

MINUTE OF
JOINT MEETING OF LICENSING BOARD AND LICENSING FORUM
28 SEPTEMBER 2011
COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD

Point 2 on Agenda

Minutes of previous meeting of the Licensing Board and Licensing Forum were approved.

After approval of the minutes of the last meeting, Councillor Currie raised an issue regarding occasional licenses which was discussed at the previous Board meeting. The issue which arose was voluntary organisations applying for occasional licences to run private functions. Councillor Currie suggested that this process had been approved at the last Board meeting. Depute Clerk to the Board, Peter Robertson, suggested that the issue raised by Councillor Currie had been approved accordingly to certain parameters - there must be a link between the event and the organisation. Peter Robertson was not aware that the Board had committed itself to approving this whole process. Licensing Standards Officer, Eric Dearie, specified that the 2005 Act was clear that the event must be linked to the voluntary organisation. He also specified that a voluntary organisation cannot run a private function.

Councillor Currie raised the issue that on Islay, hotels will not run bars for private parties. There is a good opportunity for fund raising for voluntary organisations to undertake this function. Eric Dearie suggested that a personal licence holder could apply to run the function in his own right. Chairman of the Licensing Forum, Eric Box, suggested that the minute from the previous joint meeting could not be amended to include this matter. Councillor Currie said he did want to discuss the matter. Eric Box replied that he would question whether the joint meeting was the correct forum to discuss this matter. Chair of the Licensing Board, Councillor Kelly, queried whether there had been any licences issued in this manner. Eric Dearie replied that there had been one licence granted in this manner but subsequent to that licence being granted, he had made clear to the applicant that it was not the proper method for doing so.

Peter Robertson said that he didn't think there was anything the Board could do about this as there is a requirement that the Board function within the legislative framework. Councillor Kelly agreed with this. Councillor Mackay questioned how we interpret the legal framework where there are different needs considering that in the central belt functions always take place in licensed premises. He suggested that in Argyll and Bute perhaps we might need to deal with this different issue. He suggested that this is the forum to discuss the matter as thoughts could be picked up

and comments taken from all people involved. Councillor Mackay further stated that there may be a need to put this issue on the agenda for the next meeting. Eric Box suggested that it may be a good idea to contact other Boards and if the problem is seen to persist and to be apparent within other Board areas, it may be necessary to report to Parliament. Councillor Kelly questioned whether it was appropriate for a personal licence holder to get an occasional licence. Eric Box queried what action those present would be wishing to take. Callum MacLachlan questioned why the meeting would be taking any action. The solution was for people holding functions to get a personal licence holder to make an occasional application. Russell Buchanan questioned whether it would be a good idea to put the required information into a leaflet or advert in the paper. Callum MacLachlan suggested that it could be mentioned to all applicants when the application came in.

Iain MacNaughton asked whether there was any legal obligation on a personal licence holder. Callum MacLachlan confirmed there was but the licence was just a licence to sell alcohol and there was no financial control involved. Eric Dearie stated that a personal licence holder was responsible for the licence. Councillor Currie thanked everybody for their input and stated that the situation was now clearer.

Point 3 on Agenda

Criminal Justice and Licensing Act 2010 and the Licensing (Scotland) Act 2010 : presentation by Legal Services Manager – Corporate, Peter Robertson. At the end of his presentation, Peter Robertson asked if there were any questions from those present. Councillor McKay questioned the widening of the LSO's powers and queried what seizing articles entailed. Eric Dearie suggested that this could involve seizures of alcohol, seizures of measures of alcohol but it would depend upon the infringement alleged. Councillor McKay questioned whether these seizures could include a noise limiter on a sound system. Eric Dearie responded that could be removed in a very wide ranging power for evidence gathering. The LSO would not be in a position to charge for an offence but the powers granted would be similar to those granted to police for seizing documents etc.

Councillor McKay further questioned whether this could allow the removal of a doctored licence. Eric Dearie responded that it could.

Iain MacNaughton questioned the statistic of 6% of people within the West Dunbartonshire Licensing Authority area being alcohol dependant and whether there was a provision for alcohol dependant individuals to receive a daily allowance for the purchase of alcohol in a similar way to heroin addicts receiving methadone. Peter Robertson stated he was not aware of this. Kath Cakebread said there was no definition of alcoholic and there was no such thing as a registered alcoholic and that the biggest problem with alcohol abuse came from those drinking just a bit too much but were possibly not dependant on alcohol. Peter Robertson suggested that the 6% referred to related to those addicted to alcohol. Kath Cakebread said that referrals

or admissions to hospital could be counted but there has been no relevant study for alcohol carried out. Kath Cakebread further stated that we don't provide money for addicts for alcohol, which will do additional harm to the body.

Councillor Currie had a further query regarding occasional licenses and questioned whether we are getting the message out that 35 days is needed for an occasional licence to be processed. Peter Robertson stated that the Board has discretion to grant occasional licences within a smaller time frame. Russell Buchanan suggested that it would be worthwhile to put information on the Council website highlighting the 35 days required to process an occasional licence.

