



PERTH AND KINROSS LICENSING BOARD

POLICY STATEMENT UNDER THE
LICENSING (SCOTLAND) ACT 2005

2007 – 2010

29 November 2007

FOREWORD

Consultation on this document took place between July and October 2007. The policy will 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 policy statements which will apply to the end of the three year period.

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INTRODUCTION

- 1.1 Section 6 of the Licensing (Scotland) Act 2005 requires all licensing boards to publish a statement of licensing policy every three years. This statement fulfils that statutory requirement for Perth and Kinross Licensing Board. The Board is required to ensure that its policies promote the licensing objectives. They are set out in section 4 of the Licensing (Scotland) Act 2005 and are :
- (a) Preventing crime and disorder;
 - (b) Securing public safety;
 - (c) Preventing public nuisance;
 - (d) Protecting and improving public health;
 - (e) Protecting children from harm.

Subject to the promotion of the licensing objectives the Board recognises and supports the contribution which licensed premises make to the economy of the area, to employment, tourism and the vitality of the area.

- 1.2 In exercising its functions under the Act the Board is required to have regard to its Licensing Policy Statement. The Licensing Board will consider all applications on their merits within the context of legislative framework and the Licensing Policy Statement. In particular the Board will give due consideration to an application whether or not it conforms to the Licensing Policy Statement.
- 1.3 When considering an application for a premises licence, the Licensing Board must consider whether any grounds for refusal of the application exist. In particular, if the Board considers that it would be inconsistent with one or more of the licensing objectives, it must refuse that application. Therefore, the Board will wish to have sufficient information from Applicants to allow it to make the decision.

Applicants will also require to take into account any relevant policy as set out in this Licensing Policy Statement.

- 1.4 The Board acknowledges that its licensing powers are not the main statutory mechanism for dealing with issues such as anti-social behaviour and nuisance and will avoid duplication with any other statutory or other systems of control which can be more appropriately applied to the circumstances.
- 1.5 The Board acknowledges the need to maintain a clear distinction between the licensing and planning processes. The Board will work with Perth and Kinross Council to ensure that duplication and inefficiency are avoided in the planning, building control and licensing processes.

- 1.6 The Board will work towards ensuring the integration of its policy statement with other local strategies relevant to the licensing objectives such as the Community Plan, and crime prevention, anti-social behaviour and community safety strategies. The Board will also have regard to national strategies to address the social, health and crime and disorder issues created by alcohol misuse, in particular the “Plan for Action on Alcohol Problems” published in February 2007. To achieve this it will work with Perth and Kinross Council and other agencies involved in the development of such strategies.
- 1.7 The Board values the diversity that exists within Perth and Kinross and wishes to ensure full participation in the social, cultural and economic life of the area.

The Board opposes all forms of unlawful discrimination including discrimination on the grounds of race/ ethnicity, gender, sexual orientation, age, religion and disability and recognises that discrimination creates barriers to achieving equality for all people.

Reference is made to the Race, Disability and Gender Equality Schemes of the Board which more fully set out the Board’s position in relation to equality. .

2. THE LICENSING OBJECTIVES

- 2.1 In general terms the Board will seek to promote the licensing objectives as follows:

Preventing Crime and Disorder

The Board supports a strategy aimed at making its area a safe place to live in and visit. The Board is committed to improving the quality of life for the people in the area by ensuring that licensed premises are run in such a way as not to contribute to crime and disorder. To enable the Board to make a decision about an application, applicants will be expected to provide information about how they will address the problems of:-

- Underage drinking;
- Drunkenness on or around premises;
- Illegal possession and/or use of drugs;
- Violent or aggressive behaviour;
- Anti-social behaviour;
- Litter

Securing Public Safety

The Board is committed to ensuring that the safety of any person visiting or working on or in the vicinity of licensed premises is not compromised. To enable the Board to make a decision about an

application, applicants will be expected to provide information about the control measures they have in place to ensure the safety of those working on, visiting or in the vicinity their premises.

