

**COMMITTEE:** Licensing Board

**MEETING DATE:** 29 January 2026

**BY:** Clerk to the Licensing Board

**REPORT TITLE:** Scheme of Delegation

**REPORT STATUS:** Public

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## **1 PURPOSE OF REPORT**

To provide a consolidated and clear scheme of delegation of powers made under the Licensing (Scotland) Act 2005 and the Gambling (Scotland) Act 2005.

## **2 RECOMMENDATIONS**

Members are recommended to:

- 2.1 Adopt the Scheme of Delegation made under the Licensing (Scotland) Act 2005.
- 2.2 Adopt the Scheme of Delegation made under the Gambling Act 2005.

## **3 BACKGROUND**

- 3.1 It is noted that there is a requirement to ensure that the actions of the Licensing Board are carried out in a clear and transparent manner.
- 3.2 In Scotland the Licensing Board is identified as the relevant authority for regulating the sale of alcohol under the Licensing (Scotland) Act 2005 and gambling under the Gambling Act 2005.
- 3.3 It is noted that there is no formal stated Scheme of Delegation pertaining to the Licensing Board with delegations being generally referenced within the Statements of Licensing Policy as referenced at paragraphs 8.1 and 8.2 of this paper.
- 3.4 It is further noted that there is currently no formal Scheme of Delegation pertaining to gambling.

- 3.5 This paper seeks to put in place clear and formal Schemes of Delegation to allow the Licensing Board to discharge its duties with any straightforward matter being considered by the Clerk to the Licensing Board or any member of the Clerk to the Licensing Board's staff having authority to do so, to save resources and to create as little inconvenience to applicants as possible. Thereby only those applications and matters which by statute are required to be considered by the Board will be submitted to them for determination and other applications will be determined by the Clerk (or Depute Clerk or persons appointed to assist them) in accordance with the Scheme of Delegations set out in Appendix 1 of this report.

## 4 POLICY IMPLICATIONS

- 4.1 None

## 5 RESOURCE AND OTHER IMPLICATIONS

- 5.1 Finance: None
- 5.2 Human Resources: None
- 5.3 Other (e.g. Legal/IT): None
- 5.4 Risk: None

## 6 INTEGRATED IMPACT ASSESSMENT

- 6.1 ***Select the statement that is appropriate to your report by placing an 'X' in the relevant box.***

An Integrated Impact Assessment screening process has been undertaken and the subject of this report does not affect the wellbeing of the community or have a significant impact on: equality and human rights; tackling socio-economic disadvantages and poverty; climate change, the environment and sustainability; the Council's role as a corporate parent; or the storage/collection of personal data.



## 7 APPENDICES

- 7.1 Appendix 1 – Scheme of Delegation details the powers of the Licensing Board for East Lothian Council in terms of the Licensing (Scotland) Act 2005 and the Gambling Act 2005.
- 7.2 Appendix 2 – East Lothian Board Procedures for Applications, Objections, Reviews and Meetings and Scheme of Delegation (Licensing and Gambling).

## **8 BACKGROUND PAPERS**

- 8.1 East Lothian Licensing Board Statement of Licensing Policy (1 November 2023 – 31 October 2028).
- 8.2 East Lothian Licensing Board Statement of Principles (January 2025 – January 2028).

## **9 AUTHOR AND APPROVAL DETAILS**

### **Report Author(s)**

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<b>Date</b>	23 December 2025



## **COMBINED SCHEME OF DELEGATION**

**Licensing (Scotland) Act 2005**

**Gambling Act 2005**

## **PART 1**

### **SCHEME OF DELEGATION**

#### **Licensing (Scotland) Act 2005**

This Scheme of Delegation sets out how decisions will be made using the powers under the Licensing (Scotland) Act 2005 ('the Act') in East Lothian. This Scheme of Delegation was approved by the East Lothian Licensing Board and is effective from XXXX.

The Board recognises that any application should only be determined by the Board where necessary. Any straightforward matters should be considered by the Clerk or any member of the Clerk's staff having authority to do so, to save resources and to create as little inconvenience to applicants as possible.

The Board therefore agrees that only those applications and matters which by statute are required to be considered by the Board will be submitted to them for determination and other applications will be determined by the Clerk (or Depute Clerk, or persons appointed to assist) in accordance with the following Scheme of Delegation.

