

Statement of Alcohol Licensing Policy

Orkney Islands Area Licensing Board

Licensing (Scotland) Act 2005

November 2023 – November 2028

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Definitions

Definitions: In this Statement the following words shall have the meaning set out:

- “the Act” means the Licensing (Scotland) Act 2005 as amended from time to time.
- “the 2015 Act” means the Air Weapons and Licensing (Scotland) Act 2015 as amended from time to time.
- “the Board” means the Orkney Islands Area Licensing Board constituted in terms of section 5 and schedule 1 of the Act.
- “the Council” means Orkney Islands Council constituted in terms of the Local Government etc. (Scotland) Act 1994 and subsequent legislation.
- “the LSO” means the Licensing Standards Officer(s) appointed by the Council in terms of section 13 of the Act.
- “the Police” means Police Scotland, which reference throughout this document includes reference to the Police Service of Scotland.
- “the 1982 Act” means the Civic Government (Scotland) Act 1982 as amended from time to time.
- “Guidance” means the Guidance for Licensing Boards and Local Authorities issued by the Scottish Ministers in terms of section 142 as amended from time to time.

The Board has adopted the following definition of a voluntary organisation:

- “An independent organisation established for purposes that add value to the community as a whole and which is not permitted, by its constitution, to make a profit for private distribution. Such an organisation does not include local government, other public bodies or statutory authorities. It is an organisation formally constituted, self-governing and primarily non-commercial.”

In terms of the Licensing Conditions (Late Opening Premises) (Scotland) Regulations 2007, “adult entertainment” means any form of entertainment which:

- involves a person performing an act of an erotic or sexually explicit nature; and
- is provided wholly or mainly for the sexual gratification or titillation of the audience.

Preamble

- 0.1. In terms of section 6 of the Act, licensing boards, once appointed following local government elections, must publish, within a period of 18 months, following ordinary local government elections, a statement of their policy to assist in the implementation and administration of the licensing of the sale and supply of alcohol within their area and to outline the way they intend to exercise their functions under the Act.

- 0.2. In developing this policy, the Board has consulted widely and given due consideration to the views of all those who responded to that consultation process. Details of consultees are provided in paragraph 2 of this policy. There are many organisations and people who have a stake in the leisure industry, including providers, customers, residents, law enforcers and the emergency services, all of whom have views and concerns that require consideration in the promotion of the licensing objectives.
- 0.3. In preparing this policy, the Board has had due regard to the guidance issued by the Scottish Government. In particular, the Board has recognised its duty to promote the five licensing objectives set out at section 4 of the Act:
- preventing crime and disorder;
 - securing public safety;
 - preventing public nuisance;
 - protecting and improving public health; and
 - protecting children and young persons from harm.
- 0.4. The Board welcomes the powers given to it by the Act and intends to use those powers in a socially responsible way. In so doing, the Board recognises that the interests of the public, residents, businesses and patrons of licensed premises require to be balanced. The five licensing objectives outlined in the Act will provide a starting point.
- 0.5. You can contact the Licensing Board offices:
- by email to: licensing@orkney.gov.uk;
 - by fax to: 01856 871604;
 - by telephone to: 01856 873535 extensions 2232 or 2229;
 - in writing to: Clerk to the Licensing Board, Strategy, Performance and Business Solutions, Orkney Islands Council, Council Offices, Kirkwall, Orkney KW15 1NY.
- 0.6. Comments on this policy must be submitted in writing by email or letter. Paper and electronic copies of this statement are also available on request from these email or postal addresses.
- 0.7. Comments will be made public.
- 0.8. If assistance is required, please discuss this with any member of staff, who will be glad to help.
- 0.9. All our written information can be made available, on request, in a range of different formats and languages. If you would like this document in any other language or format, please contact us at the above telephone number or email or postal addresses.
- 0.10. During the consultation period, this document will be published at <https://www.orkney.gov.uk/News> and will be available for inspection at the Council Offices, Kirkwall, Orkney between 09:00 and 17:00 Mondays to Fridays.

- 0.11. The final document, following adoption, will be published in the Related Downloads section of the following webpage:
<https://www.orkney.gov.uk/Service-Directory/L/licensing-board-policies.htm>
- 0.12. The consultation period commenced from 22 June 2023 and ran until 25 August 2023. The policy will be applied for the relevant period. This will be from the date agreed by the Board until a period of 18 months following the next ordinary local government elections. It will be kept under review and be subject to ongoing consultation with stakeholders and revised, if appropriate, by the issue of supplementary statements, during its currency.

Section A – General

1. Introduction

- 1.1. The Board is a licensing authority for the purposes of the Act and is responsible for granting:
- extensions of licensing hours;
 - occasional licences;
 - premises licences;
 - personal licences;
 - provisional licences;
 - temporary licences;
 - transfers of licences; and
 - variations of licences,
- in respect of:
- the sale of alcohol by retail for consumption on or off premises;
 - the supply of alcohol in members' clubs.
- 1.2. Orkney comprises 70 or so islands and skerries, of which up to 19 may be inhabited depending on the time of year. Based on National Records of Scotland mid-year population data for 2021, Orkney had an estimated population of 22,540, the majority of whom (around 19,740) lived on the main island called Mainland and the linked south isles, while approximately 2,800 people lived on the north and south ferry-linked isles. The main population centres are located on Mainland. They are: Kirkwall, with an estimated population of 8,400 (2021) and Stromness with an estimated population of 2,100 (2021).
- 1.3. At the time of preparation of this statement of Policy, there were 105 premises licences in force within the Board's area, being 14 on-sales, 36 off-sales, 46 both on and off-sales and 9 members' clubs.
- 1.4. At the time of preparation of this statement of Policy, there were 285 personal licences in force within the Board's area.
- 1.5. The Board is committed to the use of e-government technology and to applying its benefits so as to ensure continuous improvement of the Board's operation.
- 1.6. The Board publishes a considerable amount of information, including requirements relating to layout plans, application forms, guidance, fire safety checklists and fees at:
https://www.orkney.gov.uk/Service-Directory/L/Alcohol_Licensing.htm
- 1.7. The Act requires the Board to publish annual reports in relation to its Financial Information and Functions. These are published in the Related Downloads section of the following webpage:
<https://www.orkney.gov.uk/Service-Directory/L/licensing-board-policies.htm>

- 1.8. The Act requires the Board to publish Registers of specific information. The Board's Registers of premises and personal licences are published in the Related Downloads section of the following webpage:
<https://www.orkney.gov.uk/Service-Directory/C/Current-Register-of-Premises.htm>
- 1.9. The Board's Registers of occasional licences are published in the Related Downloads section of the following webpage:
<https://www.orkney.gov.uk/Service-Directory/O/Occasional-Licences.htm>
- 1.10. Information about the members of the Board, together with agendas, reports and Minutes relating to meetings of the Board, are published through links from the following webpage:
<https://www.orkney.gov.uk/Council/C/orkney-islands-area-licensing-board.htm>
- 1.11. The Act requires the Board to carry out its various licensing functions so as to promote the five licensing objectives. These are:
- preventing crime and disorder
 - securing public safety
 - preventing public nuisance
 - protecting and improving public health and
 - protecting children and young persons from harm.
- 1.12. The pursuit of these five objectives is a principal feature of this Board's policy. The objectives provide a basis for refusal of an application for the grant of a premises licence or of an occasional licence; their breach may lead to the imposition of sanctions on a personal licence holder or provide grounds for the review of a premises licence. The attachment of conditions to a premises licence or occasional licence must be based on an objective or a combination of the objectives.
- 1.13. The Act further requires that the Board publish a statement of licensing policy which sets out the policies the Board will generally apply to promote the licensing objectives when making decisions on applications.
- 1.14. The Board is required to have regard to the Guidance issued by the Scottish Government and to consult with:
- The local licensing forum for the Board's area.
 - The following, in so far as they are not represented in the membership of the forum:
 - holders of premises licences and personal licences;
 - the chief constable;
 - persons having functions relating to health, education or social work;

- young people; and
- persons resident within the forum's area.
- The relevant health board.
- Such other persons as the Board thinks appropriate.

Details of specific consultees are provided at paragraph 2.1 of this policy.