Preventing Public Nuisance

The Board wishes to protect and maintain the amenity of residents and occupiers of other businesses from any adverse consequences of the operation of licensed premises whilst at the same time recognising the valuable, cultural, social and business importance that such premises provide. The Board considers that “public nuisance” should be interpreted in its widest sense and in that respect considers it to include nuisance arising from noise, light, odour, litter and anti-social behaviour. To enable the Board to make a decision about an application, applicants will be expected to provide information about the control measures they have in place to prevent public nuisance by those visiting their premises.

Protecting and Improving Public Health

The Board recognises the link between the consumption of alcohol and public health. The Board wishes to see premises thriving in the area, but this cannot be at the expense of patrons’ health and wellbeing. The Board will work with and have regard to the views of the relevant bodies responsible for, and interested in, the protection and improvement of public health in the area, such as NHS Tayside and the Drug and Alcohol Action Team (DAAT). It will take advice from those relevant bodies.

To enable the Board to make a decision about an application, applicants will be expected to provide information about the control measures they have in place to protect patrons’ health. This may include such measures as making information available through posters and leaflets for staff and patrons (such as information made available by the DAAT) with regard to sensible drinking, the effects of excessive alcohol consumption and contact points where assistance can be obtained with problem drinking.

Protecting Children from Harm

The Board wishes to see family friendly premises thriving in the area. Where applicants wish to operate such premises, the Board expects them to appreciate that this places additional responsibilities upon them at the same time recognising that parents and other adults accompanying children also have responsibilities.

The Board also takes very seriously the issue of under age drinking and wishes to remind licensees that they and their staff must comply with all other legislation in relation to children and young persons

including not selling or allowing the sale of alcohol to children and young persons.

To enable the Board to make a decision about an application, applicants will be expected to provide information about the control measures they have in place to protect children from harm, and in particular the measures they have for preventing the sale and supply of alcohol to those under the age of 18.

3. BOARD BUSINESS

3.1 Openness and accessibility

The Board will deal with all of its business in an open and transparent way. Information and assistance will be made available to those who wish to apply for a licence, to make representations or to object to an application. The Board is also aware of the need to ensure that the licensing process is accessible to all. Assistance will be available on request for those who require assistance to access any part of the process.

The Board will develop a statement of procedure and guidance notes which will be made available to assist the public.

3.2 Decision making

It is the Board's aim to provide an efficient and cost effective service to all those who are involved in the licensing process. Therefore, the Board will adopt a Scheme of Delegation to ensure that decisions can be made in a way which is consistent with this aim. This Scheme will in particular set out the decisions which may be made by the Clerk to the Board or his staff.

4. PREMISES LICENCES

4.1 Premises that wish to sell alcohol for consumption on or off the premises will require to have a premises licence. This will govern, amongst other things, what activities are allowed on the premises and what hours the premises can be open for business. Each licence will be tailored to the type of premises in question. There must be a description of the premises, an operating plan and a layout plan of the premises.

Applicants should pay particular attention to the operating plan and the layout plan. If a particular activity is not mentioned in the operating plan that activity cannot take place on those premises until further authorisation is sought from the Board by way of seeking a variation of the premises licence.

The Board will provide guidance and advice to all applicants in relation to the requirements for operating plans and layout plans.

4.2 Notification of applications, Objections and Representations

The Licensing Board must give notice of a premises licence application to:

- (a) each person having a notifiable interest in neighbouring land (to be defined by Regulations)
- (b) any community council within whose area the premises are situated
- (c) Perth and Kinross Council
- (d) Chief Constable of Tayside Police
- (e) Tayside Fire and Rescue Service

Any person may submit an objection or representation to the Board. Any objection must relate to one of the 5 licensing objectives and relate to specific premises.