# 1. Matters reserved to the Licensing Board

	Nature of function	Relevant provisions in the Act	Function
1.1	Determination of Licensing Board Policy	S.6 and Schedule 1, Paragraph 10(2)(a)	Determining the Board's policy for the purposes of a Licensing Policy Statement or any Supplementary Licensing Policy Statement.
1.2	Determination of Overprovision of Licensed Premises	S.7 and Schedule 1, Paragraph 10(2)(b)	Determining, for the purposes of any such statement, whether there is overprovision of licensed premises, or licensed premises of any particular description, in any locality.
1.3	Annual Function Statement	S.9A	Approving and publishing an annual statement of the Board's functions.
1.4	Annual Financial Statement	S.9B	Approving and publishing an annual financial statement of the Board's income and expenditure.
1.5	Premises Licence Application	S.23 and Schedule 1, Paragraph 10(2)(c)	Determining a premises licence application.
1.6	Premises Licence Major Variation Application	S.30 and Schedule 1, Paragraph 10(2)(d)	Determining a premises licence variation application where the variation sought is not a minor variation.
1.7	Premises Licence Transfer Application (Conviction)	S.33, S.34 and Schedule 1, Paragraph 10(2)(e)	Determining an application for the transfer of a premises licence where the applicant has been convicted of a relevant or foreign offence.
1.8	Provisional Premises Licence Confirmation	S.46 and Schedule 1, Paragraph 10(2)(i)	Refusing an application for confirmation of a provisional premises licence.
1.9	Temporary Premises Licence	S.47	Determining a Temporary Premises Licence Application.
1.10	Personal Licence (Conviction)	S.74 and Schedule 1, Paragraph 10(2)(f)	Determining a Personal Licence Application or a Personal Licence Renewal Application where the applicant has been convicted of a relevant or foreign offence.
1.11	Conducting a Hearing	S.39, S.84 and Schedule 1, Paragraph 10(2)(g)	Conducting a hearing under the Act, including taking any of the following steps: 1.9.1 At a review hearing in respect of a premises licence where necessary in terms of the licensing objectives flowing from the sale of alcohol:

			(i) Issuing a written warning to the premises licence holder; or (ii) Making a variation of the premises licence; or (iii) Making a variation of the premises licence; or (iv) Making an order revoking, suspending or endorsing a personal licence. 1.9.2 Such hearings will be conducted by means of written submissions in the first instance, where it is appropriate to do so.
1.12	Closure Order	S.97 and Schedule 1, Paragraph 10(2)(h)	Making a Closure Order.

**2. Matters delegated to the Clerk, Depute Clerk(s) or any other persons appointed to assist them in consultation with the Convenor in the first instance**

	Nature of Function	Relevant Provisions in the Act	Function
2.1	Applications for extensions under S.21 to the Board's Policy	S.65	If a premises ceases to be used for the sale of alcohol for 18 months, the licence will be deemed to have ceased to have effect. This delegation ensures that where premises have sought an extension, this can be dealt with by the Clerk following consultation with the Convenor.
2.2	Notice of Convictions	S.44(7A) and S.83(7A)	Determining whether to hold a licence review hearing or to take no further action upon receipt of a notice from the Chief Constable which does not contain a recommendation to vary, suspend, revoke or endorse the licence in question.
2.3	Occasional Licence or Extended Hours (Fast Track)	S.57(4), S.69(4) and Schedule 1, Paragraph 10(1)	Determining whether an application for an occasional licence or occasional extension requires to be dealt with quickly.
2.4	Occasional Licence (Objection / Contrary to Policy)	S.59 and Schedule 1, Paragraph 10(1)	Determining whether or not the Licensing Board will hold a hearing to determine an application for an occasional licence where an objection, representation or a notice recommending refusal from the Chief Constable or Licensing Standards Officer (LSO) or where the application is contrary to the terms of the Board's Policy.
2.5	Occasional Licence (Objection)	S.59 and Schedule 1, Paragraph 10(1)	Where a decision has been taken by the Convenor and Clerk not to hold a hearing in terms of S.59(4) of the Act, the determination of the application following an opportunity for the applicant to comment on the representation in terms of S.59(5).

