



POLICE SCOTLAND

Keeping people safe

CHIEF CONSTABLE'S REPORT TO THE
EAST LoTHIAN LICENSING BOARD
FOR THE PERIOD
1ST APRIL 2016 to 31ST MARCH 2017

Foreword

It gives me great pleasure to provide my second annual licensing report, in accordance with section 12(A) of the Licensing (Scotland) Act 2005.

This report outlines what activity has been undertaken over the last twelve months for the East Lothian Board area, which provides me with the opportunity to outline how our services will be delivered over the coming year.

Police Scotland continues to face an increasing range of demands against the backdrop of a challenging financial environment, however we will continue to work in partnership at local and national level to ensure that our communities are safe. I cannot understate the importance of empowering our people to work with others, to innovate and solve problems.

Over the last year we have seen success in our preventative problem solving approach, with officers and staff resolving issues proportionately and at the earliest opportunity. This has been possible due to the active partnerships which exist across the licensing sector, which have led to an increase in positive outcomes.

In the year ahead our approach will continue to be based on prevention and collaboration to ensure the most efficient and effective service delivery. I will encourage officers and staff to utilise the range of options available to ensure improved licensing standards, reduced violence and to positively influence behaviour and cultural attitudes across Scotland.

Finally, I would like to take this opportunity to record my thanks to all who work towards the shared aim of effective licensing regulation and I am sure that with the continued hard work and dedication of all staff, Police Scotland will continue to deliver a service that our communities can be proud of.

Mr Philip Gormley QPM
Chief Constable
Police Service of Scotland

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Police Scotland Licensing Overview

The National Licensing Policy Unit (NLPU) sits within the Specialist Crime Division – Safer Communities based at Dalmarnock Police Office, Glasgow.

The NLPU upholds the two tier structure for licensing which supports both national and local priorities through service delivery. They have overall responsibility for determining and delivering national licensing strategy and policy, by providing advice, guidance and support to divisional licensing teams.

Each of the 13 Local Policing divisions, have a licensing team wholly committed to the day to day management of licensing administration complying with statutory requirements as well as addressing any issues that may arise within licensed premises within their local area.

Police Scotland Licensing is supported and governed by a National IT solution known as 'Innkeeper'.

LICENSING BOARD AREA

The Licensing Board area is policed by J Division. Chief Superintendent Ivor Marshall is the Local Police Commander who has the responsibility for all day-to-day policing functions. The Local Area Commander Chief Inspector Matt Paden is based at Haddington. He is responsible for performance management, community engagement, partnership working and the daily management of local personnel.

Chief Inspector Paden is supported by two sector Inspectors, Andrew Harborow who is based at Tranent and Andrew Hill, who has recently replaced Alan Hogarth, who is based at Haddington. The East Lothian Licensing Boards are attended by either Inspector Harborow or Inspector Hill.

The Licensing Department is part of the Divisional Co-ordination Unit based at Dalkeith Police Station. The senior officers who have responsibility for Licensing are Inspector Andrew Toombs and Sergeant Gordon Latto.

The local Licensing Department is based at Haddington Police Station, one police officer, supplemented by administration staff based at Dalkeith Police Station, controls the day to day function.

Local Policing Priorities

Following our public consultation process, the policing priorities for J Division, as set out in our Local Policing Plan are as follows;

- Reducing Antisocial Behaviour
- Tackling Substance Misuse
- Reducing Violence
- Protecting People

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- Tackling Serious & Organised crime
- Making our Roads safer
- Reducing Housebreaking

Description of Board Area

The Command area of East Lothian serves approx. 101,000 local residents along 40 miles of coastline and in an area covering 262 square miles. The policing headquarters sit in the historic market town of Haddington.

There are currently 116 'on sales' and 95 'off sales' premises within East Lothian.

East Lothian Licensing Board Statement of Licensing Policy Nov 2013 – Oct 2016 includes an overprovision statement, declaring that East Lothian has sufficient on and off sales outlets and that there should be a rebuttable presumption against the grant of an application for any new premises licence or increase in capacity of an existing premises licence within the Boards area as a whole.

During this reporting year there have been 3 Provisional Premises Licences granted and 2 New Premises Licences granted by the Board, with no refusals.

The Statement of Licensing Policy is due for renewal this year (2017) and overprovision will be looked at again. There are currently no particular areas of East Lothian that place any significant demands on police resources due to night time economy, with no premises trading beyond 1am.