Any objection to a premises licence application on the general basis of opposing the use of alcohol or to opening on a Sunday may be considered to be frivolous by the Licensing Board and may be rejected without being considered in determining the premises licence application subject to the objection relating to the particular premises.

4.3 Consideration of premises licence applications

The Licensing Board will assess each premises licence application on its own merits. For the assistance of applicants the Board will have particular regard to:

- the nature of the premises, the style and type of use, the potential number and profile of the customers likely to attend the premises
- the proposed hours of operation
- the means of access to the premises including the location of customer entrances and exits
- the provision of toilet facilities
- whether children and/or young persons are to have access to the premises or parts of premises and upon what terms
- the need for door supervisors
- areas or activities which may have potential for crime and disorder or public nuisance and any measures to mitigate those issues

When considering any application for premises which have been previously licensed, or in any review of an existing licence, the Board will take into account any relevant evidence, especially of the impact on

local residents and businesses and will also look at the measures proposed by the applicant to mitigate any adverse impact.

4.4 Conditions

Mandatory conditions are set out both in the Act and in Regulations. The Board will consider in relation to each application whether it is necessary or expedient to impose additional conditions, to promote one or more of the licensing objectives or otherwise to give effect to the provisions of this policy statement or to the provisions of the Act. The decision whether to impose a condition will be made on an objective basis, having regard to the operating plan and any representations made and any other relevant information available to the Board when considering the application. The Board will not impose disproportionate conditions.

5. **MANAGEMENT OF PREMISES**

5.1 The Board considers that licensees and their staff should operate their business or operation in a manner which is consistent with the 5 licensing objectives. There are various aspects of running licensed premises which are of particular concern to the Board. The Board has therefore determined to implement policies in these areas, as follows:

5.2 Proof of Age

Licensees must have policies and procedures in place to ensure that alcohol is not sold or supplied to persons under the age of 18, including purchase for those under the age of 18 by adults.

The Board considers acceptable forms of identification to be passport, photo driving licence and cards displaying the "Pass" hologram.

5.3 Training

Applicants should note that the Premises Manager named in the premises licence application must hold a personal licence. All personal licence holders must have an accredited qualification.

In addition, Regulations require that a personal licence holder or other person with an accredited qualification must provide training for all staff working in licensed premises who are involved in the sale of alcohol. This training must cover the matters set out in the Regulations. The Board will expect records to be kept of the training provided to staff.

5.4 Incident Book

The Board expects Licensees and their staff to operate an incident book on the premises, which should be used to record instances of refusal to sell alcohol on account of age or drunkenness, refusal to

allow or permit entry to the premises and requests to leave the premises.

5.5 Children and Young Persons on Licensed Premises

The Board has a long standing interest in encouraging family friendly premises within Perth and Kinross and wishes to continue to ensure that premises which seek to accommodate children are run in such a way that they are suitable for children.

In determining any application where the operating plan indicates that children are to be allowed on the premises, the Board will consider the need to protect children from harm as paramount.

Licensees are expected to have policies in place which reflect the additional responsibilities placed on them when children are on the premises. Specifically, applicants will be expected to provide information about the measures they have in place to protect children from harm.

The Licensing Board will not normally grant a premises licence or occasional licence where children would have direct access to pool tables, dart boards or gaming machines. Glass doors are also of concern to the Licensing Board. Parts of premises to which children and young persons are to be allowed entry will require to have a suitable character and atmosphere. Premises or parts of premises which are very small and enclosed are unlikely to be able to provide the appropriate environment. Also premises which have very few facilities are unlikely to comply with the Board's requirements. Toilets should be of a reasonable standard and reasonably accessible to the area to which children and young persons are allowed entry.