2.6	Occasional Licence or Extended Hours (Lodged late or Contrary to Policy)	S.59, S.70 and Schedule 1, Paragraph 10(1)	Determining whether to accept an application for an occasional licence or occasional extension that has been lodged late in terms of the Board's Policy.
2.7	Extended Hours Application (Objection / Contrary to Policy)	S.70 and Schedule 1, Paragraph 10(1)	Determining whether or not the Board will hold a hearing to determine an application for extended hours where an objection, representation or a notice recommending refusal from the Chief Constable or LSO or where the application is contrary to the terms of the Board's Policy.
2.8	Extended Hours Application (Objection)	S.70 and Schedule 1, Paragraph 10(1)	Where a decision has been taken by the Convenor and Clerk not to hold a hearing in terms of S.70(2) of the Act, the determination of the application following an opportunity for the applicant to comment on the representation in terms of S.70(3).
2.9	Personal Licence (Licence previously Surrendered – Hearing)	S.74(7)	Where an applicant has surrendered a personal licence within the period of 3 years prior to an application for a further personal licence being made by that person, to decide whether the reasons for surrender of the previous personal licence warrant consideration of the application by the Board.
2.10	Pool table, Dart boards & Gaming Machine Submissions	Schedule 1, Paragraph 10(1)	Considering written submissions (including photographs) regarding children's access to areas containing pool tables, dart boards or gaming machines in respect of an application for Premises licence or Major variation. If the Convenor is not satisfied with the submissions, the application will be determined by the Board.
2.11	Relevant Offences Submissions	Schedule 1, Paragraph 10(1)	Considering written submissions regarding relevant offences in connection with a Premises licence application or transfer of Premises licence application. If the Convenor is satisfied with the submissions then the Clerk may determine whether or not to cite the application to attend the Board Hearing.
2.12	Power to Relieve Procedural Errors	S.135 and Schedule 1, Paragraph 10(1)	To relieve any applicant or other party to proceedings before the Board of any failure to comply with any procedural provision if the failure is due to a mistake, oversight or other excusable cause, and it is considered appropriate in all of the circumstances to relieve the failure.
2.13	Rejection of Frivolous or Vexatious Objections	S.22(4), S.36(6) and S.58(3)	Determining whether to reject a notice of objection or representation or request for a Premises licence review received by the Board where they consider it to be frivolous or vexatious.



### 3. Matters delegated to the Clerk, Depute Clerk(s) or any other persons appointed to assist them

	Nature of Function	Relevant Provisions in the Act	Function
3.1	Premises licence Minor Variation application	S.29 and Schedule 1, Paragraph 10(1)	Determining any premises licence variation application where the variation sought is a minor variation.
3.2	New Premises Manager Variation	S.29(6)(c) and Schedule 1, Paragraph 10(1)	Determining any premises licence variation application for a variation to substitute a new premises manager.
3.3	Premises Licence Application or Variation Application Hearing Citation	Schedule 1, Paragraph 10(1)	Determine whether to cite an applicant to a hearing for a premises licence application or a variation application where the variation is not a minor variation.
3.4	Premises Licence Transfer Application (No Conviction)	S.46 and Schedule 1, Paragraph 10(1)	Determining an application for the transfer of a premises licence where the applicant has not been convicted of a relevant or foreign offence.
3.5	Provisional Premises Licence Confirmation	S.46 and Schedule 1, Paragraph 10(1)	Determining any application form confirmation of a provisional premises licence – where no variation (other than a minor variation) has been made to the operating or layout plans for the premises to which the licence relates, since the provisional licence was issued or since a variation of the provisional premises licence was granted.
3.6	Premises Licence Review Proposal	S.37 and Schedule 1, Paragraph 10(1)	Determine whether to make a premises licence review proposal.
3.7	Obtaining further information for the purposes of a Review Hearing	S.38(5) and (6) and Schedule 1, Paragraph 10(1)	To exercise the powers under S.38(5) and (6) for the purposes of a review hearing to obtain further information, request any person to attend to provide information and/or request production of any document at a review hearing.
3.8	Premises Licence (Licence Production)	S.49(3) and Schedule 1, Paragraph 10(1)	To require a premises licence holder to produce the premises licence.

3.9	Occasional Licence (No Objection)	S.59 and Schedule 1, Paragraph 10(1)	Determining an application for an occasional licence – where no objections or representations have been received, nor a notice recommending refusal from the Chief Constable or any report from the LSO recommending refusal including late applications which the Convenor has approved in terms of 2.5 (above).
3.10	Occasional Licence or Extended Hours (Funeral Teas)	Schedule 1, Paragraph 10(1)	Determining an application for an occasional licence or occasional extension that has been lodged in respect of a funeral tea.
3.11	Occasional Licence Conditions	S.60 and Schedule 1, Paragraph 10(1)	To impose conditions under S.60 in respect of an occasional licence as necessary or expedient for the purpose of any licensing objective.
3.12	Extended Hours Application (No Objection)	S.79 and Schedule 1, Paragraph 10(1)	Determining an application for extended hours where no objections or representations have been received nor a notice recommending refusal from the Chief Constable or any report from the LSO recommending refusal including applications which the Convenor has approved in terms of 2.5 (above).
3.13	Personal Licence (No Convictions)	S.74 and Schedule 1, Paragraph 10(1)	Determining a personal licence application or a personal licence renewal application where the applicant has not been convicted of a relevant or foreign offence.
3.14	Personal Licence (Licence Previously Surrendered)	S.77(6) and S.87(3)	To grant a personal licence where the applicant has previously surrendered their personal licence under S.77(6) or their licence has been revoked under S.87(3).
3.15	Revocation of Personal Licence	S.87(3) and Schedule 1, Paragraph 10(1)	The revocation of a personal licence where the licence holder has not complied with the requirements of S.87(1) of the Act.