OPERATION OF THE LICENSING (SCOTLAND) ACT 2005

Introduction

The Licensing Officer is responsible for processing all correspondence received from the Licensing Board. The officer reviews applications on behalf of the Chief Constable as part of the consultation process in conjunction with the Area Commander. This consultation process forms part of the Police support of the Licensing Objectives.

This section concentrates on how the Act has been applied by the Licensing team and other Local Policing officers to support the Licensing Objectives in tandem with the local/national policing objectives for 2016-17.

- Road Safety and Road Crime
- Violence, Disorder and Antisocial Behaviour
- Counter Terrorism
- Serious Organised Crime
- Protecting People at Risk of Harm

In East Lothian there were 253 recorded incidents in licensed premises between 1st April 2016 and 31st March 2017, this is a decrease on previous years. The proactive use of exclusion orders and anti social behaviour legislation continues to contribute

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hugely to this reduction. Police Scotland carried out 350 recorded inspections of licensed premises during the reporting year, a large percentage of these, were carried out by the licensing officer.

On Friday and Saturday evenings police officers are currently deployed on foot, to aid with dispersal of licensed premises and reduce anti-social behaviour and violence related incidents between the hours of 2200-0200.

Partnerships

Licensing Standards Officer (LSO)

The local police Licensing Officer works regularly with a number of partner agencies including the LSO. Sharing information and carrying out joint visits to licensed premises, dealing with any noise complaints or antisocial behaviour issues. This unified approach has resulted in a number of successful resolutions.

In this reporting year the LSO teamed up with the Licensing Officer to monitor a premises in North Berwick, which a member of the public had complained about and was subject of a review hearing due to alleged noise and anti social behaviour.

Several visits were made by the Licensing Officer and LSO late at night, over a period of 6 months, which resulted in the police and LSO reporting back to the Licensing Board so that they could make an informed decision about what action should be taken. The review was heard and no further action was taken against the premises.

Best Bar None (BBN)

Best Bar None is a unique National Award Scheme aimed at raising standards and rewarding licensed premises who undertake positive management practices in support of a safe night out.

The purpose of the Best Bar None Scheme is to

- Reduce alcohol related crime.
- Promote social responsibility and duty of care.
- Improves knowledge and skills to assist in responsible management.
- Promotes partnership working to identify good practices and areas for improvement.
- Supports due diligence.
- Awards both locally and nationally to reward success.
- Operating more responsibly can improve the commercial viability and attractiveness of a venue and locality.

During this reporting year there were 14 premises that took part in the BBN scheme. 3 premises in Musselburgh, Prestonpans and Dunbar attained a Bronze Award. 2 premises in Musselburgh and Gifford attained a Silver Award. 9 premises in Musselburgh, Port Seton, Prestonpans, Ormiston, North Berwick, Haddington and

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Dunbar attained a Gold Award with one premises in Dunbar going through as a finalist to the National Awards.

Pub Watch

Pub watch is an initiative run by local pubs/clubs to tackle crime and antisocial behaviour in and around their premises. The schemes are run by local licensees but are advised by local Community Police Officers.

There are a number of pub watch schemes operating in East Lothian all of which are working well and have achieved their goal of reducing risk and maintaining a safe and secure social environment for staff and customers. Police Scotland fully support these schemes.

Problem Solving

The Intervention Process

As detailed in previous reports to the Licensing Board, issues in licensed premises are assessed using a well-established interventions process. Incidents connected to premises are identified by Licensing Officers who evaluate the licensing objectives to determine if any have been compromised.

Depending on the severity of the incident and history of the premises, Licensing Officers will categorise the premises/incident as follows:-

Police Intervention Categories	
Red	Problematic Premises - those operating in a manner inconsistent with the Licensing Objectives or out with the conditions of a premises licence and where local police intervention and support has failed or is unlikely to succeed in resolving the issues. A premises review request to the local Licensing Board is considered the most appropriate way to address the issue.
Amber	Premises that require Formal Intervention. Issues have arisen and a formal intervention agreement is entered into between premises licence holders and Divisional Licensing teams to resolve them. This action may be taken with more serious or repeat issues.
Green	Monitored - The premises have come to note for a minor adverse issue and are being monitored. This may result in an informal intervention in terms of advice/support to the premises along with police visits.
No Action	Action - An incident review has highlighted no issues regarding the management of the Premises or Licensing Legislation. No further police action.

