impose such discretionary conditions where it is considered necessary or desirable in order to promote the Licensing Objectives.

### **2. THE LICENSED HOURS/HOURS OF TRADING**

- 2.1 Each application to the Board will be considered on its individual merits. The Board will at all times give consideration to the Licensing Objectives and the terms of the Act.
- 2.2 The Board's general policy is as follows:-

#### 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 am to 8 pm, Monday to Saturday and 12 noon to 8 pm on Sunday. These hours will also apply to any off-sales approved from premises with an on-sales licence.

The Board may consider extending the closing time for off-sales up to 10 pm if the applicant can show that the licensed premises have been operating successfully without incident for at least 12 months, and that suitable enhanced control measures have been put in place to promote the licensing objectives. For example CCTV cameras should be in operation, all staff should be trained to the highest standard and an appropriate proof of age scheme will have been put in place and will be rigorously enforced.

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 am to 10 pm 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.

## 2.3 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 am. 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 am.

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

### 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 am**

#### 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 am the following day**

#### 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 am the following day Thursday to Sunday – 3 am 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.

#### 2.4 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 3<sup>rd</sup> or 4<sup>th</sup> 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.

#### 2.5 Special Events

The Licensing Board may extend the licensed hours in respect of licensed premises by such period as the Board deems appropriate. This will normally only be in respect of (a) a special event or occasion to be catered for on the premises, or (b) a special event of local or significant importance. Such an extension will only last for a maximum period of one month.

#### 2.6 Late Opening

Late opening will be considered as any premises which applies to remain open after 1.00 am. 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 am other than in exceptional circumstances.

#### 2.7 Early Opening

Similarly, if any premises wishes to open before 11 am, 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 am, other than in exceptional circumstances.

## 2.8 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.

## 2.9 Occasional Licences

The Board considers that activities such as dances, discos, wedding receptions and parties where a disco or band is provided are generally accepted activities for granting an occasional licence. Activities such as karaoke evenings, darts or pool competitions and other similar events would not be acceptable. Again the Board will interpret strictly what type of entertainment is acceptable for granting an occasional licence. A licence will only be granted when the entertainment is an integral part of the function.

The Board considers that the commencement of the sale of alcohol under an occasional licence shall not normally be earlier than 11 am. 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 am

For applications for licensed hours outwith these times applicants will require to demonstrate that the additional hours requested are necessary in the circumstances.

## **PART F**

### **BOARD PROCEDURE**

#### **1. General**

- 1.1 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.

#### **2. Delegation of Functions**

- 2.1 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.

- 2.2 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.

#### **3. Review Hearings**

- 3.1 A licence may be reviewed on the application of any person on the grounds that one or more conditions of the premises licence has been breached or on any other ground relevant to one or more of the licensing objectives. A review will include consideration being given to the suspension, revocation or variation of a licence or the issue of a written warning.

4. Licensing Standards Officers and Enforcement
- 4.1 Licensing Standards Officers will be employed by West Dunbartonshire Council. It is intended to employ two Licensing Standard Officers. Additional Licensing Standards Officers may be appointed if it is deemed appropriate by the Council.
- 4.2 The Licensing Standards Officers will have three main roles:-
- Guidance  
Mediation  
Compliance
- 4.3 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.
- 4.4 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.
- 4.5 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.
- 4.6 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.

## **PART G**

### **MISCELLANEOUS**

#### **1. Smoking**

- 1.1 The Board is aware that other legislation covers smoking on licensed premises and that the licence holders will be aware of their own responsibilities. However, it is recognised that other issues can arise as a result of this legislation such as noise, nuisance and littering. Applicants should put sufficient measures in place to ensure such problems are prevented.

#### **2. Equalities and Disabled Facilities**

- 2.1 The Board has an Equalities Scheme. The Board will at all times act in accordance with the three public sector equalities duties in relation to race, disability and gender equalities. The Board expects licence holders to address equality issues in all aspects of their business.
- 2.2 Licence holders should ensure that facilities are appropriate for disabled customers.

#### **3. Transport**

- 3.1 The guidance requires that in time this Policy Statement should describe any arrangements between the Police and the Licensing Standards Officers for reporting views and concerns to the local Transport Committee. This will be provided for in a future amendment to this Statement.

#### **4. National and International Events and Festivals**

- 4.1 The Board believes that in many cases such events can be appropriately accommodated within normal licensing hours and should not routinely be regarded as in need of extended licensing hours. Any decision on an extension of the 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.

#### **5. Byelaws**

- 5.1 West Dunbartonshire Council has introduced byelaws prohibiting the consumption of alcohol in designated public places within West Dunbartonshire. Applicants should make themselves aware of the content of these byelaws and ensure that the layout plan within the Operating Plan clearly shows which outside area or areas forms part of the licensed premises. Any outside areas not clearly identified as part of the licensed premises will be "public places" for the purposes of the bye-laws and alcohol must not be consumed there.

## 6. Excluded Premises – Garages

Under Section 123 of the Act some categories of premises are excluded from authorising the sale of alcohol. This includes premises or parts of premises used as a garage. For the purposes of the Act a garage is a premises where there is (a) the sale by retail of petrol or derv (diesel), (b) the sale of motor vehicles, or (c) the maintenance of motor vehicles.

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 applicants that they would expect the premises to satisfy this test.

MAP OF WEST DUNBARTONSHIRE COUNCIL AREA