- 1.15. This policy has been prepared in accordance with the provisions of the Act. It will be applied for the relevant period. This will be from the date agreed by the Board until a period of 18 months following the next ordinary local government elections. It will be kept under review and be subject to ongoing consultation with stakeholders and revised, if appropriate, by the issue of supplementary statements, during its currency.
- 1.16. This policy covers a wide variety of activities and premises including public houses, restaurants, nightclubs and private members' clubs, as well as off-licences. It cannot provide for every eventuality but seeks to detail those factors and the Board's policies which will influence the achievement of the licensing objectives.
- 1.17. The Board acknowledges that the licensing function cannot be used for the general control of the anti-social behaviour of individuals once they are beyond the direct control of the licence holder of any premises. However, in exercising its licensing function the Board will have due regard to the role and responsibilities of other responsible authorities within the local government area. These include:
- planning controls;
 - positive measures to create a safe and clean town environment, in partnership with local businesses, transport operators and various services of the local authority;
 - the provision of close circuit television (CCTV) surveillance, taxi ranks and street cleaning;
 - designating parts of the local authority area as places where alcohol may not be consumed publicly
<https://www.orkney.gov.uk/Council/C/drinking-in-public-places-in-kirkwall.htm>;
 - enforcement of the law concerning disorder and anti-social behaviour;
 - greater use of the powers to deal with those who commit offences, such as selling alcohol to people who are drunk or those who are underage.

- 1.18. This policy does not seek to undermine the right of any individual to apply under the terms of the Act and to have such an application considered on its individual merits. The policy does not seek to override the right of any person to make representations on an application or to seek a review of a licence where provision has been made for this in the Act.
- 1.19. If there are no grounds for refusal, the Board must grant the application.

2. Consultation and Links to Other Policies, Strategies and Legislation

- 2.1. In accordance with the requirements of section 6 of the Act and prior to the publication of this policy, the Board has consulted with and taken account of the views of:
- Alcohol Focus Scotland.
 - Citizens Advice Bureau (Orkney).
 - Community councils.
 - Holders of premises licences throughout Orkney.
 - Licensing Standards Officer.
 - Local firms of solicitors.
 - Local Licensing Forum.
 - NHS Orkney.
 - Officials of the Council in respect of planning, building standards, environmental health, education, social services and housing.
 - Orkney Alcohol and Drugs Partnership.
 - Orkney Public Protection Committee.
 - Orkney Partnership.
 - Orkney Health and Social Care Partnership.
 - Police Scotland.
 - Residents via a public notice on www.orkney.gov.uk.
 - Scottish Beer and Pub Association.
 - Scottish Fire and Rescue Service.
 - Scottish Licensed Trade Association.
 - Visit Scotland (Kirkwall Office).
 - Voluntary Action Orkney.
- 2.2. In administering its responsibilities in respect of licensing the Board believes that it is important that it does not operate in isolation. Due regard will be given to the policies and decisions of the Council.

- 2.3. The Human Rights Act 1998 incorporated the European Convention on Human Rights into United Kingdom law and makes it unlawful for a public authority to act in a way which is incompatible with a Convention Right. The Board will have particular regard to the following relevant provisions of the European Convention on Human Rights in respect of its licensing responsibilities:
- Article 1 of the First Protocol: that every person is entitled to the peaceful enjoyment of their possessions, including for example the possession of a licence
 - Article 6: that in the determination of civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law and
 - Article 8: that everyone has the right to respect for their home and private life.
- 2.4. The Freedom of Information (Scotland) Act 2002 requires licensing boards to publish information on the basic structure of the board, how it is administered, details of the type of information available to the public and how it can be accessed. The Board's publication scheme, setting out this information, is published in the Related Downloads section of the following webpage:
<https://www.orkney.gov.uk/Service-Directory/L/licensing-board-policies.htm>.
- 2.5. The Board also has responsibility for certain licensing functions under the Gambling Act 2005. The Board's statement of policy in respect of the exercise of its functions under that Act is contained in a separate document published in the Related Downloads section of the following webpage:
<https://www.orkney.gov.uk/Service-Directory/L/licensing-board-policies.htm>.
- 2.6. The Board recognises its responsibilities under the Equality Act 2010 and related legislation. The Board's Equality data and outcomes are reported together with those of the Council and Education Authority. The reports and outcomes are published in the Related Downloads section of the following webpage:
<https://www.orkney.gov.uk/Council/C/Equality-and-Diversity.htm>.
- 2.7. The Board will have regard to any strategy of the Scottish Government designed to address the social, health and crime and disorder issues raised by the misuse of alcohol.
- 2.8. The Board will avoid duplication with other regulatory regimes and will not use its powers under the Act to arrive at outcomes that can be achieved under other legislation or by other enforcement agencies.

- 2.9. In particular, the Board's licensing functions will be discharged separately from the functions of the Council as the local planning authority. The Board recognises that planning and licensing regimes are separate and that the processing of licensing applications should be an exercise distinct from the processing of planning applications. The Board as the licensing authority will not be bound by decisions made by the Council as the local planning authority. Applicants for licences are reminded that planning permission may be required for certain uses and that planning consents may carry conditions.
- 2.10. The Act requires that planning permission is obtained first or alternatively that a certificate of lawful use or development has been obtained in terms of the proposed activities and trading hours.
- 2.11. In general, planning permissions authorise a broad type of use of premises, whereas licences are granted for a particular type of activity. A planning permission may cover a number of activities that can have a wide range of different impacts in the locality.
- 2.12. There is a presumption of a common approach in the reasoning behind planning and licensing decisions and conditions attached to planning permissions may relate to one or more of the five licensing objectives. Where this is the case, operating plans should make reference to those planning conditions.
- 2.13. All premises for which a licence is being sought will be expected to comply with the building standards requirements in force at the time of their construction or at the time of any alteration. This is particularly relevant in respect of the licensing objectives relating to public health and public safety. Where construction work is proposed or completed, the applicant should be able to produce appropriate certificates issued by the local authority.
- 2.14. Other statutory requirements may apply to the provision of any activities at premises and the responsibility for compliance lies with the licence holder. For example, if the activity involves the preparation and/or sale of food then it is the responsibility of the applicant to ensure that all appropriate food safety legal requirements are met. It is not a requirement of any licence decision to address these matters, but a responsible licence holder will conform to all relevant legislation.
- 2.15. There is considerable overlap between the licensing regime and wider health and safety regulatory regimes. Many specific licensing requirements relate to matters potentially affecting public health and public safety, two of the licensing objectives.
- 2.16. The Board will maintain effective communication with the Orkney Alcohol and Drugs Partnership. The importance of such cooperation is recognised as part of the wider alcohol agenda.

- 2.17. The formulation of this policy involved consultation with the Local Licensing Forum, which will keep under review the operation of the Act in this Board's area and will advise and make recommendations to the Board as appropriate. The Board will have regard to any advice given or recommendation made to it. To ensure proper communication with the Local Licensing Forum, the Board may provide reports particular to it from time to time to enable it to have regard to the detail of such matters when deliberating. Information about the Local Licensing Forum is published at <https://www.orkney.gov.uk/Service-Directory/O/Orkney-Local-Licensing-Forum.htm>.
- 2.18. The Council publishes agendas, reports and Minutes relating to meetings of the Orkney Local Licensing Forum through links on the following webpage: <https://www.orkney.gov.uk/Service-Directory/O/Orkney-Local-Licensing-Forum-Agendas-and-Reports.htm>.

3. Applications for Premises Licences and Disposal of Business

- 3.1. The Board will not accept any premises licence application which fails to satisfy statutory requirements as to matters to be included in or to accompany an application. Any such application will be returned to the applicant. The Board holds plans of premises electronically and encourages all applications to be accompanied by an electronic copy of any plans to be submitted.
- 3.2. With reference to section 123 of the Act (Excluded Premises), the Board determined in 2007 that 22 garages subject to off-sale licences at the time of drafting its first policy served a wider local function or were a required community resource. No applications for new petrol filling station premises have subsequently been received. Such applications will be considered on their merits to determine whether they would serve a similar function. In general, premises used as a garage or which form part of a garage shall be excluded from obtaining a licence.
- 3.3. With reference to section 125 of the Act, members' clubs are regulated under the Act and a premises licence is required to authorise the sale of alcohol.
- 3.3.1. The Scottish Government acknowledges that it would be reasonable to reflect their special characteristics. In order to benefit from the exemptions available members' clubs require to meet the criteria prescribed in the Licensing (Clubs) (Scotland) Regulations 2007 (<https://www.legislation.gov.uk/ssi/2007/76/contents/made>).
- 3.3.2. When members' clubs apply to the Board they require to provide a copy of their Constitution and Rules to show that they comply with the criteria referred to above in order to benefit from the exemptions.

