

Argyll and Bute Council
Comhairle Earra Ghaidheal agus Bhoid

Customer Services
Executive Director: Douglas Hendry



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20 September 2011

NOTICE OF MEETING

A joint meeting of the **LICENSING BOARD** and **LOCAL LICENSING FORUM** will be held in the **COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD** on **WEDNESDAY, 28 SEPTEMBER 2011** at **10:30 AM**, which you are requested to attend.

Douglas Hendry
Executive Director - Customer Services

BUSINESS

1. **APOLOGIES FOR ABSENCE**
2. **MINUTES**
Minutes of Joint Meeting of Licensing Board and Local Licensing Forum held on 8 October 2010 (Pages 1 - 6)
3. **BRIEFING ON THE CRIMINAL JUSTICE AND LICENSING ACT 2010 AND THE LICENSING (SCOTLAND) ACT 2010**
Presentation by Legal Services Manager - Corporate
4. **PUBLICITY**
 - (a) Licensing Board and Local Licensing Forum in Argyll and Bute
 - (b) Licensing and related enforcement in Scotland and the UK
 - (c) Health Issues
5. **AOCB**

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Minutes of Joint Meeting of **ARGYLL AND BUTE LICENSING BOARD** and
LOCAL LICENSING FORUM held on **FRIDAY 8 OCTOBER 2010** in the **COUNCIL CHAMBER,**
KILMORY, LOCHGILPHEAD

Present:

Councillor Daniel Kelly (Chairman)
Councillor James McQueen
Councillor Donald McMillan
Councillor Al Reay
Eric Box (Community Representative)
Calum MacLachlainn (Licence Trade)
J Russell Buchanan (Ex-Licencee)

Attending:

Peter Robertson, Depute Clerk to the Board
Margaret MacLean, Administration Assistant
Kelly Coffield, Licensing Assistant
Eric Dearie, Licensing Standards Officer
Chief Inspector Marlene Baillie, Strathclyde Police

1. APOLOGIES FOR ABSENCE

Apologies were intimated from Councillors Alister McAlister, Roderick McCuish, Robin Currie and Neil McKay and from the Local Licensing Forum, Cath Cakebread, Brian Kupris and Kenneth Harrison.

2. OVERPROVISION

The Chairman opened by explaining that the subject of overprovision is something that comes up now and again but has not done so in recent years. He further explained that he was not sure if this was a problem in Argyll at present, especially as there had been a number of premises closing down which may be alleviating the problem.

Marlene Baillie of Strathclyde Police commented that certain premises cause more problems than others but at present there does not appear to be a problem with overprovision from their point of view.

Peter Robertson advised that the meeting and the agenda had been advertised on the website and he had spoken directly to the Chief Constable of Strathclyde Police on the matter of over provision. The only response has been from the Scottish Beer and Pub Association. They explained that they had had a problem with the timescale of the meeting but would get back to us in a week or two.

This is not a problem as the Policy Statement has to be reviewed and the draft should go out towards the end of November.

Councillor Al Reay added that there does not appear to be any overprovision in Helensburgh.

Calum MacLachlainn enquired if a new pub was opened in Helensburgh after a number had closed down, whether the Board would allow it to open. The Chairman advised that it would depend on the pub as all new licences have to be reviewed and each prospective licence is looked at separately. He could not give a definite answer.

Calum MacLachlainn replied that overprovision was useless then if the Board were not going to use it. Peter Robertson advised that if there was a problem with overprovision in the area, then it would be looked at.

The Chairman added that if a nightclub was opened in town and they wanted late hours, they would need to have a very good reason for it to be allowed.

Al Reay asked for the objectives of over provision.

Eric Box replied it was to be able to comply with licensing objectives

Peter Robertson pointed out the Scottish Government had issued guidance on overprovision and they had also received a great deal of guidance from Strathclyde Police.

Marlene Baillie added that at present, there were no certain areas or 'hot spots' at present, it was just specific premises who caused any problems.

The Chairman further added that any premises with problems can be dealt with quickly now.