Police intervention usually results in a meeting with the appropriate representatives of the premises concerned e.g. premises licence holder, designated premises

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manager and, if appropriate, any stewarding company to discuss concerns and agree a way forward to resolve these.

Premises being monitored by way of the above system are subject to weekly visits by either local officer's or Licensing Officers to monitor progress, measure improvement and ensure that agreed remedial measures are implemented.

The intervention system is ultimately designed to support the licence holder before any premises review is sought, although a serious or significant incident may obviously merit an immediate review application.

During the reporting year there were no Problematic premises in East Lothian and 1 Monitored premises, in the Dunbar area, a reduction on the previous year.

In 2016 the Licensing Admin Tool was introduced, which is designed to streamline the review process. J Division was involved in the initial pilot of the Tool, which allows Licensing Officers to direct their focus to highlighted incidents.

Summary

Section 1 – Unlicensed Sale of Alcohol

Alcohol is not to be sold on any licensed premises except and in accordance with a Premises Licence or Occasional Licence. As the Licensing (Scotland) Act 2005 is well bedded into everyday working practices.

One such occasion occurred as whilst two transfer applications were being processed it was discovered that the licence holders companies had become dissolved.

The two premises concerned, one in Musselburgh and one in North Berwick, were contacted and ceased the sale of alcohol immediately until they applied for Occasional Licences and then finally a New Premises Licence.

There was also another case involving a female selling alcohol on Facebook. She was traced to an address in Dirleton where the Licensing Officer spoke with her, advice was given and she removed the Facebook page immediately. There have been no further instances of concern.

Section 22 – Applications

Over the course of the reporting year there have been 3 New Premises Licence applications, 2 of which have been granted by the Board and the third withdrawn. We had the unusual situation where we had two applicants applying for the same Premises Licence in the village of Macmerry. In the end, one of the applicants withdrew their application and the licence was granted to the other. This was a particularly difficult situation for the Board to deal with but had a positive outcome.

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There have also been 3 applications granted by the Board for Provisional Premises Licences. In every case Police Scotland have made representation in relation to the Board's Policy on overprovision.

The Board have been proactive in relation to refusing 'off sales' in some of these application and 'deliveries of alcohol' in others. This is a step in the right direction to prevent anti social behavior and reduce the number of outlets for persons to access alcohol as well as reduce the risk of children accessing alcohol.

Section 36 – Application for Review of Licence

Police Scotland only seek review of a Premises Licence when an intervention (or a number of interventions) has failed, is likely to fail or there is a serious risk to public safety if the premises continues to operate in the same manner e.g. the resulting problems as well as community impact must be considered.

I am pleased to say there were no Review Applications submitted by Police Scotland in this reporting year.

Section 63 – Sale or Supply out with licensed hours

Officers in East Lothian monitor the sale or supply of alcohol out with licensed hours closely. Local Officers continue to make pro-active visits to licensed premises, particularly at weekends. To ensure premises are being managed appropriately. The new Inn Keeper application can be access by police control staff and officers alike, twenty four seven, providing any information on licensed hours etc. that are required, out with normal office hours of the Licensing Department.

There was 1 person charged with this offence during the reporting year, when a premises in North Berwick, was visited by local police officers carrying out response duties. The member of staff was found within, along with several patrons still drinking, well after the terminal hour. The member of staff was reported to the COPFS.

Section 72 – Personal Licence Applications

There were 113 applications made for personal licenses during this reporting year in East Lothian.

The amendment to legislation permitting the Chief Constable to request refusal for the purposes of 'any' Licensing Objective has widened the scope for making appropriate representations to the Board.

This legislation was used by the Police Licensing Officer on one such occasion when an applicant, a female member of staff, working in a Musselburgh pub, applied to East Lothian Licensing Board for her personal licence. A request for refusal was submitted by Police Scotland under the 'preventing crime and disorder' Licensing Objective. The Board convened on 28th April 2016 with the application being refused.

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Section 84 (84A) – Personal Licence Reviews

Police Licensing Officers are responsible for monitoring the conduct of Personal Licence Holders. In particular, there have been occasions when the holders of a personal licence have failed to report conviction(s) for a relevant offence to the Court and/or Licensing Board. Again, the amendment to legislation in terms of the Criminal Justice and Licensing (Scotland) Act 2010 and the Police and Fire Reform (Scotland) Act 2012 has widened the ability for the Chief Constable to report conduct inconsistent with the Licensing Objectives.