- 3.3.3. Members' clubs are subject to the same provisions regarding access by children as any other licensed premises. They require to specify in their operating plans whether or not it is proposed that children and young persons are to be allowed entry to the premises and, if so, to specify the terms, the times, the ages of such children and the parts of the premises to which they would be permitted access.
- 3.3.4. The Board considers that the following would be good practice:
- clubs should keep their constitutions updated and, when revised, submit a copy of the revised constitution to the Clerk; and
 - at least two members of staff or committee members or volunteers involved in the management of the club should obtain a training qualification to the standard required by personal licence holders.
- 3.4. The Board will dispose of its business in an open and transparent manner. Hearings will be conducted in as informal a manner as possible. Guidance will be made available to those persons who wish to apply for a licence, to make representations or to lodge objections. The Board will remain at all times mindful of the need to be accessible to all and assistance will be available on request to those who require any special arrangements to be made. A statement of agreed procedures for Board meetings is attached at Appendix 1.
- 3.5. The Board will generally operate in the Chamber of the Council Offices. However, circumstances may dictate that the Board will operate elsewhere on occasion. The Board will comply with timescales laid down for dealing with applications. The Board meets on a regular basis and the meeting dates are published at <https://www.orkney.gov.uk/diary-of-council-meetings.htm>.
- 3.6. Meetings of the Board are broadcast live at www.orkney.gov.uk and audio recordings of meetings are available from the appropriate webpage for a meeting of the Board, published at <https://www.orkney.gov.uk/diary-of-council-meetings.htm>
- 3.7. The Board holds its meetings in person and online and enables Board members and applicants to attend meetings online. This arrangement provides ease of access for applicants based outwith the main town of Kirkwall, as well as other participants who may find it difficult or inconvenient to attend the Council Offices in person.
- 3.8. All members appointed to the Board have been trained in accordance with regulations made under the Act which require members to undertake an accredited course of training within three months of being elected or re-elected as a member of the Board.
- 3.9. Applications are advertised for the statutory periods on the Council's website at <https://www.orkney.gov.uk/News>.

4. Delegation of Licensing Functions

- 4.1. It is the Board's policy to provide a speedy, efficient and cost-effective service to all parties involved in the licensing process.

- 4.2. Decisions on licensing matters will be taken in accordance with an approved scheme of delegation aimed at underlining the principles of timely, efficient and effective decision making.
- 4.3. The delegations will be made by the Board in accordance with the Act. A table setting out how the Board intends to delegate its various licensing functions is attached at Appendix 2.
- 4.4. Unless there are justifiable reasons or, as provided in regulations made under the Act, the Board will meet in public, although members may retire into private session to consider their decision. However, any decision will be made in public in accordance with the Act or regulations made thereunder.

5. Notification of Application, Objections and Representations

- 5.1. The Board will give notice of each premises licence application it receives to those persons referred to in the Act or their successors, namely:
 - each person with a notifiable interest in neighbouring land;
 - any community council within whose area the premises are situated;
 - the Council;
 - the relevant health board, being NHS Orkney;
 - Police Scotland; and
 - Scottish Fire & Rescue Service.
- 5.2. In providing notice, the Board is committed to ensuring that application details are provided in a clear, concise and understandable way, by means of Site Notices provided to applicants for display, by means of notification to the consultees detailed at paragraph 5.1 above and by online notification at <https://www.orkney.gov.uk/News>.
- 5.3. The Board expects the Police to consider all applications and to give one of the statutory notices as appropriate. The Board will consider all relevant representations or objections from any person. The objection must relate to one of the licensing objectives. Objections or representations which are regarded as frivolous or vexatious may not be considered and in the case of an application for review of a licence may be rejected by the Board if it does not disclose any matter relevant to any ground for review.
- 5.4. Where an objection or representation in respect of a premise licence application or a variation application is received late, after the specified date for receipt, the Board will normally treat the objection as not made unless the objector has provided an explanation for late receipt. If the Board decides there are good reasons to treat the objection as made, consideration will be given in the interests of justice to a continuation of the hearing into the application, objections and representations to a future meeting of the Board.

- 5.5. The Board will seek the advice of the Council's Neighbourhood Services and Infrastructure directorate in relation to applications for provisional premises licences regarding suitability. This will enable a pro-active approach to be adopted permitting applicants sufficient notice of any issues that may require to be addressed within premises prior to completing construction or renovation when it would be likely to be too late to incorporate changes into the design at the stage of confirmation.

6. Conditions Attaching to Licences

- 6.1. The Board acknowledges the mandatory conditions attaching to premises and occasional licences laid down in schedules 3 and 4 of the Act, together with mandatory conditions attached by regulation to premises which are open beyond 1 a.m. on any day.
- 6.2. Where relevant representations are made, the Board will make an objective judgement as to whether other conditions may need to be attached to a licence to secure achievement of the licensing objectives. Any conditions arising as a result of representations will primarily focus on the impact of the activities taking place at the licensed premises, on those attending the premises and members of the public living, working or engaged in normal activity in the vicinity of the premises, and will cover matters that are within the control of the licence holder. The Board will seek to avoid the imposition of disproportionate conditions. The Board may consider attaching a condition requiring the premises licence holder and / or designated premises manager to take-up membership of any Pubwatch or similar scheme operating in the area and to participate fully in its operation, including the effective sharing of information.
- 6.3. The Board recognises that all applications should be considered on their own merits. Any condition attached to a licence will be derived either from the licence holder's operating plan or a representation and will be tailored to each individual premises.
- 6.4. The Board understands that applicants may suggest conditions which they consider are necessary to achieve the five licensing objectives. If an applicant volunteers a prohibition or restriction in their operating plan because their assessment has determined such prohibition or restriction to be appropriate, such prohibition or restriction if adopted by the Board will be attached as a condition of the licence and will be enforceable as such.

7. Consideration of Applications by the Board.

- 7.1. In assessing the following matters, the Board will have regard to the licensing objectives and will expect applicants to pay similar regard to their terms.
- 7.2. When considering whether any licence should be granted, the Board will assess the likelihood of it having an adverse impact. The Board may take into account relevant matters including:

- the nature of the premises, the style and type of use, the potential number and profile (for instance, ages or disabilities) of the customers likely to attend the premises;
- the proposed hours of operation;
- whether children are to be admitted to the premises and the arrangements made for them;
- the means of access to the premises including the location and adequacy of customer entrances and exits;
- the level of public transport accessibility for customers either arriving or leaving the premises and the likely means of public or private transport that will be used by them;
- the likely level of car parking demand on principal roads and surrounding residential streets in comparison with the existing situation, its effect on local residents and on residential parking and emergency access;
- the provision of toilet facilities and ventilation of the premises.

7.3. Where it is possible to take steps to mitigate or prevent any potential impact it may still be possible to grant a licence subject to conditions. Each case will be considered on its merits.

7.4. 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 the impact on local residents as borne out by any history of complaints and investigations into these and any antisocial behaviour report made available by the Police. The Board will also consider measures put into effect by the applicant to mitigate any adverse impact.

8. Overprovision.

8.1. The Board is under a duty in terms of section 7 of the Act to publish in this policy a statement on 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 area of the Board.

8.2. On 19 January 2023, the Board determined that, for the purposes of consultation on the assessment of overprovision of alcohol licensed premises, the locality should be Orkney as a whole.

8.3. On 27 April 2023, the Board determined that there is no overprovision of licensed premises or licensed premises of a particular description within the locality of Orkney defined by the Board.

8.4. The Board concluded that, on a balance of probabilities, there was not a dependable causal link between the availability of alcohol in Orkney and alcohol-related harm, in that, based on the evidence of harm in the locality of Orkney as defined by the Board, it was unlikely, on balance, that alcohol availability was a cause of harm in Orkney, or that increasing the availability of alcohol in Orkney would increase that harm.

9. Occupancy Capacity.

- 9.1. Reference is made to the provisions of section 8 of this policy, which relate to overprovision. The occupancy capacity of premises is one factor in the assessment of overprovision.
- 9.2. The occupancy capacity for premises and events is an important factor in the achievement of the five licensing objectives, except in respect of premises licensed only for the consumption of alcohol off the premises. The Board will seek the advice of the Council's building standards service in relation to maximum occupancy limits to ensure the safety of persons in the premises and safe escape in the case of an emergency.
- 9.3. The Board will expect applicants to consider various factors when assessing the appropriate capacity for premises. 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 profile of the customers (for instance, ages or disabilities);
 - the availability of suitable and sufficient sanitary accommodation;
 - the nature and provision of facilities for ventilation.
- 9.4. Each case will be considered on its merits, but the Board will consider very carefully the type, size and capacity of licensed premises in the particular locality in respect of which the application is made.

10. Occasional Licences and Extended Hours.

Occasional Licences

- 10.1. An occasional licence authorises the temporary sale of alcohol on premises other than licensed premises.
- 10.2. They may be applied for by:
- the holder of a premises licence;
 - the holder of a personal licence; or
 - a representative of any voluntary organisation.
- to cover a period of up to 14 days.
- 10.3. The holders of a premises licence or a personal licence may make unlimited applications.
- 10.4. There are restrictions on the number of applications voluntary organisations and registered clubs can make, in any period of 12 months:

- not more than 4 occasional licences each having effect for a period of 4 days or more; and
- not more than 12 occasional licences each having effect for a period of less than 4 days

provided that, in any period of 12 months, the total number of days on which occasional licences issued in respect of the voluntary organisation, or the premises of the registered club have effect does not exceed 56.