#### **4. Other matters**

Any matters which are not the subject of a specific delegation in terms of this Scheme of Delegation and are not prescribed by the Licensing (Scotland) Act 2005 shall be determined by the Clerks (or any person appointed to assist the Clerk) as appropriate unless the nature of such matter is considered to be appropriate to be determined by the Licensing Board at a meeting arranged by the Clerk in consultation with the Convenor of the Licensing Board.

#### **5. Exercise of delegated powers**

The Clerk, the Depute Clerk and any other member of staff appointed to assist them may elect not to use their delegated powers in a particular case, in which case the matter will be referred to the Licensing Board.

#### **6. Legislation**

These delegations are subject to any necessary alterations arising from amendments to Legislation, Regulations, Codes of Practice or Government Circulars. In the event of a conflict between the terms of this Scheme of Delegation and the relevant legislation, the Scheme of Delegation shall be deemed amended to accord with the provisions of the said relevant legislation.

## **PART 2**

### **SCHEME OF DELEGATION**

#### **Gambling Act 2005**

This Scheme of Delegation relates to the powers of the Licensing Board for East Lothian under the Gambling Act 2005. The Scheme of Delegation was approved by the East Lothian Licensing Board and is effective from XXXX.

The Board recognises that any application should only be determined by the Board where necessary. Any straightforward matters should be considered by the Clerk or any member of the Clerk's staff having authority to do so, to save resources and to create as little inconvenience to applicants as possible.

The Board therefore agrees that only those applications and matters which by statute are required to be considered by the Board will be submitted to them for determination and other applications will be determined by the Clerk (or Depute Clerk, or persons appointed to assist) in accordance with the following Scheme of Delegation.

# 1. Matters reserved to the Licensing Board

	Nature of function	Relevant provisions in the Act	Function
1.1	Premises Licence Application	S.161	Determination of an application of a premises licence of which representations have been made under S.161 (and not withdrawn).
1.2	Premises Licence Variation Application	S.188 and S.189	Determination of an application for the variation of a Premises Licence in respect of which representations have been made under S.161 as applied by S.187 (and not withdrawn).
1.3	Transfer Application with representation from Gambling Commission	S.188 and S.189	Determination of an application for transfer under S.188 and S.189 following representations by the Gambling Commission.
1.4	Provisional Statement Application	S.204 and S.161	Determination of an application for a provisional statement under S.204 in respect of which representations have been made under S.161 as applied by S.204 (and not withdrawn).
1.5	Review of Premises Licence	S.201	A review of a Premises Licence under S. 201.
1.6	Issuing a Counter Notice to Temporary Use Notice	S.224	Determination of whether to issue a counter notice to a temporary use notice under S.224.
1.7	Application for or cancellation of a Club Machine Permit (with objections made)	S.271 and S.273	Determination of an application for, or the cancellation of a Club Gaming Permit or Club Machine Permit under S.271 and S.273 in respect of which objections have been made and not withdrawn.
1.8	Determination on whether to cancel Club Gaming or Club Machine Permit	Schedule 12, paragraph 21	Determination of whether to cancel Club Gaming Permit or Club Machine Permit.

1.9	Gaming Machine Permit for 3 or more gaming machines for licensed premises application	S.283	Determination of an application for a gaming machine permit for 3 or more gaming machines for licensed premises under S.283 in respect of which objections have been made and not withdrawn.
1.10	Determination on whether to cancel Gaming Machine Permit in respect of Licensed Premises	Schedule 13, paragraph 16	Determination of whether to cancel a Gaming Machine Permit in respect of Licensed Premises.
1.11	Applications for registrations for the grant and renewal of registration for the promotion of lotteries by small, non-profit society	Schedule 11, Part 5	Determination of applications for registrations for registrations for the grant and renewal of registration for the promotion of lotteries by small, non-profit societies in respect of which objections have been made and not withdrawn.
1.12	Making a resolution not to issue Casino Licenses	S.166	Making a resolution not to issue Casino Licenses under S.166
1.13	Formulating Licensing Policy	S.349	Formulating Licensing Policy under S.349