The Licensing Board may impose conditions on a premises licence or in granting an occasional licence where children are to be allowed entry such as, but not limited to, the following:-

- (i) provision of a safe high chair facility
- (ii) provision shall be made for heating customer supplied children's food at no extra cost
- (iii) safe and clean nappy-changing facilities (is covered in Regulations)
- (iv) a separate container for the disposal of soiled nappies should be provided
- (v) all heating sources should be adequately protected

- (vi) all electrical sockets should be covered
- (vii) Safety film should be placed on glass doors
- (viii) the times at which children will be permitted to be on the premises or any part thereof

Licensees are reminded that they and their staff must comply with all other legislation in relation to children and young persons including not selling or allowing the sale of alcohol to children and young persons; not delivering alcohol to a child or young person; the employment of children and young persons; and preventing or stopping a child from being breast fed in terms of the Breastfeeding etc. (Scotland) Act 2005.

5.6 Noise

No noise from amplified and non-amplified music, singing and speech sourced from licensed premises shall be audible in any adjoining property between 11pm and 7am.

Licensees are expected to be aware of the impact on neighbours of noise from their premises and due to the activities taking place in and around the premises. Licensees are expected to take all reasonable steps to prevent noise nuisance, particularly, but not exclusively, between 11pm and 7am. Steps to be taken may include having appropriate measures in place to avoid noise while disposing of glass bottles; requesting patrons who smoke outside the premises to be quiet; door stewards to ensure patrons are quiet when smoking outside the premises and that patrons leave quickly and quietly; notices at exits asking patrons to be quiet when outside smoking and to leave quietly; keeping doors and windows closed; sound tests; soundproofing; and installation of a sound limiter.

5.7 Dispersal of Patrons

Many occurrences of crime, disorder and public nuisance occur at or immediately after the terminal hour for the supply of alcohol. Licensees should ensure that they and their staff have sufficient measures in place to ensure patrons exit the premises as quickly as possible, in good order and as quietly as possible. Measures may include limiting the amount of alcohol sold just before the terminal hour, ie only permitting a group to purchase one round, not two; making sure all patrons know well in advance the last time for purchasing alcohol is approaching; covering bar taps once the terminal hour has past, raising the lighting level and inspecting all parts of the premises for patrons.

5.8 Smoking

The Board welcomes the legislation prohibiting smoking in enclosed public places. Licensees have been effective in ensuring patrons do

not smoke within their premises, however, other issues can arise in the area around the premises such as noise nuisance, litter and disorder. Licensees and their staff are expected to have sufficient measures in place to mitigate such problems.

5.9 Litter and Waste Management

Licensees are expected to have a suitable litter and waste management programme in place to ensure that the area outside the premises are kept free of litter at all times including cigarette butts and waste including human waste.

5.10 CCTV

The use of CCTV on premises can be an important measure in complying with the licensing objectives, particularly in (a) preventing crime and disorder and (c) preventing public nuisance. Digital CCTV systems are readily available which may include both internal and external camera coverage of the premises. The Board supports the use of such systems and would encourage licensees to make use of these. Where used, such systems must be kept in proper working order at all times, all licensees and staff must be able to operate the system, and images should be kept for at least one month and made available to Tayside Police on request.

5.11 Condition of Premises

Licensees and their staff are expected to ensure that the premises, both internally and externally, are maintained in good, clean and tidy condition at all times.

5.12 Seating Provision

The Licensing Board will expect all applicants to designate 25% of their floor space within the premises for seating where there is consumption of alcohol on the premises.

5.13 Team Colours

The wearing and display of team colours, particularly football colours, by licensees, staff and patrons can be a factor leading to crime and disorder or public nuisance. Licensees are expected to provide information about how they will deal with such issues.

5.14 Radiolink & Pubwatch

In those areas where it is available, Radiolink and Pubwatch can be of assistance to licensees and their staff in preventing crime and disorder and undue public nuisance. The Board strongly supports the use of

such schemes and would encourage licensees to join these in areas where this is available.

5.15 Best Bar None Award Scheme

In those areas where it is available, applying for an award under the Best Bar None Scheme can be beneficial to Licensees. The areas covered by the criteria of the Award Scheme are linked to the objectives of the Board. The Board supports this Scheme and would encourage involvement in it.