He then asked for the Forum's general view on overprovision.

Eric Box replied that the Forum's position was that providing the Police and Health Authority have no problems then they don't either.

Calum McLachlann was not sure that he agreed with that. He stated that a new pub opening, a big pub could have serious consequences on other smaller pubs in the area.

Eric Box said that he thought this was getting dangerously close to using overprovision as a restraint on trade.

J Russell Buchanan thought we should also be taking into account supermarkets and the effect large chain stores have coming into small towns. This can cause overprovision too. They tend to stock alcohol at lower prices so there is more availability.

Calum McLachlann reiterated this point and stated that these large businesses come in and have a lot of power. Al Reay agreed with this also.

The Chairman stated it doesn't matter to the Board who the businesses are, they would get the same advice as a small trader and would be dealt with in the same way.

Eric Dearie made the point that there must be a policy regarding overprovision in the Statement and when Argyll and Bute come to saturation/overprovision. You have got to look at the On Sales and Off Sales and take both into account. The Board should look at CCTV footage from Police, noise complaints from licensed premises, data collected from Health Authorities and refer to the part of the Licensing (Scotland) Act 2005 which refers to this.

Peter Robertson replied by saying that we could have a Statement that overprovision is not a problem at present in Argyll and Bute. It could state that the Licensing Board would annually consult with the Licensing Forum, Police and Health Authorities to see if overprovision has been reached anywhere within Argyll and Bute.

The Licensing Board and the Licensing Forum should give any comments by the end of the month and a decision could be made then on the wording to be put in the Policy Statement.

This was agreed by all members of the Licensing Board and Licensing Forum present.

3. ARGYLL AND BUTE LICENSING BOARD POLICY STATEMENT

Licensing Hours

Calum McLachlann opened with his opinion that there are arguments over whether pub hours should be made later to combat private parties which can lead to violence, injuries and suchlike. According to the Environmental Health, private parties can cause more noise than late hours in a public house. From past experience, he explained that Tobermory used to get later opening hours in the summer and it seemed to work well. By the time it came to 3.00am people were ready to go home and this led to less private parties.

The Chairman agreed he could see where he was coming from.

Al Reay stated that it is a different story in Helensburgh as people would drift off to the nightclub when the pubs closed and this caused noise disturbance also.

The Chairman replied that the nightclub had a curfew of 12.30am and things were relatively quiet after that but when the nightclub closed at 3.00am that was when the problems started. He further stated that at the end of the day, there were big problems with the nightclub in question. There was a late night takeaway across the road attracting people, too many people in the premises and they were all coming out at the one time making a lot of noise. The main problem was that the premises was in the wrong place. At present, he thinks the Board are being fair with the hours given to premises in Argyll and Bute.

Eric Box stated the Licensing Board also needs to address the issue of public health with regard to alcohol.

Calum McLachlainn stated that if you have a premises that has dancing, that is fine as long as it is a well run pub. There should not be any health issues.

The Chairman made the point that most of the pubs in Argyll and Bute were well managed. There has been one or two with problems but between the Licensing Standards Officer, the Police and Environmental Health they will speak to them and try to work along with them and solve the problems.

The Clerk reminded everyone that we were talking about licensing hours and in particular weekend trading hours. He asked, in terms of what is written in the police, does anyone have any problems with it.

Eric Box suggested perhaps a provision for seasonality should be included.

Calum MacLachlainn asked the Chairman for clarification on this.

The Chairman replied that lots of premises have conditions within their Operating Plan to close early if there is no demand to stay open during the quieter months.

Eric Dearie, Licensing Standards Officer stated that there was nothing in the Act at present to close early if required in winter months. The rules of the present Act are there is a "Duty to Trade".

Calum MacLachlainn asked for clarification on this and Eric Dearie clarified it.

Peter Robertson advised this cannot be dealt with in the Policy Statement and must be dealt with by way of a Variation to the Premises Licence.

The Chairman stated he would prefer people to apply for a Variation and deal with it in the proper way and the Board would take a very lenient view of it. The premises should not just close off their own backs.