**2. Matters delegated to the Clerk, Depute Clerk(s) or any other persons appointed to assist them**

	<b>Nature of Function</b>	<b>Relevant Provisions in the Act</b>	<b>Function</b>
2.1	Premises Licence Application (with representations made)	S.161	To determine an application for a premises licence where no relevant representations have been made, or where relevant representation has been made and then withdrawn.
2.2	Premises Licence Variation Application (with representations made)	S.181 and S.189	To determine an application for a variation of a premises licence where no relevant representations have been made, or where relevant representation has been made and then withdrawn.
2.3	Application for Transfer of Premises Licence	S.188	To determine an application for a premises licence where no representations have been made by the Gambling Commission.
2.4	Provisional Statement Application	S.204	To determine an application for provisional statement under S.204 where no relevant representations have been made, or where relevant representations have been made and then withdrawn.
2.5	Club Gaming Permit or Club Machine Permit	S.271 and S.273	To determine an application for a club Gaming Permit or Club Machine Permit where no relevant representation s have been made, or where relevant representation have been made and then withdrawn.
2.6	Gaming Machine Permit for 3 or more machines in a licensed premises	S.283	To determine a gaming machine permit for 3 or more machines in respect of licensed premises where no relevant representation have been made, or where relevant representations have been made and then withdrawn.
2.7	Family Entertainment Centre Gaming Machine Permit	Schedule 10, paragraph 8	To determine an application for a Family Entertainment Centre Gaming Machine Permit where no relevant representations have been made, or where relevant representation have been made and then withdrawn.
2.8	Prize Gaming Permit Application	Schedule 14, paragraph 9	To determine an application for a Prize Gaming Permit where no relevant representations have been made, or where relevant representations have been made and then withdrawn.

2.9	Registration for the grant and renewal of registrations for the promotion of lotteries by small, non-profit societies	Schedule 11, Part 5	To issue registrations for the grant and renewal of registrations for the promotion of lotteries by small, non-profit societies where no relevant representations have been made, or where relevant representation have been made and then withdrawn.
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### 3. Other matters

Any matters which are not the subject of a specific delegation in terms of this Scheme of Delegation and are not prescribed by the Gambling Act 2005 shall be determined by the Clerk (or any person appointed to assist the Clerk) as appropriate unless the nature of such matter is considered to be appropriate to be determined by the Licensing Board at a meeting arranged by the Clerk in consultation with the Convenor of the Licensing Board.

### 4. Exercise of delegated powers

The Clerk, the Depute Clerk and any other member of staff appointed to assist them may elect not to use their delegated powers in a particular case, in which case the matter will be referred to the Licensing Board.

### 5. Legislation

These delegations are subject to any necessary alterations arising from amendments to Legislation, Regulations, Codes of Practice or Government Circulars. In the event of a conflict between the terms of this Scheme of Delegation and the relevant legislation, the Scheme of Delegation shall be deemed amended to accord with the provisions of the said relevant legislation.





**EAST LOTHIAN LICENSING BOARD  
PROCEDURES FOR APPLICATIONS,  
OBJECTIONS, REVIEWS AND MEETINGS  
AND  
SCHEME OF DELEGATION  
(LICENSING AND GAMBLING)**

## [Index](#)

[1.0 Procedures for Applications, Objections and Reviews](#)

[2.0 Procedure for Meetings](#)

3.1 Licensing Scheme of Delegation

3.2 Gambling Scheme of Delegation

## 1.0 PROCEDURES FOR APPLICATIONS, OBJECTIONS AND REVIEW

1.1 The Board gives notice of applications for premises licences and non-minor (commonly referred to as major) variations to –

- each person defined by the 2005 Act to be a neighbour;
- any Community Council within whose area the premises are situated;
- The Licensing Standards Officer
- East Lothian Council's Building Standards Manager, Development Control Manager;
- Environmental Health & Trading Standards Manager;
- Police Scotland;
- Scottish Fire and Rescue Service;
- the local Health Board.

1.2 The Board is required to advertise these applications on its website for 21 days and in addition, applicants are obliged to display site notices at the premises for 21 days from the date that the applications are advertised.

Any person may submit an objection or representation to the Board regarding an application for:

- a premises licence
- a variation to a premises licence
- an occasional licence – (occasional licence applications are notified to Police Scotland and the LSO only and are advertised on the Board's website for 7 days)
- an Extended Hours application – (extended hours applications are notified to Police Scotland and LSO only, there is no requirement to advertise these applications).