5.16 Door Supervision

The Licensing Board, taking into account the licensing objectives of preventing crime and disorder, securing public safety, and preventing public nuisance may consider door supervision appropriate. Whether or not door supervisors are to be required and, if so, the number of door supervisors, the occasions they must be present, the hours they must be present, and possible specification of particular duties and functions will be assessed according to the merits of each individual application.

Applicants are reminded that as from 1 November 2007 all door supervisors must be registered with the Security Industry Authority under the Private Security Act 2001. To employ a door supervisor who is not registered is a criminal offence. Licensees involved in what is termed manned guarding activities, whether or not door supervisors are used, may also have to be registered. Applicants should contact the Security Industry Authority for more information.

5.17 Premises with Restricted Sale of Alcohol

Some businesses only supply restricted types of alcohol, restricted volumes, and restricted containers. For example, florists only supplying champagne, kilt makers only supplying whisky miniatures, or High Street stores only supplying alcohol in gift sets.

The Licensing Board may consider, where necessary, on a case by case basis, imposing conditions to ensure these restrictions are adhered to.

6. PREMISES PROVIDING LATE NIGHT ENTERTAINMENT

- 6.1 Premises which provide late night entertainment, such as night clubs, are an important contributor to the night time economy and involve a substantial investment in the facilities and entertainment provided on the premises. Those premises tend to be places where patrons arrive from other licensed premises and stay until the terminal hour.

In light of this and the 5 licensing objectives, the Board will impose conditions on the licence of premises which in its view provides significant entertainment as follows:

- The provision of alcohol is for consumption on the premises only.
- The provision of alcohol is ancillary to the entertainment provided.
- The entertainment provided must be on a continuous basis with breaks of not more than 15 minutes in any one hour.
- There shall be a minimum entry charge which shall be fixed by the Licensing Board each year for the year beginning 1st July and ending 30th June. For the purposes of fixing the minimum entry charge the Board shall take into account any representations from BEDA and the licensees of such premises.

The Licensing Board will also impose conditions in relation to the use of CCTV and door supervision at such premises as more fully detailed under Section 5.

The conditions mentioned or referred to in this Section will be imposed on a premises licence for such a premise unless the circumstances of a particular application indicate otherwise and/or an applicant is able to demonstrate to the Board that a condition is not appropriate in the circumstances.

6.2 Adult Entertainment

The Scottish Executive intends to publish Regulations on adult entertainment and until their publication premises offering adult entertainment will be treated on a case by case basis.

The Board will expect applicants to give consideration to the promotion of the licensing objectives in relation to the protection of children and the prevention of crime and disorder.

7. LICENSED HOURS AND EXTENDED HOURS

- 7.1 While each application is assessed on its own merits, the following sets out the Licensing Board's policy on licensing hours. For applications for licensed hours at times outwith the Board's policy, applicants will require to provide information to enable the Board to make a decision

about whether the additional requested hours are appropriate in the circumstances, and are consistent with the licensing objectives.

For the avoidance of doubt, reference to times which occur shortly after midnight refer to the following day e.g reference in the tables Monday 1am means into early Tuesday morning.

7.2 Off-Sales

For applications relating to premises licences and to occasional licences, the licensed hours for the sale of alcohol for consumption off the premises (off-sales hours) are 10 am to 10 pm, each day. The Licensing Board has no discretion to permit licensed hours outwith these times. In determining applications and licensed hours within these times, the Board will, in considering the merits, have particular regard to the effect (if any) which the proposed off-sales hours would have on the occurrence of anti-social behaviour.

7.3 On-Sales

For applications relating to premises licences including extended hours, the licensed hours for the sale of alcohol for consumption on the premises (on-sales hours) the Licensing Board considers the commencement of the sale of alcohol should be no earlier than 11 am.

