

EAST AYRSHIRE LICENSING BOARD

Minute of the virtual joint meeting of East Ayrshire Licensing Board and East Ayrshire Local Licensing Forum held via Microsoft Teams, on Tuesday 17 November 2020 following the completion of the East Ayrshire Licensing Board meeting.

SEDERUNT Councillor T Cook (Chair), Councillor F Campbell, Councillor I Grant, Councillor L Jones and Councillor C Leitch, Sergeant S Barrie (Police Scotland), Mr N Dunipace (Chair of East Ayrshire Local Licensing Forum), Mr E Carmichael (East Ayrshire Children & Young People's Youth Cabinet – Observer), Ms H McCormick (Community Worker, Vibrant Communities), Mr J Wilson (Personal Licence Holder) and Miss A Stewart (NHS Representative).

ATTENDING: Mr S McCall (Depute Clerk to the Licensing Board), Mr I Hiles (Licensing Standards Officer), Mrs P Duncan and Ms S Duncan (Licensing Board Administrators).

APOLOGIES: Councillor John Campbell, Councillor W Crawford, Councillor D Filson, Councillor G Mair and Councillor J Todd.

1. SEDERUNT

Noted.

2. INTRODUCTIONS

Introductions were made.

Sergeant Barrie advised that he had another meeting to attend and would need to leave the meeting at 11.30am but stated that if any information was required in respect of the impact on licensed premises due to the Health Protection (Coronavirus) Regulations, he could be directly contacted.

3. EAST AYRSHIRE LICENSING BOARD : ANNUAL FINANCIAL REPORT

The Depute Clerk reminded the Board and Forum members of the Licensing Board's statutory obligation to prepare and publish an Annual Financial Report, not later than three months after the end of each financial year.

The Depute Clerk outlined the Annual Financial Report and highlighted that at the time of the Report being written, the deficit for the Licensing Board was £19,153. The Depute Clerk stated that at the date of the joint meeting the Licensing Board income was down £40,000 compared to the previous year. The reason for this reduction was due to the current coronavirus pandemic and it was not possible to predict what the figure would be at the end of the financial year. The Depute Clerk confirmed that part of the reduction was due to the lack of occasional licence applications and also confirmed that the review of the occasional licence application fee was still outstanding.

4. EAST AYRSHIRE LICENSING BOARD : ANNUAL FUNCTION REPORT

The Depute Clerk reminded the Board and Forum members of the Licensing Board's statutory obligation to prepare and publish an Annual Function Report, not later than three months after the end of each financial year.

The Depute Clerk outlined the work carried out by the Licensing Board during the year 2019/20.

The Depute Clerk pointed out that there had been a reduction in application's possibly due to the Licensing Board's overprovision policy which states that there was an overprovision of off-sales licences within the whole of East Ayrshire. The overprovision statement states that the effect of the policy was to create a rebuttable presumption against the grant of an application within this locality for off-sales premise. Each application still required to be determined on its merits and there may be exceptional cases in which an applicant was able to demonstrate that the grant of the application would not undermine the licensing objectives, or the objectives would not be undermined if the applicant's operating plan were to be modified. The Board would expect applicants who were seeking the grant of a new off-sales premises licence or to increase the capacity of an existing off-sales premises license to provide robust and reliable evidence to the Board why the benefit to the licensing objectives through the grant of their application outweighed the detriment to the licensing objectives and the Overprovision Policy.

The Depute Clerk advised that it was difficult to hold Premises and Personal Licence Reviews in a virtual meeting setting, but that these these difficulties were being overcome to enable outstanding Reviews to be carried out.

The Depute Clerk commended the Licensing Standards Officers on the work carried out in respect of the Best Bar None scheme, particularly Carolyn McEwan for her work in organising the awards ceremony at The Park Hotel, Kilmarnock.

The Chair added his thanks to Carolyn McEwan and Police Scotland for their work in respect of the awards ceremony. He also thanked the premises licence holders within East Ayrshire for their participation in the Best Bar None scheme and successful operation of their premises.

5. HEALTH PROTECTION (CORONAVIRUS) REGULATIONS AND THEIR IMPACT ON LICENSED PREMISES

The Licensing Standards Officer, Ian Hiles, provided the Licensing Board and Local Licensing Forum Members with an update on the impact of the above legislation within the East Ayrshire Licensing Board area during the current COVID-19 crisis.