1.3 The extent to which the Board may take an objection and/or representation into account is governed by the Licensing (Scotland) 2005 Act ('the Act') and is, in general, subject to:

- receipt of the objection and/or representation within a prescribed timescale;
- whether the content of the objection and/or representation addresses one of more of the licensing objectives; and
- with regard to its nature, whether the Board considers the objection or representation to be frivolous or vexatious.

Persons wishing to make an objection or representation on any particular application should view the Guidance Notes and Form on the Council's alcohol licensing webpage. They have the opportunity to attend the Board meeting set to determine the application, in order to speak to their objection or representation. Notice of the Board meeting will be sent to all those who have made an objection or a representation. If they cannot attend, they will be given the opportunity to nominate someone to attend on their behalf.

1.4 Any person may apply to the board for review of a premises licence.

The grounds on which any such application, can be made, are that one or more of the conditions attached to a licence has been breached, that there is a ground related to one or more of the licensing objectives and/or that the licence holder is considered not fit and proper. Detail must be provided in the application for a review.

Whether the Board can receive and consider any application for review is, in general, subject to:

- whether, with regard to its content, the application discloses any matter relevant to any ground for review; and
- whether, with regard to its nature, the Board considers the application to be frivolous or vexatious.

The Board encourages any member of the public wishing to make a premises licence review application to use the form which has been prepared to assist applicants that can be found on the Council's alcohol licensing webpage.

- 1.5 The Board recognises that it has the power to recover expenses from an applicant for a premises licence review if it considers the application to be frivolous, or vexatious. However, it wishes to make clear that it will not consider using that power unless there is information before it to suggest that the application was deliberately frivolous or vexatious and not submitted on the basis of a genuine misunderstanding of the licensing system.
- 1.6 The Board may also decide to hold a review on its own initiative.
- 1.7 The Board wishes to emphasise the seriousness of review proceedings for both premises and personal licence holders because of the potential consequences they can have, should the Board find grounds for review established and decide to exercise any of the powers available to it.
- 1.8 If applications for review are accepted, the Board will hold a hearing. It is therefore important that the licence holder is fully prepared to present their case and they might be advised to obtain legal representation.

## 2.0 PROCEDURES FOR MEETINGS

### 2.1 Communication

All correspondence relating to licensing matters should be sent to the Council's Licensing Department.

The preferred method of communication is email. The email address is [licensing@eastlothian.gov.uk](mailto:licensing@eastlothian.gov.uk)

Alternatively, the postal address is:

The Clerk of the Licensing Board  
East Lothian Council  
John Muir House  
Haddington  
East Lothian EH41 3HA.

### 2.2 Frequency, Location and Timing of Meetings

Licensing Board meetings are open to the public.

Meetings are normally scheduled to take place at 10 am on the last Thursday of each month. A hybrid system will be used where persons may attend using an online platform or in person at the Council Chambers, Town House, 57 High Street, Haddington, East Lothian EH41 3EN.

These premises have disabled people's access and facilities.

The schedule of meeting dates is available on the Council's website at:

[https://www.eastlothian.gov.uk/meetings/committee/53/east\\_lothian\\_licensing\\_board](https://www.eastlothian.gov.uk/meetings/committee/53/east_lothian_licensing_board)

### 2.3 People-centred Meetings

The business of the Board is important to ensuring adherence with the licensing objectives. The Board has quasi-judicial status. This means that it has powers and procedures resembling those of a court of law or Judge/Sheriff, and is obliged to objectively determine facts and draw conclusions from these facts to provide the basis of an official decision/action. However, the Board strives to create an informal, relaxed and supportive atmosphere that is not intimidating, so that people are at ease when participating at meetings. The Board will always endeavor to observe the rules of natural justice.

Meetings will be conducted in public; however, the Board may adjourn to consider matters in private. All decisions will be taken in public.

### 2.4 Meeting Attendees

The following people are always present at Board meetings:

#### **The Licensing Board**

- Board Members, including the Board Convener.
- If the Convener is unable to attend, the Board will nominate and agree one of the Board members who are present to take on the role of Convener for that meeting.
- A minimum number of Board members must be present for the meeting to go ahead. This minimum number is called a quorum. The quorum, as provided for in legislation, is one-half of the number of members, and no fewer than three.

## **Others**

- The Clerk or Depute Clerk of the Board
- A Licensing Standards Officer
- A minute taker from East Lothian Council
- A licensing officer from East Lothian Council
- Applicants and licence holders
- Police Scotland's Divisional Licensing Officer and/or a Police Scotland local area Inspector
- The local press (meeting attendees should note that anything they say in the meeting might be reported by the local press)

The following people might be present at Board meetings, depending on the requirements of the items on the agenda.