Licensed hours for on-sales premises in particular can have an impact not only within the individual premises but also within the locality in which the premises are situated. Taking into account the 5 licensing objectives, the presumption against 24 hour drinking and the Guidance for Licensing Boards and Local Authorities issued by the Scottish Executive and that mandatory conditions specified by Regulation apply to those premises opening after 1 am, the Licensing Board considers the following to be appropriate hours during which alcohol may be sold on the premises or parts of premises:-

7.4 Restaurants

Those premises or parts of premises where the supply of alcohol for consumption is ancillary to a table meal taken by persons within the premises.

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
1am	1am	1am	1am	1am	1am	1am

7.5 Premises offering no significant entertainment facilities

Those premises or parts of premises where the provision of alcohol is the principal activity and significant entertainment facilities are not provided. This includes public houses and members clubs.

Period	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Annually except festive period	11pm	11pm	11pm	12.30am	12.30am	12.30am	12am
Festive period	12.45am	12.45am	12.45am	12.45am	12.45am	12.45am	12.45am

7.6 Premises offering significant entertainment in function rooms or subject to close down

Premises or parts of premises which ordinarily fall under paragraph 7.5 but which

- a. have a separate function room and/or
- b. are closed down and cleared of patrons for at least one hour beforehand, for the purpose of entertainment and/or functions and
- c. where the provision of alcohol is ancillary to the entertainment.

Entertainment/functions considered acceptable for this purpose include dances, discos, dinner–dances, wedding receptions and parties where a disco or band is provided. Entertainment/functions generally not considered acceptable for this purpose include darts, dominos or pool competitions, karaoke evenings, race nights, or private parties where there is no significant entertainment as these events can take place before 11.00pm. Where live entertainment is not an integral part of the function then this would also not be acceptable eg background piano music. The entertainment/function must not be for general public entry and entry should be limited and controlled e.g. by payment or ticket.

Period	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Annually except festive period	11pm	11pm	11pm	1am	1.30am	1.30am	12am
Festive period	1.30am	1.30am	1.30am	1.30am	1.30am	1.30am	1.30am

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

Premises or parts of premises where the provision of alcohol to persons frequenting the premises for consumption on the premises is ancillary to the significant entertainment provided and subject to conditions the Licensing Board may impose in relation to such premises. These include nightclubs.

Period	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Annually except festive period	11pm	11pm	1.30am	2.30am	2.30am	2.30am	1.30am
Festive period	2.30am	2.30am	2.30am	2.30am	3.00am	3.00am	2.30am

Festive Trading

The Board has an existing practice of permitting longer licensed hours over the Festive period, and that will continue to be the case. The Festive period for the purposes of this aspect of the policy will be determined by the Board on an annual basis.

7.8 Additional Considerations

Premises operating as hotels should note that if they wish to serve alcohol to residents beyond the ordinary licensed hours, they must specify the hours during which they wish to do so in their operating plan. Licensees should note that the Act creates a presumption against 24 hours drinking.

In determining applications where more than one activity takes place in the premises or where parts of premises fall under different categories as specified above, the Licensing Board will have regard to when the activities take place and the principal activity taking place. The Board may impose further conditions to ensure other activities do not take place or remain ancillary to the principal activity for those licensed hours.

Premises where more than one of the categories applies in different parts of the same premises will be given careful consideration. The Licensing Board may impose conditions and/or different licensed hours to those parts of premises to ensure the activities remain separate.

7.9 Extended Hours Applications

The Licensing Board may extend the licensed hours in respect of premises by such period as the Board considers appropriate. The Board will normally only do so in connection with (i) a special event or occasion to be catered for on the premises, or (ii) a special event of local or national significance. The grant of an extension of licensed hours can only last for one month.