- 10.5. The Board considers that it would be good practice for at least one or two committee members or volunteers involved in the operation of the voluntary organisation to obtain a training qualification to the standard required by personal licence holders.
- 10.6. The Board considers the commencement of the sale of alcohol shall not be earlier than 10 a.m. For the terminal hour beyond which alcohol must not be sold on the premises, the Board considers that the time frames detailed in section 19 of this policy are appropriate.
- 10.7. Applicants seeking licensed hours for times outwith the Board's policy will require to demonstrate to the Board that the additional requested hours are appropriate in the circumstances.
- 10.8. Registered clubs should be aware that when an occasional licence has effect in terms of the premises, the conditions of the premises licence temporarily do not apply, and the conditions of the occasional licence apply instead. This means that sales of alcohol are permitted on the club premises to persons who are not members or accompanied by a member. When the occasional licence ceases to have effect then the conditions attached to the premises licence once more come into effect.
- 10.9. Voluntary organisations must ensure that occasional licences applied for are for events for the benefit of the organisation to which members of the public may be admitted.
- 10.10. All applications for occasional licences should be accompanied by an assessment of how the application complies with the licensing objectives. Guidance is attached at Appendix 3.
- 10.11. Applicants should be aware that it is a mandatory condition of an occasional licence that an Age Verification Policy, as referred to in the Guidance, must be in place. Further information is published at https://www.orkney.gov.uk/Service-Directory/L/Alcohol_Licensing.htm
- 10.12. To allow time for the statutory consultation process, applications should be submitted as far in advance of the event as possible but not later than 4 weeks before the event is due to take place. An application received after that deadline may not be processed in time. Any applicant unable to meet the deadline should communicate with the Clerk's office as a matter of urgency.

- 10.13. Applicants should be aware that they may also require a public entertainment licence issued by the Council in terms of the 1982 Act, dependent upon the nature of the event. Further information is published at:
https://www.orkney.gov.uk/Service-Directory/P/Public-Entertainment_2.htm.
- 10.14. Applicants should be aware that they may also require a late hours catering licence issued by the Council in terms of the 1982 Act if the event commences before or continues after alcohol sales. Further information is published at:
<https://www.orkney.gov.uk/Service-Directory/L/Late-Hours-Catering.htm>.
- 10.15. The Board recognises the right of any person to object to an application for an occasional licence.
- 10.16. The grant of an occasional licence is subject to the mandatory conditions laid out in schedule 4 to the Act. Reference is made to the provisions of section 6 of this policy.
- 10.17. To promote one or more of the licensing objectives or otherwise to give effect to the provisions of this policy or the Act, the Board will consider on an individual basis whether it is necessary or expedient to impose additional conditions. The decision whether to impose conditions 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 seek to avoid the imposition of disproportionate conditions.
- 10.18. The Board commonly attaches some local conditions.
- 10.18.1. The following local condition is attached to all occasional licences: Noise from the premises to which the occasional licence applies shall:
- not be discernible within residential accommodation between 2300 hrs and 0700 hrs; and
 - at no time be such as to give rise to a nuisance.
- 10.18.2. The following local conditions are attached to some occasional licences when relevant, usually events taking place outwith permanent premises, for example, marquees:
- The licence holder shall provide the facilities and fire precautionary measures as stated on the Fire Safety Checklist completed by the licence holder and submitted to the Scottish Fire and Rescue Service.
 - The licence holder shall ensure that all alcoholic liquor sold at the event shall be served in plastic containers. No bottles or glass containers shall be sold or served.

Extended Hours

- 10.19 Extended hours applications allow for an occasional extension of licensed hours within licensed premises and operate only for a period of up to one month. If the Board receives a number of applications to extend licensed hours it will expect the applicant to consider whether an application should be made to vary the premises licence, by adjustment of the operating plan.
- 10.20. Occasional extensions can be applied for by premises licence holders in connection with a special event or occasion to be catered for on the premises or a special event of local or national significance.
- 10.21. Where the hours sought fall outwith the on-sale hours detailed in section 19 of this policy, the applicant will require to demonstrate that the hours requested are appropriate in the circumstances. The applicant shall provide the Board with sufficient information to enable a decision to be made. In addition to the information provided on the application form, this will include:
- why the event or occasion is considered to be special;
 - why the event or occasion cannot take place within the usual on-sales hours operated on the premises; and
 - an assessment of how the application complies with the licensing objectives (guidance is attached at Appendix 3).
- 10.22. To allow time for the statutory consultation process, applications should be submitted as far in advance of the event as possible but not later than 4 weeks before the event is due to take place. An application received after that deadline may not be processed in time. Any applicant unable to meet the deadline should communicate with the Clerk's office as a matter of urgency.
- 10.23. The Board will have complete discretion as to whether to grant the application taking into account any Police objections and comments from the LSO and having regard to the licensing objectives. The Board may hold a hearing for the purposes of determining any application, but this is not mandatory. Where the Board does not hold a hearing, the Board will ensure that before determining the application, the applicant is given an opportunity to comment on any objections from the Police or adverse comments from the LSO.
- 10.24. The Board may grant a general extension of licensed hours under section 67 of the Act to enable premises to remain open longer in connection with a special event of local or national significance. The Board will request observations from the Police and the LSO in relation to the licensing objectives. It will notify its determination to the Police and LSO, to holders of licences and other relevant parties and will take appropriate steps to publicise the determination as widely as necessary, including publication at <https://www.orkney.gov.uk/News>.

- 10.25. The Board believes that in many cases, such special events can be appropriately accommodated within the Board's normal licensed hours policy and should not be regarded as routinely in need of extended licensed hours. Any extension beyond normal licensed hours policy will only be granted after careful consideration of the particular event and will require increased control measures in place aimed at preventing or limiting problems with their potential impact on the five licensing objectives.

11. Licensing Standards Officers and Compliance.

- 11.1. The Council's appointed LSOs work within its Environmental Health Service. An LSO is neither an agent nor an employee of the Licensing Board. Their LSO function incorporates the following roles:
- providing information and guidance to interested persons concerning the operation of the 2005 Act in their area;
 - providing mediation services to avoid or resolve disputes or disagreements between licence holders and other persons;
 - if a complaint is received about a premises, the LSO will consider whether an investigation is required to ascertain the circumstances and any necessary remedial action;
 - supervising licence holders' compliance with the conditions of their licences and the legislation; and
 - providing information to the Board about any conduct of holders of, or persons applying for, personal licences in the area, which is inconsistent with the licensing objectives.
- 11.2. The LSOs will take a stepped approach to compliance, from verbal advice through to written. The LSOs can take formal action when appropriate by means of issuing of compliance notices and referral to the Board for review. The LSOs are also members of the Local Licensing Forum.
- 11.3. The LSOs can be contacted:
- by email to: LSO@orkney.gov.uk;
 - by telephone to: 01856 873535 extension 2801;
 - by writing to: Licensing Standards Officer, Environmental Health Service, Neighbourhood Services and Infrastructure, Orkney Islands Council, Council Offices, Kirkwall, Orkney, KW15 1NY.
- 11.4. Resources will be targeted towards higher-risk premises and activities.
- 11.5. The Council delivers a wide range of enforcement services aimed at safeguarding the environment and the community and at providing a level playing field on which businesses can trade fairly. The enforcement of the licensing regime is one of these services. The Council's adopted enforcement policy will be reviewed during 2023 and will be published at:
- <https://www.orkney.gov.uk/Service-Directory/E/enforcement-policy.htm>

- 11.6. The Board recognises the interests of both citizens and businesses and will work closely with its partners, to assist licence holders to comply with the law and the five licensing objectives it seeks to promote.
- 11.7. The Board expects enforcement agencies to adopt a similar approach and will seek to work actively with them to enforce the licensing legislation. In particular, the Board anticipates co-operation with the Police and to share information where appropriate in order to enhance the promotion of the five licensing objectives.
- 11.8. The Board recognises the Hampton principles of inspection and enforcement, including:
- no inspection should take place without a reason; and
 - regulators should recognise that a key element of their activity will be to allow or even encourage, economic progress and only intervene when there is a clear case for protection.

12. Review of Premises Licences.

- 12.1. A licence may be reviewed on the application of any person on the grounds that one or more conditions to which the premises licence is subject has been breached or any other ground relevant to one or more of the licensing objectives. A review will include consideration being given to the suspension, revocation or variation of a licence or alternatively to the issue of a written warning.
- 12.2. The Board may reject a premises licence review application if it is considered to be vexatious or frivolous or if it does not disclose any matter relevant to any ground for review.
- 12.3. Reviews may result from relevant licensing enforcement activity by the Police or the LSO.