There were 2 Personal Licence Reviews requested by Police Scotland in this reporting year one in April 2016 for a local DPM from Haddington, who was charged with a contravention of Section 38 (1) of the Criminal Justice and Licensing (Scotland) Act 2010. This review was heard in August 2016 with the licence being endorsed for a period of 5 years.

The other was heard at the same Board in August 2016, following a Personal Licence Holder from the North Berwick area being charged with allowing the consumption of alcohol out with the terminal hour. Police checks were carried out after this incident and the Police Licensing Officer discovered that the same male had been convicted of a drink driving offence in February 2016 and had failed to notify the Board. His personal licence was revoked, a decision that was fully supported by Police Scotland.

Section 94 – Exclusion Orders

When a person has been charged with a violent offence within or in the immediate vicinity of any licensed premises a request for an Exclusion Order is included in the 'remarks' section of the police report. Exclusion Orders are granted by the Courts, 'on conviction', and can exclude a person from specific licensed premises for between 3 months and up to 2 years. The Police Licensing Officer proactively drives the use of exclusion orders whenever there is an incident in or in the immediate vicinity of licensed premises.

Over the last couple of years there continues to be a decrease in reported incidents in licensed premises. The proactive use of exclusion orders has contributed hugely to this reduction. Persistent offenders can also be dealt with under the Anti Social Behaviour legislation.

We are committed to keeping people safe and improving the quality of life for residents in East Lothian.

Section 97 – Closure Orders

There were no closure orders used within East Lothian during the reporting year. It is fully expected that should a premises require to cease trading, due to a serious risk to public safety, that we would receive full cooperation from the licence holder or person in charge.

Sections 111- 116 – Drunkenness / Disorder Offences

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The following licensing offences have been reported to the COPFS during the reporting year.

Number of offences reported to COPFS	Total
Section 111 (drunk persons within licensed premises)	3
Section 112 (obtaining alcohol by or for a drunk person)	1
Section 113 (sale of alcohol to a drunk person)	0
Section 114 (DPM to be drunk whilst on duty)	0
Section 115 (disorderly conduct within licensed premises)	3
Section 116 (refusal to leave licensed premises)	7

PREVENTING THE SALE OR SUPPLY OF ALCOHOL TO CHILDREN OR YOUNG PEOPLE

Police Scotland can make a positive impact on the future outcomes for children and families, by addressing the sale and supply of alcohol to young persons and working with our partners, taking the appropriate action to address both the potential and actual misuse of alcohol within the early years.

Activity

In terms of Section 105 of the Licensing (Scotland) Act 2005, the Chief Constable may authorise a young person to buy or attempt to buy alcohol to determine whether an offence is being committed.

The use of young persons to conduct Test Purchase Operations provides Police with an effective tool in the fight against underage sales and represents an important safeguard against underage drinking and the resultant antisocial behaviour that adversely affect many communities.

More recently there has been an increase in youth disorder and anti social behaviour in the Haddington area. The Licensing Officer has been working closely with the Community Police Officer, liaising with the local 'off sale' premises making them aware of the problems, the type of alcohol being recovered by police and enforcing the need to 'challenge' and be aware of 'agent purchase' etc.

Particular attention has been given to local 'hot spot' areas such as Millfield, Neilson Park and the skate park at Whittinghame Drive, Haddington.

There were **3** Test Purchase Operations carried out in East Lothian during the reporting year with a total of **37** 'off sale' premises tested, this resulted in **1** failure in the Tranent area.

The 1 failure in Tranent, passed the re test, which was carried out within 14 days of the original fail date with no further action being taken.

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The following licensing offences have been reported to the COPFS during the reporting year.

Number of offences reported to COPFS	Total
Section 102 (sale of alcohol to a child)	1
Section 103 (allowing the sale of alcohol to a child)	0
Section 105 (purchase of alcohol by or for a child)	1

Proposed Activity

Officers will continue to routinely proactively visit premises licensed for 'off sales' to ensure that they are aware of their responsibilities under the 2005 Act and in particular in the run up to school holidays.

Likewise officers will continue to routinely proactively visit premises licensed for 'on sales' to ensure that management have taken all appropriate measures to prevent the sale or supply of alcohol to young people under age.

The provision of 'Test Purchasing', in terms of Section 105 of the principal legislation, is a tactic that is used by Police Scotland and the East Lothian Command Area will continue to use this tactic as and when required.