Where the hours sought fall outwith the on-sales hours specified in this statement, the applicant will have to provide information to enable the Board to make a decision about the application. This will include:-

- the hours sought
- the description of the special event or occasion

Where there is specific entertainment

Period	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Annually except festive period	11pm	11pm	11pm	1am	1.30am	1.30am	12am
Festive period	1.30am	1.30am	1.30am	1.30am	1.30am	1.30am	1.30am

The Board considers that activities such as dances, discos and dinner-dances, wedding receptions and parties where a disco or band is provided are generally acceptable for granting an occasional licence beyond 11.00pm. Darts, dominos or pool competitions, karaoke evenings, race nights or private parties where there is no significant entertainment are not generally considered acceptable activities for an occasional licence beyond 11.00pm. Where live entertainment is not an integral part of the function then this would also not be acceptable eg background piano music. The entertainment/function must not be for general public entry and entry should be limited and controlled eg by payment or ticket.

- 8.3 For applications for licensed hours at times outwith the Board's policy, applicants will require to provide information to enable the Board to make a decision about whether the additional hours are appropriate in the circumstances, and are consistent with the licensing objectives.

8.4 Conditions

The Board is aware of the mandatory conditions which are set out both in the Act and in Regulations. The Board will also consider in relation to each application whether it is necessary or expedient to impose additional conditions, to promote one or more of the licensing objectives or otherwise to give effect to the provisions of this policy statement or to the provisions of the Act. The decision whether to impose a condition will be made on an objective basis, any representations made and any other relevant information available to the Board when considering the application. The Board will not impose disproportionate conditions.

9 SPECIAL ISSUES - OVERPROVISION AND OCCUPANCY CAPACITY

9.1 Overprovision

The Licensing Board must include a statement as to the extent to which it considers there to be overprovision of licensed premises or licensed premises of a particular description, in any locality within the Board's area.

This duty will not come into force until 1 September 2009 at the earliest. The Licensing Board will issue and consult upon a draft statement in this regard in due course.

It should be noted that, separate to this duty and in terms of the Licensing (Scotland) Act 2005, Section 23(5)(e) a ground of refusal of a premises licence application is overprovision of licensed premises or licensed premises of a particular description in the locality. According to draft Regulations not yet in force at the time of preparation of this policy statement, the Licensing Board is not entitled to refuse a premises licence application on that ground where the application relates to premises in respect of which 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). In all other cases the Licensing Board can consider overprovision as a ground of refusal.

9.2 Occupancy Capacity

The occupancy capacity of premises is one factor in the assessment of overprovision for the purpose of this policy statement, is a factor in the ground of refusal of a premises licence on the basis of overprovision, and may be a factor for consideration in an Occasional Licence application.

The Board may consider setting maximum occupancy limits to ensure the safety of persons in the premises and safe escape in the case of an emergency. If there are additional concerns about crime and disorder or public nuisance, the Licensing Board may consider setting a lower maximum occupancy limit than that recommended by Building Control.

The Licensing Board will expect applicants to consider various factors when assessing the appropriate capacity for premises or events. These include:-

- The design and layout of the premises
- The location, availability and size of exits including emergency exits
- The nature of the premises or event
- The nature of the activities being provided
- The provision or removal of temporary structures such as a stage or furniture
- The number of staff available to supervise customers both ordinarily and in the event of an emergency
- The age of the customers
- The attendance by customers with disabilities
- The availability of suitable and sufficient sanitary accommodation

- The nature and provision of facilities for ventilation

Licence holders will be expected to have arrangements in place to monitor the number of persons present at any point to ensure that the occupancy capacity is not exceeded.

10. SPECIAL ISSUES - MEMBERS CLUBS

- 10.1 All clubs will require to have a premises licence in the same way as other premises selling alcohol. However, most members clubs will be exempt from some provisions of the Act. Those clubs which are exempt are defined in Regulations. The Board will follow these when deciding which clubs are exempt. Those which are not exempt will have to comply with the full requirements of the Act.

11. SPECIAL ISSUES - EXCLUDED PREMISES - GARAGES

- 11.1 Some premises are excluded from authorising the sale of alcohol including premises or parts of premises used as a garage. Such premises are used as a garage if there is (a) sale by retail of petrol or derv (diesel), (b) the sale of motor vehicles, or (c) the maintenance of motor vehicles.

