

# Community Councils and Licensing

# About Licensing in General

East Lothian Council regulates certain activities under the following Acts:

- The Civic Government (Scotland) Act 1982
- Housing (Scotland) Act 2006

The East Lothian Licensing Board is responsible for issuing licenses for the sale of alcohol and gambling purposes, under the following Acts:

- Licensing (Scotland) Act 2005 (“2005 Act”)
- Gambling (Scotland) Act 2005

Each Local Authority under The Civic Government (Scotland) Act 1982 has the option of licensing a number of different activities if they fall within their jurisdiction. In addition, there are certain activities for which a licence is a mandatory requirement.

# Community Council and Licensing

The Legislation sets out the requirements on Local Authorities and Licensing Boards to consult with identified consultees including the Community Council, in relation to specific matters relating to Alcohol Licensing.

# Policy Development

- Statements of Gambling Principles
- Statements of Licensing Policy (Section 6 of the 2005 Act)

There is no stated duty to consult with Community Councils regarding the development of the above although the legislation provides for the Board to include such other persons as the Board thinks appropriate.

# Policy Development

## Gambling Statement of Principles

East Lothian Licensing Board is required to review their Gambling Statement of Principles every three years. The draft Statement (2022 – 2025) is currently published on East Lothian Council's Consultation Hub.

[Gambling Statement of Principles - East Lothian Council - Citizen Space  
\(eastlothianconsultations.co.uk\)](https://eastlothianconsultations.co.uk)

Consultation Opened: 7 Feb 2022

Closes: **6 Mar 2022**

# Policy Development

## **Statements of Licensing Policy**

Every Licensing Board must, before the beginning of each licensing policy period, publish a statement of their policy with respect to the exercise of their functions under the 2005 Act during that period and may during a licensing policy period, publish a supplementary statement of their policy.

The Policy should be developed in line with the licensing objectives.

# Licensing Objectives

There are five Licensing Objectives introduced by the 2005 Act:

- Preventing crime and disorder
- Securing public safety
- Preventing public nuisance
- Protecting and proving public health
- Protecting children and young persons from harm

# Community Council's Involvement: Alcohol Licensing

Under Section 21 of the 2005 Act The Licensing Board is obliged to notify Community Councils of premises licence applications.

- Provisional Premises Licence
- Full Premises Licence
- Major Variation to a Premises Licence

NOTE: other consultees include Police Scotland, The Scottish Fire and Rescue Service, NHS, Planning and Environment.



# Community Council's Involvement: Alcohol Licensing

What will the Community Council Receive?

The Application Form containing details of the Applicant and Description of the Premises

Operating Plan (or details on how to access). This includes details of the activities to be conducted on the premises operating hours, whether on/off sales or both, other non licensing activities (e.g. provision of bedrooms, music, etc...), what access children will have to the premises, capacity, and details of the Premises Manager.

Layout Plans will be provided for Provisional or New Premises Licence Applications.

# Community Council's Involvement: Alcohol Licensing

The Community Council has 21 days from date of notification to respond and in responding is entitled to:

- object to an application (on one of the grounds set out in section 23(5) of the 2005 Act)
- make a representation in support of an application
- make a representation seeking modifications to the operating plan accompanying an application
- make a representation requesting that particular conditions are attached to a licence

# Community Council's Involvement: Alcohol Licensing

What do I need to put in any representation or objection?

Matters that are raised must be on the relevant grounds and must also be directly connected to the sale of alcohol. You should make it clear in your response which particular licensing objectives that your representation or objection relates to. Objections and representations must have a proper basis in fact rather than be based on a belief or speculation.

The licensing system must not duplicate other regulatory regimes i.e. liquor licensing cannot be used simply as a means of putting additional pressure on an applicant where matters complained of should be dealt with by another regulator.

# Grounds for Refusal

- The grounds on which the Board may refuse a premises licence application are set down in section 23(5) of the 2005 Act and are as follows:
- The grant would be inconsistent with one or more of the five licensing objectives
- Having regard to (1) the nature of the activities proposed to carry on, (2) the location character and condition of the premises and (3) the persons likely to frequent the premises, the Board considers the premises are not suitable for use for the sale of alcohol
- Over provision - having regard to the number and capacity of licensed premises or licensed premises of the same or similar description as the premises for which application is made in the locality the Board considers that if the application were to be granted, there would, as a result, be overprovision of licensed premises, ,or licensed premises of that description, in the locality.
- The subjects are excluded premises. Premises are excluded premises if they are regarded as garages. Premises are regarded as garages if the premises or any part of the premises is used for the sale by retail of petrol or derv, or the sale or maintenance of motor vehicles. Such premises cannot be licensed to sell alcohol under the 2005 Act unless they are used for the sale of petrol or derv, and residents in the locality in which the premises are situated are, or are likely to become, reliant to a significant extent on the premises as the principal source of petrol or derv or, where the premises also sell groceries, as the principal source of groceries.

# Community Council's Involvement: Alcohol Licensing

## In Summary:

- The Community council are invited to be involved in the application for grant of Premises Licences.
- The Community Council should publicise the applications within the community.
- Any response should consider the licensing objectives.
- The Board will consider representations from the Community Council together with other consultees and the applicant to resolve whether or not to support, qualify or refuse the application before them.

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**Any Questions?**