- Officers from East Lothian Council – e.g. planning officer
- Agents/representatives for applicants and licence holders. (It is not mandatory to be represented, but many applicants and licence holders choose to be represented, usually by a licensing solicitor or practitioner)
- Objectors – many applications do not have objections. Sometimes objectors choose not to attend in person
- Supporters (people who have provided information in favour of granting or retaining a licence) - many applications do not have supporting statements, or the supporters choose not to attend in person
- People who have requested a review of a licence
- NHS Scotland – a representative will usually attend if they have made a representation.
- Members of the public are welcome to attend
- Members of the Licensing Forum

## **2.5 Meeting Room Layout and Facilities**

On entering the Town House, the Council Chamber is immediately to the left of the entrance. The room is set out with tables and chairs in a square, boardroom style. The Convenor and the Clerk of the Board sit on the far side from the door. Applicants, their representatives and any objectors sit facing the Board members when their item of business is called for consideration. Board members, Police Scotland, the NHS, the Licensing Standards Officer, Licensing Officers and Committee Officer sit on the other sides of the square and provide input as directed by the Convenor.

When waiting for their item to be called, applicants, representatives and objectors sit on the seats around the perimeter of the room. Members of the public will also be able to occupy these seats and observe proceedings.

## **2.6 Meeting Business**

Meetings are convened to enable the Board to make decisions on various types of applications, and to review premises and personal licences. Applications, including variations to existing licences, and provisional licences, together with licence reviews, make up the majority of the business that the Board has to consider. However, the Board also deals with all the business detailed below. The Board's business is not restricted to these items and the Board will also make statements about extended opening hours and approve policies.

The Scheme of Delegation tables below list the relevant sections of the Acts and details whether the Board must or may hold a hearing.

## **2.7 Notice of requirement to attend Board Meetings/Hearings**

The Board will give notice to any person who is required to attend the Board meeting.

The notice to attend will:

- Provide details of the date, time and venue of the meeting
- Explain that a meeting agenda will be sent out about one week before the meeting to the applicant or their agent, and to any objectors/supporters
- Advise that the agenda has details of the website address where people can access the reports and papers for the Board meeting
- Advise that the Board may consider the matter in the absence of any party, should that party fail to attend the meeting
- Include a copy of the procedures for attending Board meetings

The Board aims to issue the notice 14 days in advance of a meeting. The Council's Licensing Officer will send any objections to the applicant as and when these are received.

## **2.8 Submitting Documents, Evidence and Representations to the Board**

Not later than 10 days before the meeting, applicants, licence holders, objectors and other parties should, as far as possible, notify all relevant parties and the Clerk of the evidence and documents that they intend to rely on at the meeting. Where evidence is lodged after this date, the Board may call and then adjourn the hearing to an alternative date to allow all relevant parties time to review the evidence submitted.

A representation is the term used to refer to objections; letters of support; and reports, comments and recommendations that have been received from consultees such as Police Scotland and NHS Scotland.

## **2.9 Attendance at the Meeting**

Applicants/licence holders should attend the meeting and should confirm their attendance to the Clerk no later than 7 days before the meeting. They should also provide details of any agent or representative that is attending.

Regulation 14 of the Licensing Procedure (Scotland) Regulations 2007 provides that an applicant/licence holder may be represented by another person at a Board meeting. However, the Board may decide not to hear from the representative where they cannot provide written authorisation to act.

Objectors, people making representations and anyone who has requested a review of a licence, are invited to attend the meeting to present their case.

Councillors who are participating using digital facilities must ensure their camera is on for the duration of quasi-judicial items of business (as specified in Section 7.3 of the Councillors' Code of Conduct) in order that they can be seen for the duration of the item.

## **2.10 Failure to attend a Meeting**

Where an applicant/licence holder fails to attend or be represented at a meeting, the Board will then decide whether to proceed with the hearing in their absence or continue the hearing to another date. Each matter will be considered on its own merits. However, in general:

1. If an applicant/licence holder has indicated an intention to appear but fails to do so, the hearing may proceed in their absence.
2. If an applicant/licence holder has given no indication about attending the meeting and there is no apparent reason for them not being present, then the hearing will proceed and the Board will make such decision as it thinks fit in the absence of that party.
3. If an applicant/licence holder leaves a hearing in circumstances such that it can reasonably be inferred that they do not wish to take any further part, then the hearing will proceed and the Board will make such decision as it thinks fit in the absence of that party.

A hearing will normally only be continued on one occasion.

When a hearing proceeds in the absence of an applicant/licence holder or their agent, the Board will consider all documents and evidence that has been presented, including objections and any representations.