Calum MacLachlainn asked if you could put in a Variation with a very general 'Close early if no demand' type of wording.

The Chairman replied yes, we do do this. The majority of places that do this are restaurants.

Occasional Licences

Eric Box opened by reading out a passage regarding Occasional Licences taken from the Minutes of the Local Licensing Forum held on 13th July 2010. This was regarding voluntary organisations.

The Clerk advised some applications were made by a collection of people and there was a question as to whether or not they were proper voluntary organisations. He confirmed they should be a proper charity with a proper Constitution and Chairman, Treasurer and Secretary at the very least.

Eric Dearie confirmed those eligible to apply for any for an Occasional Licence are:

- Premises Licence Holder
- Personal Licence Holder
- Voluntary Organisation
- Licensed Members' Club

The Chairman also confirmed that this was the case.

Access by Children to Licensed Premises

Calum MacLachlainn opened by saying that you cannot standardise childrens access as all premises are different.

The Chairman advised that some premises have 10pm, one has 11pm – primarily because of its location. Some premises do not want children after 8pm and that is their own choice. The Board tries to take a common sense approach with each situation. On Mull, for example, several premises have a 10pm or 11pm terminal hour for children as people have travelled long distances with children and need a meal when they get there.

Calum MacLachlainn agreed that standardisation would not be a good thing.

Strathclyde Police said it just needs to be dealt with on a common sense approach.

The Chairman confirmed that the Board would leave it as it is.

4. AOCB

Christmas and New Year Hours

The Chairman opened by asking when Christmas starts with regards to licensing hours. We need to set a date for Christmas hours to apply from.

Al Reay asked what policy there is at present to which the Chairman stated there was none at present and suggested 1st December.

Calum MacLachlainn asked what hours this would be for?

The Chairman advised it was usually 2.00am although some premises ask for 3.00am.

Al Reay asked for clarification on how this worked.

The Clerk advised that if it was made to be 1st December, certain people would use this and abuse it to get late/3.00am licences.

Margaret MacLean, Licensing Admin Assistant stated that the late hours licence only applies to certain dates such as Christmas Day, Boxing Day, Hogmanay and New Years Day.

The Chairman suggested Christmas Eve, Christmas Day, Boxing Day, Hogmanay, 1st and 2nd January for 2.00am licences. If it was for a special occasion, then the premises can ask for 3.00am.

Margaret MacLean asked how you could define a 'special occasion'.

J Russell Buchanan and Al Reay both thought the premises would be better applying for an Extended Hours application.

Marlene Baillie, Strathclyde Police said she realised this year would be difficult with it falling over the weekend and will factor this in by giving more Officers overtime and suchlike.

The Clerk suggested having no policy. Each premises will be dealt with on their own merits.

The Chairman agreed to go on that basis.

J Russell Buchanan confirmed that all Occasional Licences for the festive season must be applied for timeously – at least 28 days before the date of the event.

The Chairman stated he would put out a press release reminding people of this. He also suggested changing it to 35 days in line with other Local Councils.

It was agreed to leave this until after the New Year.

New Year Opening

Calum MacLachlainn asked if the Board could look at curfews less onerously for Hogmanay. He went on to explain that tourists come up to the area looking for all night parties and for one night of the year could the rules be relaxed a bit.

Marlene Baillie stated that this creates difficulties.

Calum MacLachlainn replied that he asked for this for the MOD. It was granted and it was a huge success. There was no trouble at all.

Marlene Baillie said she was not convinced that they would want to relax the rules. She explained that Hogmanay was difficult enough to police as it was. With curfews in place it makes it more manageable.

The Chairman stated he could quite understand why Calum MacLachlainn was thinking along these lines and agrees the MOD went well.

Marlene Baillie explained that the MOD never causes policing difficulties but New Year does. The Board needs to apply a common sense approach.

Calum MacLachlainn then asked if the Board could relax the curfews for that one night when extra entertainment is laid on.

The Chairman replied this would be considered.

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