13. Management of Licensed Premises.

- 13.1. A premises manager must be identified in an operating plan for licensed premises, except members' clubs. The person can only be the premises manager for one licensed premises. The Board will expect the premises manager to have the day-to-day responsibility for running the premises and to be present at the licensed premises on a regular basis when alcohol is being sold. The premises licence holder is expected to ensure that the premises manager has experience commensurate with the size, capacity, nature and style of the premises.
- 13.2. The premises manager must hold a personal licence.
- 13.3. Within all licensed premises, whether or not alcohol is to be sold, the Board will expect there to be proper management arrangements in place which will ensure that there is an appropriate number of responsible, trained persons on the premises and will also ensure compliance with all statutory responsibilities and the terms and conditions of the premises licence. Premises are recommended to have other personal licence holders in addition to the premises manager.

14. Personal Licences.

- 14.1. Any individual may seek a personal licence whether or not they have current employment or business interests associated with the use of the licence.
- 14.2. The Board will grant a personal licence if it is satisfied that the applicant:
- is 18 years of age or older;
 - possesses a relevant licensing qualification;
 - does not already hold a personal licence issued in Scotland
 - has not had a personal licence revoked within the period of 5 years, ending with the day on which the application was received (other than for failure to complete mandatory refresher training); and
 - has not been convicted of any relevant offence or foreign offence.
- 14.3. When an applicant has an unspent conviction for a relevant or foreign offence, the Board will hold a hearing at which it will consider carefully whether it is satisfied that the grant of a licence would not breach the objectives of the Act. It will consider the seriousness and relevance of any conviction, the period that has elapsed since the offences were committed and any mitigating circumstances. If not so satisfied the Board will refuse the application.

15. Adult Entertainment.

- 15.1. Where the operating plan for a premises licence application identifies that adult entertainment will take place in the premises, the Board will have particular regard to the location of the premises in relation to places of religious worship, schools, youth clubs or other premises where significant numbers of children are likely to congregate.
- 15.2. All applications involving adult entertainment of any kind will be considered in relation to the licensing objectives on their own merits.
- 15.3. At the time of preparation of this statement of Policy, the Board noted that the relevant provisions of the 2015 Act, permitting local authorities to choose to license venues offering sexual entertainment, came into force in 2019 and that licensing of such venues was a matter for the Council. The Council has not adopted those provisions.

16. Off-sales.

- 16.1. The Board notes that regulations concerning display of alcohol for consumption off the premises must be observed in the layout of premises. Information about the requirements relating to layout plans is available in the Board's Guidance Notes, published as a Related Download, at:
https://www.orkney.gov.uk/Service-Directory/L/Alcohol_Licensing.htm
- 16.2. Paragraphs 19.2 and 19.3 of this policy outline the Board's policy approach with respect to off-sale trading hours.

- 16.3. The Board encourages the installation of an effective CCTV system, which complies with current legislative requirements (including, for the avoidance of doubt, Data Protection legislation), in off-sales licensed premises. Reference is made to sections 19, 21 and 23 of this policy relating to hours of trading and the licensing objectives of prevention of crime and disorder and prevention of public nuisance.

17. Smoking and Nuisance.

- 17.1. The Board acknowledges that smoking and vaping is not a licensing matter but one for other legislation.
- 17.2. The health risks associated with smoking and with passive smoking continue to be well publicised. Licence holders should be aware of their own statutory responsibilities, public opinion generally, the expectations of their patrons and the legislation concerning smoking in public places.
- 17.3. The Board expects licence holders to comply with the law and have regard to good practice and any relevant guidance appropriate to those matters. It is their responsibility to ensure that patrons do not create a nuisance or disturbance for neighbours or members of the public. This includes noise arising as a result of patrons smoking, including vaping, outside the premises and any associated littering of the area. Where appropriate the Board may impose conditions requiring licence holders to provide litter bins and cigarette disposal containers in the vicinity.
- 17.4. Every business has a duty to ensure that waste is disposed of securely and to keep their premises clear of all litter generated by staff and customers. The Board expects licence holders to be aware of their responsibilities and of the possibility of statutory street litter control notices in the case of non-compliance.

18. Outdoor Facilities.

- 18.1. The Board will expect any licence holder who intends to provide outdoor facilities to hold a premises licence which includes the outside area. These areas must be shown on the required plan of the premises and will be taken into account in the overall assessment of capacity, particularly in relation to exits and sanitary facilities.
- 18.2. When applicants propose to provide outdoor facilities (whether covered or not), regard should be had to the need to ensure that the use of such outdoor areas will not cause disturbance or nuisance to the occupiers of other premises in the vicinity. Applicants should demonstrate how they intend to mitigate these issues.

- 18.3. The Board expects that licence holders will not only comply with any conditions of grant of a permit which may be applied in respect of tables and chairs, but will also put into 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. In this connection, the Council operates a scheme whereby consent may be applied for to occupy the footway with tables and chairs. This scheme is operated under the Roads (Scotland) Act 1984.

19. Hours of Trading.

- 19.1. This section relates to licensed premises where alcohol is sold with or without any other licensable activity.

Off-sales

- 19.2. For applications relating to premises licences and to occasional licences, the licensed hours for the sale of alcohol for consumption off the premises (off-sale hours) are 10 a.m. to 10 p.m. each day. The Board has no discretion to permit licensed hours outwith these times in terms of the Act. 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 may have on the licensing objectives relating to crime, children, public health and public nuisance in particular.
- 19.3. There is no entitlement to a grant of maximum trading hours for off-sale premises. The hours granted by the Board to off-sale premises will reflect the actual hours of operation of the premises. There will be flexibility to build in extended or reduced trading to reflect seasonal variations, such as the Festive Season.

On-sales

- 19.4. For applications relating to premises licences, including extensions of hours, the licensed hours for the sale of alcohol for consumption on the premises (on-sale hours), the Board considers the commencement of the sale of alcohol shall generally be no earlier than 10 a.m. 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.
- 19.5. Any opening time earlier than 10 a.m. will require strong evidence before being permitted by the Board.
- 19.6. The Board will consider extending the commencement of the sale of alcohol in premises from 10 a.m. to 9 a.m. on condition that the sale of alcohol is ancillary to a table meal taken by persons within the premises.
- 19.7. A table meal generally consists of a meal eaten by a person sitting at a table, counter or other structure which serves the purpose of a table. The meal must be eaten with cutlery or similar accoutrements. Snacks, sandwiches and crisps are not considered to constitute table meals.

- 19.8. The Board may attach conditions to such licences. The earlier premises wish to open, the more the Board will expect applicants to demonstrate measures that promote the licensing objectives and justify the request for the early hours. The Board further considers that it would be difficult for any application to justify the sale of alcohol before 9 a.m.
- 19.9. Having regard to the licensing objectives, but subject to considering the individual merits of each case, for on-sale licensed premises the Board considers the following to be appropriate for terminal hours:
- 19.9.1. Regular evenings:
- 12 midnight Sundays to Thursdays inclusive; and
 - 1 a.m. Fridays/Saturdays and Saturdays/Sundays; or
 - 2 a.m. Fridays/Saturdays and Saturdays/Sundays for premises which, in terms of their operating plan and the Board's understanding, will be operating as nightclubs. Reference is made to the provisions of paragraph 19.18 of this policy.
- 19.10. The Board expects applicants to apply for the hours they normally or usually trade in their operating plan. There is no automatic entitlement to the maximum hours for on-sales set in terms of the Board's policy. Provision can be built into operating plans for longer or shorter opening at certain times of the year, such as the Festive Season.
- 19.11. The following may be included within the Seasonal Variations section of operating plans:
- 19.11.1.
- Annual agricultural shows – to 1 a.m. any morning where an event related to the show is being held within the premises.
 - Local festivals – to 1 a.m. any morning where an event related to the festival is being held within the premises.
 - Private Functions – to 1 a.m. any morning.
 - Weddings – to 1.30 a.m. any morning.
- 19.11.2. Festive Season:
- Block applications for Christmas and New Year festivities for the period from 24 December to 3 January each year – 1 a.m. any morning (for the avoidance of doubt, terminating at 1 a.m. on 3 January each year).
 - 24/25 December (Christmas Eve) and 31 December/1 January (Hogmanay) each year – 2 a.m. in premises which, in terms of their operating plan and the Board's understanding, will be operating as nightclubs.
- 19.12. The Board wishes to make it clear that any Festive Season hours should be accounted for within the Seasonal Variations section of operating plans and should not routinely be the subject of extended hours applications.
- 19.13. The Board is satisfied that the Act does not contain a specific duty to trade. It does not contain a provision imposing a duty to trade on premises licence holders.