TACKLING SERIOUS AND ORGANISED CRIME

Introduction

The Serious Organised Crime Task Force was set up by the Scottish Government to provide direction and co-ordination for all organisations involved in tackling Serious Organised Crime in Scotland.

The task force has a remit to disrupt, dismantle and pursue Serious Organised Crime Groups (SOCGs). Key partners include Police Scotland, NCA, HMRC, COPFS, SOLACE and the Scottish Business Resilience Centre, amongst others.

If SOCGs gain a foothold in licensed premises then this would afford the criminal group a seemingly legitimate income stream, which could be no more than a veneer for other criminal activities such as money laundering, tax evasion, drug and people trafficking and other dishonest activities.

Activity

Over the past year, the Police Licensing Officer has scrutinised and interrogated licence applications to identify where OCG's may be trying to enter legitimate businesses. This is particularly detailed when processing New Premises and Transfer applications, where the applicant may be asked to evidence the source of any financing.

Earlier this year, the Police Licensing Officer was made aware of an event taking place in the Haddington area which may have had links to an SOCG member. Contact was made with the organiser of this event who gave assurances that the

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individual would have nothing to do with the event. A responsible operator in the town then applied for the occasional licence and the event passed without incident.

PROPOSED ACTIVITY FOR THE YEAR AHEAD

Police Scotland and the Fire Service continue to work closely with the Scottish Business Resilience Centre to evolve the Best Bar None scheme. As a result, this year, 14 licensed premises received an award at local level, 9 Gold, 2 Silver and 3 Bronze. Organisers of this scheme recognise that standards are improving on a year-by-year basis and hope to continue in the coming year, increasing the number of premises taking part.

As previously mentioned Police Officers in East Lothian are identifying persons who should be considered for an 'Exclusion Order' from licensed premises, in terms of Section 94 of the principle legislation, and making appropriate requests as a matter of course to the Procurator Fiscal. This should have a positive impact on Licensing Objectives.

Test Purchasing will also continue to be used as a tactic to increase awareness of underage drinking and the associated antisocial behavior that can result.

NATIONAL PERSPECTIVE

Our Priorities and Policing Plans continue to be shaped by the objectives contained within Scottish Government's Strategic Objectives and National Outcomes and the Strategic Police Plan that are delivered locally through single outcome agreements.

Consultation and engagement is combined with our own analysis of the issues likely to impact on the safety of the public to inform our local and national Strategic Assessments that identify our priorities and provide a firm evidence base for local policing teams across Scotland to deliver operational plans to prevent crime and disorder and Keep People Safe.

Our National Priorities are:

- **Violence Disorder and Anti-social Behaviour**
- **Serious Organised Crime**
- **Road Safety and Road Crime**
- **Protecting People at Risk of Harm**
- **Counter Terrorism**

The National Licensing Policy Unit (NLPU) is a specialist department, which consists of a small team of officers, based in Glasgow. The officers within the unit work with divisional licensing teams and partner agencies to help shape policy and strategy around the police licensing function. They provide practical and tactical advice to

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police licensing practitioners, operational officers, supervisors and policing commanders.

The NLPU seek to ensure that legislation governing the sale and supply of alcohol is applied consistently across the country and all opportunities are taken to stop the illegal or irresponsible sale, supply or consumption of alcohol with the intention of preventing and reducing crime and disorder.

During 2017/18, from a licensing perspective, our particular focus will be on the following;

- Scrutiny of the serious incidents of violence, disorder and antisocial behaviour linked to licensed premises.
- Working closely with partners within a National Licensing Trade Forum we will continue to develop and promote positive partnership working between Police Scotland and the Licensed trade, in order to increase legal understanding and support a shared aim of best practice, responsible operation and respect.
- Governance and ongoing development of the National ICT Licensing System, known as “Inn Keeper”, to increase the efficiency and effectiveness of liquor and civic licensing administration and management and to ensure problem solving is at the heart of our Licensing approach.
- The implementation and ongoing development of a Licensing Admin tool which provides divisional licensing officers with an ICT product which negates the need to research police systems independently and which builds on our problem solving approach.

To conclude we would like to thank you for your continued support and stress the importance of this collaborative, problem solving approach, which ensures that police, licence holders and licensed premises staff have a better understanding of their responsibilities. This strengthens locally-led alcohol licensing practices, in order to preserve order and promote safety and public health.