- 11.2 However, where those premises or parts of premises are used for sale by retail of petrol or derv, alcohol may be authorised to be sold in some circumstances. Alcohol may be sold where the Licensing Board determines 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.

- 11.3 In determining an application for such a premises, the Licensing Board expects the applicant to provide sufficient information to enable the Board to consider:

- (i) the locality in which the premises are situated,
- (ii) what other sources of (a) petrol or derv and/or (b) groceries are in that locality, and
- (iii) the extent to which persons resident in that locality are, or are likely to become, reliant on the premises as the principal source of (a) petrol or derv, or (b) groceries.

- 11.4 Factors the Licensing Board may consider include:-

- the number of premises selling petrol or derv or groceries in the locality;
- the distance to the nearest other premises selling petrol or derv or groceries;
- the opening hours of other premises selling petrol or derv or groceries in the locality;

- the number and/or percentage of persons resident in the locality who are, or are likely to become, reliant on the premises and,
- to what extent, as the principal source of (a) petrol or derv, or (b) groceries, with particular reference to weekly groceries rather than convenience goods.

11.5 Taking into account the licensing objectives of (a) preventing crime and disorder, (b) securing public safety (d) protecting and improving public health and (e) protecting children from harm, and therefore the government's message on drinking and driving, the Licensing Board, will impose conditions in relation to a garage which is not an excluded premises that all payments for fuel will be made separately from payments for alcohol either (i) through the use of different buildings or (ii) by payment of fuel from outside the premises or part of premises through a payment window without fuel customers entering the premises. The Licensing Board will also require the premises to have signage, the size, content and location of which it deems appropriate of that payment arrangement. The foregoing conditions will not apply when the Licensing Board is satisfied that it is not appropriate to impose such conditions.

12. SPECIAL ISSUES – PAVEMENT CAFES

12.1 The provision of alcohol shall be ancillary to the provision of food in the outside seating area of those premises incorporating pavement cafes. The Board considers that food provided should be substantial (not including crisps or nuts on their own). Applicants should provide information about what range of food they will be providing in the outside area to enable the Board to fully consider their application.

12.2 The Board expects that Licensees will not only comply with any conditions relevant to the pavement café area of their premises, but will also put in to place effective management controls, supervision and other measures to ensure that the use of such areas by patrons or by any other persons does not have a negative impact in the vicinity. The Board will take a robust approach with any Licensee in breach of a relevant condition or who does not have effective management controls in place.

13. PERSONAL LICENCES

13.1 The Board will consider applications for personal licences from individuals living in the area of Perth and Kinross. Those living in another area should apply to the Licensing Board for that area. When considering an application for a personal licence, the Board will work with the police to establish whether the applicant has been convicted of any relevant offence (which will be set out in Regulations).

Where the police have advised that the applicant has an unspent conviction for a relevant offence, the Board will consider whether the application should be refused under the Act. In making a decision the Board will have regard to the seriousness and age of the conviction along with any other circumstances it considers to be relevant.

14. LICENSING STANDARDS OFFICERS

- 14.1 Licensing Standards Officers will be employed by Perth and Kinross Council and will have the functions set out in the Act. Their role will be threefold - guidance, mediation and compliance. They will also be a member of the Licensing Forum for the Perth and Kinross area.

Licensing Standards officers will work with the public, the Council's partners and the business community, and other Council officers in seeking to promote the licensing objectives and ensuring compliance with the law.

At the time of drafting this policy, the matter of the number of Officers to be employed is still under consideration.

- 14.2 The Council delivers enforcement activities across a range of Services and is committed to ensuring that all enforcement is carried out in an efficient and effective manner. Whilst it is likely that the Licensing Standards Officer will initially be based within the Council's Corporate Services, a review of enforcement provision across the Council may affect that.