- 19.14. The Board is satisfied that the provision in schedule 3 to the Act that “alcohol is to be sold on the premises only in accordance with the operating plan” should be construed as preventing licensees from operating outwith the hours stated in their operating plans rather than requiring licensees to trade for the full complement of hours.
- 19.15. The Board recognises:
- that there may be circumstances that would reasonably cause a temporary deviation from the licensed hours given in the operating plan; and
 - the need for businesses, especially in a rural environment, to remain economically viable when faced with a lack of demand.
- 19.16. The Board will continue to support local schemes such as Pubwatch, Safer Towns initiatives, Shop-watches, Best Bar None, radio-links and Door Safe Schemes. The Board recognises that such schemes help to reduce public disorder and nuisance offences taking place within local communities, thereby promoting the licensing objectives. The Board encourages responsible licence holders to participate in such schemes.
- 19.17. Section 64 of the Act contains a presumption against 24-hour drinking unless the Board is satisfied that there are exceptional circumstances which justify allowing the sale of alcohol on the premises during such a period. Guidance provides that Licensing Boards should consider “exceptional circumstances” to cover social events such as one-off local or national festivals.
- 19.18. Premises opening after 1 a.m. are subject to mandatory conditions in terms of the Licensing Conditions (Late Opening Premises) (Scotland) Regulations 2007 (published at: <https://www.legislation.gov.uk/ssi/2007/336/contents/made>) and the Board may attach additional conditions.
- 19.19. The following issues should be considered by the applicant and the Board in respect of any application for premises opening after 1 a.m.:
- the effect of the grant of a licence for later or earlier hours on crime and disorder, public safety, public nuisance, public health and children;
 - the proposed hours when any music, including incidental music, will be played;
 - the hours when customers will be allowed to take food or drink outside the premises or be within open areas which form part of the premises;
 - the existing hours of licensable activities and the past operation of the premises if any and hours of licensable premises in the vicinity;
 - whether customers and staff have adequate access to public transport when arriving at and leaving the premises, especially at night;
 - the capacity of the premises;

- the type of use, recognising that premises which sell alcohol, play music for dancing, provide late night refreshment or takeaway food, are more likely to be associated with crime and disorder and public nuisance than restaurants, theatres, cinemas or other performance venues;
 - the hours at which noise may occur and the disturbance of nearby residents' rest, relaxation and sleep.
- 19.20. The Board recommends that applicants give consideration to the principle of winding down periods at the end of the night. By gradually increasing the lighting and winding down entertainment such as loud music before ending the sale of alcohol and the end of trading hours, thereby creating a calmer ambience, patrons leaving licensed premises may be inclined to behave less boisterously. In addition, patrons may be inclined to leave the premises intermittently in small groups on a gradual basis rather than simultaneously.
- 19.21. Restricted licensing hours may be appropriate in cases where licensed premises are situated in the vicinity of residential property or where the trading hours of the premises and competing businesses in the vicinity are likely to lead to undue pressure on public transport systems or additional public nuisance, disorder or anti-social behaviour and where licensed premises include external areas. Where the whole circumstances of particular premises dictate, including promotion of the licensing objectives, the Board will consider restricting the opening hours. The Board may impose different restrictions on hours for different licensable activities and for different days of the week.
- 19.22. Consideration will always be given to an applicant's individual case and the Board will take into account any proposals the applicant has to minimise the risk of nuisance or disorder being caused or exacerbated by customers departing from the premises.
- 19.23. Where no relevant representations are received from either a responsible body or any interested party and there is no departure from the Board's adopted policies, the Board will consider granting an application in accordance with the terms of the operating plan.
- 19.24. The Board believes that by adopting an approach which is sufficiently flexible, it is possible to ensure that:
- all areas of the Islands, including the larger towns, their businesses and residents will be treated equitably and arbitrary restrictions will be avoided;
 - restrictions on the hours of trading will only be applied where this is necessary in order to promote the Board's policy and the licensing objectives;
 - restrictions are not placed on hours of trading which may contribute to rapid binge drinking near closing time.

Section B – Licensing Objectives.

20. Overview.

- 20.1. The following sub-sections set out the Board’s policy relating specifically to the five licensing objectives:
- preventing crime and disorder;
 - securing public safety;
 - preventing public nuisance;
 - protecting and improving public health; and
 - protecting children and young persons from harm.
- 20.2. In each section relating to the objectives, the Board has defined its intended outcome. Each section lists the influencing factors on the achievement of that objective but, because of the wide variety of premises and activities to which this policy applies, the lists provided are not exhaustive. Applicants will know their premises best and may address all aspects relevant to the individual style and characteristics of their premises and the licensable activities for which they are seeking a licence.
- 20.3. In each sub-section, a list of possible control measures is provided. This is intended to be of assistance to applicants, but again is not intended to be an exhaustive list. Many control measures achieve more than one objective but have not necessarily been listed under each objective.
- 20.4. The selection of control measures should be based upon a risk assessment of the premises, the proposed activities and the type of customers expected to attend – for example their age range and numbers. Risk assessment is considered to be good practice and a useful tool in the instruction and training of staff, as well as a sound basis for review by the licence holder, in the event of requiring to make application for a variation or in response to changing circumstances or conditions at the premises.
- 20.5. Additional measures may be necessary on an occasional or specific basis such as when a special event is planned which is intended to, or is likely to, attract larger audiences or audiences of a different nature. This can have a significant impact on the achievement of the licensing objectives.
- 20.6. The Board encourages applicants and licence holders to ensure that they have adequate arrangements in place for the effective and responsible management of the premises and for instruction, training and supervision of staff. This is considered to be an essential control measure for the achievement of all the licensing objectives.

21. Licensing Objective – Preventing Crime and Disorder.

- 21.1. The Council together with other agencies supports a strategy aimed at making the Islands Area a safe place to live in and visit. The Board is committed to further improving the quality of life for the people of the Islands Area by continuing to adopt policies and to introduce measures designed to increase community safety and to reduce crime, the fear of crime and disorder.
- 21.2. There are already in existence a wide range of measures for preventing and reducing crime and disorder. The Act reinforces the duty of the Board to make this a top priority.
- 21.3. The promotion of the licensing objective to prevent crime and disorder, places a responsibility on licence holders to become key partners in achieving this objective. Applicants will be encouraged to demonstrate that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and the activities at those premises.
- 21.4. The applicant should be able to demonstrate that all those factors, which impact on crime and disorder, have been considered. These include:
- underage drinking;
 - drunkenness on premises;
 - public drunkenness;
 - illegal possession and/or use of drugs;
 - violent behaviour;
 - anti-social behaviour;
 - litter;
 - unauthorised advertising.
- 21.5. The following examples of control measures are given to assist applicants, having regard to their particular type of premises and/or licensable activities:
- effective and responsible management of premises;
 - appropriate instruction, training and supervision of staff;
 - adoption of best practice guidance where available;
 - acceptance of accredited photographic proof of age cards, EU photographic driving licences, passports, Ministry of Defence Form 90 (Defence ID Card), Biometric Residents Permit or national identity card issued by an EU member state, Norway, Iceland, Liechtenstein or Switzerland;
 - written Age Verification Policy and appropriate signage;
 - provision of effective CCTV in and around the premises, which complies with all current legislative provisions and provision of external lighting and other security measures;
 - employment of Security Industry Authority licensed door supervisors;

- provision of litterbins outside premises;
 - membership of any local Pubwatch schemes or similar organisations;
 - responsible advertising;
 - distribution of promotional leaflets and posters.
- 21.6. The Board notes the Scottish Government's requirements in respect of the installation of CCTV in late opening premises. In order to ensure the greatest possible degree of protection for the public this Board recommends the installation of an effective CCTV system in off-sales premises. Reference is made to paragraph 16.3 of this policy in this connection.
- 21.7. In 2011 the Council made byelaws prohibiting the consumption of alcohol in designated public places in Kirkwall. The byelaws were updated in 2021 and are available at:
<https://www.orkney.gov.uk/Council/C/drinking-in-public-places-in-kirkwall.htm>.

22. Licensing Objective – Securing Public Safety.

- 22.1. The Board is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised. To this end, applicants will be expected to demonstrate that suitable and sufficient measures have been identified and will be implemented and maintained to ensure public safety, relevant to the individual style and characteristics of their premises and the licensable activities for which the licence is being sought.
- 22.2. When addressing the issue of public safety, applicants will be encouraged to demonstrate that those factors which impact on standards of public safety have been considered, including:
- the occupancy capacity of the premises;
 - the condition, design and layout of the premises, including means of escape in the event of fire;
 - the adequacy of vehicular access to the premises by the emergency services;
 - the nature of the activities to be provided, in particular the sale or supply of alcohol and the provision of music and dancing, including whether those activities are of a temporary or permanent nature;
 - the hours of operation – differentiating the hours of opening from the hours when alcohol is sold, if different;
 - customer profile – for instance age, disability;
 - the use of special effects such as lasers, pyrotechnics, smoke machines and foam machines.
- 22.3. The following examples of control measures are given to assist applicants, having regard to their particular type of premises and/or activities:

- suitable and sufficient risk assessments, including compliance with the Fire (Scotland) Act 2005;
- effective and responsible management of premises, including installation of a CCTV system which complies with current legislative requirements in and around premises;
- provision of a sufficient number of people employed or engaged to secure the safety of the premises and patrons;
- appropriate instruction, training and supervision of those employed or engaged to secure the safety of the premises and patrons;
- adoption of best practice guidance;
- implementation of crowd management measures;
- proof of regular testing and certification where appropriate of procedures, appliances and safety systems;
- a prohibition on customers taking open bottles or drinking glasses outwith the areas to be subject to the premises licence.