The Health Protection (Coronavirus)(Restrictions)(Scotland) Regulations 2020 were laid before the Scottish Parliament on the 27th March 2020. Various businesses were listed as being subject to restrictions or closure. Part one of Schedule 1 of these Regulations listed restaurants, bars and public houses (On-Sales) as premises that were required to close

during the emergency period. These premises throughout Scotland were required to close.

The Scottish Government previously introduced a route map which provided a phased approach to easing restrictions throughout Scotland. Phase Two of the route map stated that pubs and restaurants could open outdoor spaces with physical distancing and increased hygiene routines. Phase Three stated Pubs and restaurants could open indoor spaces with physical distancing and increased hygiene routines.

On the 6th July 2020, premises with approved outdoor drinking facilities were permitted to open. On the 15th July 2020, premises with indoor drinking areas were permitted to open with physical distancing and increased hygiene routines. Night Club style premises were not permitted to open at this time.

Many premises within East Ayrshire that already had outdoor drinking facilities permitted on their Premises Licence opened. In addition, several premises that did not have that permission applied for outdoor drinking facilities on a temporary basis by means of an Occasional Licence as well as others who expanded the outdoor drinking facility to allow more persons entry and allow for safe social distancing.

At a meeting of East Ayrshire Licensing Board on the 23 June 2020, members agreed to permit suitable premises with outdoor drinking facilities, a temporary relaxation for three months of the 9pm curfew and remain open until 10-30pm. Any application would be delegated to the Clerk of the Licensing Board who would consult with the Chair of the Licensing Board to determine and expedite the application process. This three month period was subsequently extended until January 2021. This was agreed prior to the current COVID protection levels being introduced and implemented within Scotland.

On the 9th October 2020, the above regulations were updated that all On-Sales licensed premises (with some exceptions) within Health Board areas across the central belt were required to close for a period of two weeks until the 25th October. East Ayrshire being within the NHS Ayrshire & Arran area fell in to this category. This date of closure was further extended until the 2nd November 2020 when the Scottish Government introduced the five COVID protection levels (tiers) for all Local Authority areas.

The COVID protection level for East Ayrshire was currently Level Three. This permitted licensed on-sales premises who provided food to open until 6pm. Alcohol was not permitted for sale at this time (with some exceptions such as specific life events such as weddings and funerals and hotel guests having room service). The COVID protection levels were to be reviewed on a weekly basis with the next review being the 10th November 2020. The Scottish Government had indicated at the time this report was written that the COVID protection level would remain at Level Three within East Ayrshire.

There are many On-Sales licensed premises that cannot open under the current COVID protection level and will not be allowed to open under Level Two when the Scottish Government reviews and reduces the level within East Ayrshire. All on-sales premises have been encouraged to contact the Business Support team within East Ayrshire Council, where applications can be made for any applicable grant through funding that has been made available by the Scottish Government.

Since the end of March 2020, Licensing Board staff have continued to deal with all business such as applications, transfers etc. The Licensing Standards Officers have also been visiting On-Sales and Off-Sales premises along with colleagues from Environmental Health, Trading Standards and Police Scotland to check Scottish Government Regulations and Guidelines were being complied with in respect of matters such as increased hygiene provisions and track & trace records.

The Chair thanked the LSOs for their work on providing advice in respect of the current coronavirus regulations.

The Depute Clerk stated that it had been a difficult process in keeping up to date with the Scottish Government's statutory regulations, which were being produced in such a quick timescale.

A full discussion took place on the impact of the COVID – 19 situation with regards to licensed premises and the way people's habits had changed as result of licensed premise closures.

Councillor Jones thanked the licensing section for their work in ensuring all licensed premises complied with the regulations. The Chair also added his thanks.

Neil Dunipace, Chair of the Local Licensing Forum, stated that this matter was discussed at the Local Licensing Forum meeting held immediately prior to this meeting, and that the closures were having a devastating effect on on-sales premises but that off-sales premises were thriving.

James Wilson stated that it didn't look good for both small and larger licensed premises within East Ayrshire, as added to the already difficult effects from the Scottish Government restrictions, there would be no Christmas party season. He further stated that it was expected that a number of premises would be unable to re-open after the current restrictions were removed.

Councillor Leitch welcomed Ewan Carmichael, who was a member of the East Ayrshire Children & Young People's Youth Cabinet.

The Chair thanked everyone for their participation in the joint meeting and confirmed that the Licensing Board would continue to support businesses wherever possible.

There being no further business the meeting ended at 12.10pm.