## **2.12 Power to Postpone**

At any time during the meeting, the Board may decide to postpone a hearing to a future specified date. Each case for postponement will be considered on its own merits.

## **2.13 Agenda and reports for Meetings**

The agenda and reports for the Board meeting are issued to Board Members, relevant Council officials and Police Scotland. The agenda is issued to applicants, agents, objectors, NHS Scotland, community councils and other interested parties. These are issued by the committee team around 7 days before the meeting. The agenda details the Council website address where the reports can be accessed.

The first item of business on the agenda is the minutes of the previous meeting, for approval by the Board.

## **2.14 During the Meeting – Applications**

A discussion and debate will be led by the Convener of the Board, supported by the Clerk to the Licensing Board, and will generally take the following format:

1. The applicant, or their representative, will be asked to present their case verbally. They can use documents and written submissions (which must be provided to all parties prior to the date of the meeting) as supporting material.
2. Any party that has made objections or representations will be invited to present their case.
3. The Convenor will ask Police Scotland representatives and the LSO if they have anything to contribute. Police Scotland and the LSO normally produce a written report that is included in the reports and papers that are issued ahead of the meeting.
4. The applicant will then have an opportunity to respond to any points raised. Cross-examination is not generally part of the process. Hearsay evidence is admissible.
5. Board members may ask questions of any party.
6. Parties will be asked to sum up (in reverse order).



7. The Board may request legal advice from the Legal Adviser, and procedural advice from the Committee's Clerk.
8. The Board may adjourn to debate the matter in private. However, all decisions are made in public. The Convenor will deliver the Board's decision and may ask Board members to individually state their comments and decision.

### **2.15 During the Meeting – Licence Reviews**

In relation to complaints or requests for the review of premises or personal licences, a discussion and debate will be led by the Convenor of the Board. This will take the following format:

1. The complainer or person requesting the review will be invited to attend any hearing. If they decide to attend, they will be asked to present their case.
2. The licence holder, or their representative, will be asked to present their case verbally. They can use documents and written submissions (which must be provided to all parties prior to the date of the meeting) as supporting material.
3. The Licensing Standards Officer will produce a written report that is included in the papers for the Boards consideration. Police Scotland or other consultees will be asked if they have anything to contribute (assuming they have not requested the review).

Any party that has been consulted and has provided information on the licence review – e.g. a Council planning officer or safer communities officer, may be asked to attend the review hearing to answer Board members' questions.

All reports to the Board will usually only be made public after the review hearing.

### **2.16 Behaviour at Meetings**

It is expected that everyone present shows mutual respect and acknowledges that they should only contribute to the meeting when invited by the Convenor to do so.

If the Board consider a person to be behaving in a disruptive manner they can choose to exclude them or they can permit them to remain but only on such conditions as the Board specify.

Where a person is required to leave the meeting, the Board will permit them to submit in writing, before the end of the meeting, any information, which they would have been entitled to give verbally. The Board will take this information into account in reaching a decision.

### **2.17 Procedure Where a Hearing is No Longer to Take Place**

Where a hearing has been scheduled and it is subsequently decided that the application can be determined without a hearing (with or without the consent of the parties) the Board will, as soon as is reasonably practicable

- Notify all parties that the hearing has been dispensed with; and
- Determine the application or review.

Where the Board does not hold a hearing, where there is an option to hold a hearing, the Board will make sure that all relevant parties have the opportunity to state their case, in particular, the

applicant will have a chance to respond to any observations made by the Police or the Licensing Standards Officer.

#### **2.18 Irregularities**

The Board may disregard any irregularity resulting from a failure to comply with The Statement of Licensing Policy, or with a procedure where an irregularity comes to its attention before it makes a decision on an application or review.

If the Board considers that any person may have been disadvantaged by any irregularity, it will take steps to remedy the consequences before reaching its decision.

#### **2.19 Making, Declaring and Communicating Board Decisions**

The Board might adjourn in private to discuss an application or review; however, their decision will always be declared in public.

When making a decision, the Board might grant a licence subject to certain conditions. These conditions will generally have been mentioned during the discussion.

It is expected that applicants, licence holders, representatives and other interested parties will remain in the Council Chamber to hear the Board's decision.

The Licensing Officer will communicate with all relevant parties after the meeting to advise them of the outcomes and to issue licences that have been granted.

#### **2.20 Record of Proceedings**

A permanent detailed minute is taken for every Board meeting and is approved at the next meeting of the Board. Once approved, the minute is published on the Council's website.

All minutes are also retained in the Council archives.

There are video and audio recording of Board meetings, available on the East Lothian Council website for six months.