23. Licensing Objective – Preventing Public Nuisance.

- 23.1. The Board believes that licensed premises may have a significantly adverse impact on communities, through public nuisances which arise from their operation. It wishes to maintain and protect the amenity of residents and occupiers of other businesses from the potential consequence of the operation of licensed premises, whilst recognising the valuable cultural, social and business importance that such premises provide.
- 23.2. The Board will interpret public nuisance in its widest sense and will take it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.
- 23.3. The Board acknowledges the provisions of section 65 of the Act in relation to off-sales by shops, stores, supermarkets and other premises selling alcohol for consumption off the premises. Subject to the overall limits in section 65, the Board may permit the hours during which alcohol is sold to match the normal trading hours during which other sales take place, unless there are reasons for not doing so, such as disturbance or disorder attributable to the location and/or the premises. Reference is made to paragraph 16.3 of this policy in this connection.
- 23.4. Where premises are in residential areas or where their activities may impact on residents or other business premises, and where relevant representations have been received, applicants need to be aware that the Board may apply stricter conditions, including controls on licensed hours.

- 23.5. The Board believes that the impact licensed premises can have on a neighbourhood is significantly influenced by the times when those licensed premises are open. The Board may stipulate shorter hours when considering a premises licence application, if it considers this to be appropriate depending on where the premises are situated or the likelihood of their becoming a source of antisocial behaviour. The Board will consider each case on its merits.
- 23.6. Applicants will be encouraged to demonstrate that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance, relevant to the individual style and characteristics of their premises and events.
- 23.7. When addressing the issue of prevention of public nuisance, the following factors are relevant:
- the location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices, care homes and places of worship;
 - the hours of opening, particularly between 11 p.m. and 7 a.m.;
 - the nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises;
 - the design and layout of premises and in particular the presence of noise limiting features and a CCTV system, which complies with current legislative requirements;
 - the occupancy capacity of the premises;
 - the availability of public transport;
 - the wind down period between the end of the licensable activities and the closure of the premises;
 - the last admission time.
- 23.8. The following examples of control measures are given to assist applicants, having regard to their particular type of premises and/or activities:
- effective and responsible management of premises;
 - appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance – for instance to ensure that customers leave quietly;
 - control of operating hours for all or parts of the premises – for instance garden areas – including deliveries;
 - adoption of best practice guidance;
 - installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices;
 - management of people, including staff and vehicular traffic and resulting queues, arriving and leaving premises;
 - liaison with public transport providers;

- siting of external lighting, including security lighting and installation of an effective CCTV system which complies with current legislative requirements;
- management arrangements for collection and disposal of waste and empty bottles;
- effective ventilation systems to prevent nuisance from odour and noise from air conditioning units.

24. Licensing Objective – Protecting and Improving Public Health.

- 24.1. The Board wishes to see premises thriving in the Islands Area, but this cannot be at the expense of patrons' health and wellbeing. The Board will have particular regard to the views of the relevant bodies responsible for, and interested in, the protection and improvement of public health in the Islands Area.
- 24.2. Applicants will be encouraged to demonstrate that suitable and sufficient measures have been identified and will be implemented and maintained to protect patrons' health.
- 24.3. One concern about excessive alcohol consumption is the impact on people's health. This may in part be due to ignorance of the advisable daily and weekly units of alcohol which should be consumed and the number of units in commonly consumed drinks. Although some manufacturers are taking an initiative in this regard and publishing information on the labels of their products, it is considered that greater awareness of this issue would be achieved by more overt displaying of information. If necessary, and as the result of a relevant representation, such a requirement may be imposed by way of a condition on a premises licence. Reference is made to section 6 of this policy relating to conditions attaching to licences
- 24.4. The measures identified by an applicant may depend on the individual characteristics of the premises for which the licence is sought. The Board will encourage applicants to consider steps which may assist in the promotion of this licensing objective.
- 24.5. The Board is very aware of the risk of harm to children's health and this will be of paramount consideration when determining applications. Children may be adequately protected from harm by the action taken to protect adults, but they also may need special consideration. Reference is made to section 25 of this Policy, which relates specifically to Protecting Children and Young Persons from Harm.
- 24.6. Licence applicants, licence holders, door supervisors where employed and premises managers, as well as other staff employed in the premises, must remain vigilant at all times to the risks of excessive consumption. There should be established practice within the premises to ensure that a standard approach is taken where patrons' demeanour demonstrates an excessive consumption of alcohol. There should also be a clear understanding of the offences committed in connection with the service of alcohol to children or drunk persons.

- 24.7. With reference to Schedule 3 of the Act, applicants should demonstrate that they are aware that they must provide tap water fit for drinking free of charge on request and non-alcoholic beverages must be available for purchase at a reasonable price during the whole period the premises are open.
- 24.8. The following examples of control measures are given to assist applicants, having regard to their particular type of premises and/or activities:
- making available information with regard to sensible drinking, the effects of excessive alcohol consumption and contact points where assistance is available to address problem drinking;
 - prominent display of informative signage in appropriate places within premises;
 - use of drink mats with sensible drinking messages;
 - use of posters in areas of circulation and toilet areas;
 - particular care to introduce measures designed to protect children's health while in or around premises;
 - provision of food on premises, so that patrons may eat at the same time as consuming alcoholic beverages, if they wish;
 - appropriate instruction, training and supervision of staff.

25. Licensing Objective – Protecting Children and Young Persons from Harm.

- 25.1. The Board will have particular regard to the views of the Orkney Public Protection Committee.
- 25.2. The Board wishes to see family friendly premises thriving in the Islands Area. It would welcome applications from those who wish to operate licensed premises which will accommodate children and young persons. In determining any such application, the risk of harm to children and young persons will be paramount.
- 25.3. 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 and young persons also have responsibilities.
- 25.4. Applicants may be encouraged to demonstrate that suitable and sufficient measures have been identified and will be implemented and maintained to protect children and young persons from harm, relevant to the individual style and characteristics of their premises and the licensable activities for which a licence is being sought. A written Age Verification Policy and appropriate signage should be in place.

- 25.5. Children and young persons may be adequately protected from harm by the action taken to protect adults, but they may also need particular measures to be taken; no policy can anticipate every situation. When addressing the issue of protecting children and young persons from harm, the applicant will be encouraged to demonstrate that those factors, which may particularly impact on harm to children and young persons have been considered. These include whether:
- entertainment or services of an adult or sexual nature are commonly or regularly provided;
 - there have been convictions of members of the current staff at the premises for serving alcohol to children or offences against children or young persons;
 - there has been a known association with drug taking, drug dealing or other criminal activity on the premises; and
 - the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided there.
- 25.6. The following examples of control measures are given to assist applicants who may adopt them in any combination. They are considered to be among the most essential that applicants should take account of, having regard to their particular type of premises or activities:
- effective and responsible premises management;
 - appropriate instruction, training and supervision of employees;
 - adoption of best practice guidance;
 - limitations on the hours when children and young persons may be present, in all or parts of the premises;
 - limitations or exclusions by age when certain activities are taking place;
 - imposition of requirements for children and young persons to be accompanied by an adult;
 - acceptance of accredited photographic proof of age cards, EU photographic driving licences, passports, Ministry of Defence Form 90 (Defence ID Card), Biometric Residents Permit or national identity card issued by an EU member state, Norway, Iceland, Liechtenstein or Switzerland;
 - written Age Verification Policy and appropriate signage;
 - measures to ensure children and young persons do not purchase, acquire or consume alcohol;
 - measures to ensure children and young persons are not exposed to incidences of violence or disorder.

- 25.7. The Board requires applicants who submit operating plans including children and young persons to ensure that they are not given access to premises when activities such as adult entertainment are taking place. The Board has given particular consideration to these types of entertainment and has included its expectation of applicants in respect of adult entertainment within this statement of policy at section 15.
- 25.8. The Board notes the statutory requirements relating to identification of areas where children and young persons will be permitted, the activities to be operated within those areas and the provision of baby changing facilities for children under five years of age (accessible to all carers).
- 25.9. In addition to those requirements, the Board also expects that holders of a premises licence which allows children and young persons entry to the premises will seek to ensure:
- that seating facilities for children and young persons, if appropriate, would be separate from normal licensed premises facilities;
 - whilst separate toilet facilities may not be available for use by children and young persons, if appropriate, disabled toilets would be adapted to encourage use by children and young persons, if appropriate;
 - that children and young persons should not be exposed to foul or intemperate language or behaviour;
 - provision of safe high chairs;
 - provision for heating of children's food at no cost;
 - that heating sources would be adequately protected;
 - that a menu would be available at all times when children were allowed on the premises with either a children's section or indicating that half portions were available for children; and
 - that no gaming machines would be situated in the part of the premises accessible to children except in accordance with the provisions of the Gambling Act 2005.

Appendix 1

Process at Licensing Board Meetings

Prior to the meeting starting

- 0.1. At the time set for the meeting to begin, the Convener will confirm with the audiocast operator that s/he is ready to begin recording/broadcasting the meeting.

Attendance via Teams

- 0.2. All members/officers attending by Teams should ensure their camera is switched on and their microphone muted.
Should any member attending remotely wish to speak, please use the Raise your hand function.

Once Meeting Commences and Recording Starts

- 0.3. The Convener should remind members:
 - That the meeting is being live broadcast over the internet and that the recording will also be publicly available for listening following the meeting for 12 months thereafter.
 - Any member who indicates they wish to speak, when invited to speak, should use the microphone, and switch off once finished.
 - That should a vote be required on any of the items, this will be done by a show of hands.

In Presence of Applicants and any Objectors

1. The Convener will identify all parties – applicant and agent (if any) and objector(s) and agent(s) (if any); also members of the Board and licensing staff.
2. Should any participant, be that a Board member, an officer, applicant, agent or objector, be attending remotely, it is considered good practice to follow Orkney Islands Council's Standing Orders, including the Protocol for Remote Attendance (Appendix 4 of the Standing Orders). Accordingly, those attending remotely will be asked to confirm that they are in a secure location and cannot be heard by anyone in their vicinity, particularly when confidential information is being considered.
3. Licensing staff introduce report and cover any preliminary legal matters.
4. Applicants, objectors and their agents will be permitted to speak during the meeting in accordance with the points below, but such participation should normally be limited to 5 minutes in respect of each point below. The Board reserves the right to permit slightly longer participation in appropriate circumstances in each case.
5. Applicant/agent to be invited to speak.
6. Objector(s)/agent(s) (in order if more than one) and the Board to be invited to ask questions of the applicant/agent. Questions must relate to the spoken information at point 4 above and be asked through the Convener.

7. Objector(s)/agent(s) (in order if more than one) to be invited to speak. Presentation must not introduce new information and refer solely to the matters raised in the written objection.
8. Applicant/agent and the Board to be invited to ask questions of the objector(s)/agent(s). Questions must relate to the spoken information at point 6 above and be asked through the Convener.
9. Objector(s)/agent(s) in turn to be asked to sum up.
10. Applicant/agent to be invited to sum up.
11. Board to determine application.

Appendix 2

Scheme of Delegation

1. The Board has delegated to the Clerk (which includes such Depute or Assistants as may be appointed by the Clerk for the purpose) authority to grant the following descriptions of application under the Act:
 - 1.1. minor variation of premises licence, including variation to substitute new premises manager – where the applicant has not been convicted of any relevant or foreign offence and no objections or representations have been received (sections 29 to 31 and 54);
 - 1.2. transfer of premises licence – where the transferee has not been convicted of any relevant or foreign offence (reference to sections 33 to 35);
 - 1.3. confirmation of a provisional premises licence – where no objections or representations have been received (section 46);
 - 1.4. occasional licence – within the Board’s normal licensing hours policy (see section 19 of this policy) – where no objections or representations have been received, the Police have not lodged a notice recommending refusal of the application and any report by the LSO does not recommend refusal (reference to sections 56 to 61);
 - 1.5. extension of licensed hours – within the Board’s normal licensing hours policy (see section 19 of this policy) – where no objections or representations have been received, the Police have not lodged a notice recommending refusal of the application and the report by the LSO does not recommend refusal (reference to sections 68 to 70);
 - 1.6. personal licence or renewal of a personal licence – where the applicant has not been convicted of a relevant or foreign offence [relevant and foreign offences – the Licensing (Relevant Offences) (Scotland) Regulations 2007, SSI 2007/513, published at:
<https://www.legislation.gov.uk/ssi/2007/513/contents/made>]
2. The Board has delegated to the Clerk (which includes such Depute or Assistants as may be appointed by the Clerk for the purpose) authority to take the following action under the Act:
 - personal licence – revocation in accordance with section 87(3) (failure to comply with mandatory refresher training requirements).
3. The Board has delegated to the Clerk (which includes such Depute or Assistants as may be appointed by the Clerk for the purpose) authority to determine the following description of application under the Act in consultation with those members of the Board who may be available by telephone or email at any given time and at no time less than five members:

- 3.1. occasional licence – outwith the Board’s normal licensing hours policy (see section 19 of this policy) – where no objections or representations have been received, the Police have not lodged a notice recommending refusal of the application and any report by the LSO does not recommend refusal (reference to sections 56 to 61);
- 3.2. extension of licensed hours – outwith the Board’s normal licensing hours policy (see section 19 of this policy) – where no objections or representations have been received, the Police have not lodged a notice recommending refusal of the application and the report by the LSO does not recommend refusal (reference to sections 68 to 70).

Note: The Clerk or Depute Clerks may elect not to use their delegated powers in a particular case, in consultation with the Chair and Vice Chair of the Board, in which circumstances the matter will be referred to the Board.

Appendix 3

Guide to Risk Assessments for Applications for Occasional Licences and Occasional Extensions

This document is designed to provide advice and assistance to applicants for Occasional Licences and Occasional Extensions with regard to carrying out a risk assessment exercise in terms of the 5 Licensing Objectives.

The Orkney Islands Area Licensing Board in its Statement of Alcohol Licensing Policy has indicated that a risk assessment should be undertaken before any application is made to the Board for an Occasional Licence or Extension.

The results of that risk assessment should then be exhibited to the Board, by every applicant, when making the application for an Occasional Licence or Extension under the Licensing (Scotland) Act 2005. By requiring applicants to undertake risk assessments the Orkney Islands Area Licensing Board is promoting the Licensing Objectives. Applicants will also promote the licensing objectives through any actions taken in response to their assessment.

The Licensing Objectives are:

- preventing crime and disorder;
- securing public safety;
- preventing public nuisance;
- protecting and improving public health;
- protecting children and young persons from harm.

In preparing this document we have sought to give applicants as much assistance with the process as possible. Each premises is unique and not all matters will be relevant to each premises.

The table overleaf includes a few examples of risk factors and possible control measures for a Country Dance. It is not meant to be a comprehensive approach. Applicants must conduct thorough analyses of their own practices and procedures and devise suitable control measures.

The risk assessment overleaf is only an example. The amount of detail you will need in your risk assessment will depend on your business and your activities.

The completed risk assessment will provide valuable information to the Board and demonstrate that applicants have taken these matters into account.

Examples of Licensing Objectives Risk Assessment.					
Name of Event:					
Date of Event:					
Licensing objectives.	Crime and disorder.	Public safety.	Public nuisance.	Protecting and improving public health.	Protecting children and young persons from harm.
Risk Factors:	Customers getting hold of drugs. Fighting inside or outside premises. Under-age drinking.	Premises overcrowded. Inadequate fire safety procedures. Blocked escape routes. Excess heat build-up.	Noisy customers leaving premises – affecting nearby residents. Excessively loud music affecting nearby residents.	Drink driving, excessive drinking.	Under-age access might be an issue and the potential illegal sale of alcohol.
Control Measures:	Drugs, weapons and glass policies implemented. Good door-security. Proof-of-age policy.	Capacity checks. Regular testing of fire equipment and alarms and checking fire escape routes. Adequate ventilation system. Appropriate staff training.	Signs promoting considerate behaviour. Staff intervention/ assistance on customer departure. Nuisance audit. Sound insulation work to structure. Use of noise limiters.	Consideration has been given to the provision of alternatives to alcoholic drinks (including reasonably priced alternatives to alcohol) i.e. soft drinks, tea and coffee, food and non-alcoholic substitutes.	Good door security. Proof of Age card scheme. Signage supporting the above measures.
I confirm that a written Age Verification Policy is in place and has been signed by each person serving or selling alcohol; and that appropriate signage is in place.					
Completed by:					
Date:					
YES / NO [delete as appropriate]					
Completed by [print name]:					
Signed by [signature]:					

Completed on [print date]:

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