Point 4 on Agenda

Publicity

Eric Box raised the issue of publicity of the Board and Forum suggesting this had been discussed previously but there had been little impact. Eric Box asked those present whether it would be worth extending this. He further suggested that it was important that people were aware of the good work being done. Councillor Kelly questioned what information would be supplied to people. Eric Box suggested that there was lots of useful information from Alcohol Focus Scotland. Martin Donovan questioned whether this information was to be passed within the trade or outside of the licensed trade. Eric Box suggested both.

Martin Donovan suggested that it was struggle to know what the Forum was looking for from the licensed trade and there were issues of licensing boards putting different interpretations on mandatory conditions. He suggested that the Board should decide what it wanted, not tweak. Callum MacLachlan stated that the licensed trade functions in much the same way as other trades. Callum MacLachlan queried what the Forum had achieved, suggesting that there was a struggle to see a benefit. Councillor Currie said it was good for the Board to hear from the trade. Eric Box considered that there is a misconception on what the Forum is for. In his opinion, it is not to change the world – it is to review use of the Act, operation of the Board and to advise the Board. Callum MacLachlan questioned whether the Forum had been productive.

Martin Donovan suggested there were too many non-publicans on the Forum. Callum MacLachlan responded that he would not want to see an imbalance in members of the Forum but questioned whether the licensed trade members were sufficiently interested. He further asked whether the Licensing Board feel the Forum has a point to make. Councillor McKay stated that the 2005 Act is clear that the Forum is to advise the Board but in a lot of other areas the Act is not so clear. He felt that the Forum was an opportunity for the Board to hear from interested groups. He said it was not an advisory body but was an appropriate body for discussion.

Callum MacLachlan raised the issue of the Licensing Forum requesting that matters be dealt with by the Licensing Board, asking whether the Forum provides questions in writing and the Board provided answers in writing. Then people would see and know what the policy position of the Board and Forum were. Callum MacLachlan further questioned whether written responses would be received from the Board. Eric Box considered that it was his understanding that this would be so. Callum MacLachlan stated that the Forum has regularly asked questions of the Board over the years and stated that had these questions and answers been published everybody would know what had been done. He further questioned whether anybody present had any issues with recording or publicity. Councillor Kelly said that the question and answers could be recorded. Callum MacLachlan suggested that they should not just be in the form of a minute of a meeting but in the form of a specific answer to a question. Brian Kupris said that when the licensing policy was formed, the Forum had a long list of questions and recommendations for the Board. He further stated that the Forum did finally receive some responses from the Board. However, he considered that some were readily responded to and to some there were no responses. Councillor Kelly said that if questions were put to the Board answers would be provided. He considered that the Board had initially been very busy meeting every month and dealing with new legislation. He further suggested that any questions or queries could be forwarded to Eric Dearie and the LSO could deal with providing answers. Councillor Kelly stated that the licensing office is always busy and there are queries coming in to licensing administration staff all the time. Peter Robertson stated that if any licence holder or member of the public wants advice, they can always contact the LSO or licensing staff. He considered that staff are not inundated with queries on the Act rather they received queries regarding applications processed. Peter Robertson further stated that if the Licensing Board received a recommendation from the Forum but decided not to follow the recommendation, reasons for this decision must be provided to the Forum. He also stated that it was important that the Forum consulted on the formulation and review of licensing policy.

Councillor Reay commented that he sees the Licensing Forum as being similar to Community Councils. If the Forum were to see an issue with licensing, it would be the Boards responsibility to deal with the issue. Callum MacLachlan said that it would be good to see the interaction between the Board and the Forum. He further stated that licensees have a responsibility to know what they are doing or to seek answer to questions. Councillor Mackay questioned whether the Licensing Forum should be providing input to Local Area Community Planning Groups. He suggested a wide range of members in Local Area Community Planning Groups and it would be conduit for information from the Licensing Board. Iain MacNaughton said that he saw the Licensing Board as a separate entity and that regular attendance would not be useful. Russell Buchanan stated that the Forum has done a lot of work and put a lot of information to the Licensing Board but in his opinion there does not appear to be much evidence of what the Forum had done.

Councillor Currie asked how often the Forum met. Eric Box stated that there was a statutory minimum of once a year but there have been more meetings of the local Licensing Forum in Argyll and Bute. Russell Buchanan considered that the agenda for the Licensing Forum was always historical and there may be a need to discuss more up to date issues. Callum MacLachlan stated that the economic situation would need to be considered as, in his opinion, pubs closing was not good for any community. He considered people sometimes miss the community role of pubs. Russell Buchanan stated that the smoking ban has been tremendously successful in stopping smoking but has, in his opinion, failed as a social policy as it has driven smoking back into homes where it can affect young persons.

Eric Box reminded the group that they were intended to discuss publicity at this point. Councillor Currie stated that it was important to remember that the whisky industry provides huge sums of money to the exchequer each year. Councillor McKay stated that, to his memory, the Community Council has not discussed closed pubs in Oban. There is often discussion of closed shops. Eric Box asked those present whether he was right in thinking there was no desire to pursue greater publicity. There was a general consensus for this.

Councillor Currie questioned whether the agenda for meetings should be set by the Forum. Russell Buchanan responded that it was a joint agenda which would be created giving enough time prior to the meeting for those to do research. Councillor McCuish stated that, in his opinion, the agendas were often too safe. He would like to see a more risky agenda and he considered it was important that those present should be able to answer questions but if they could not do so, to seek answers to questions. Eric Box questioned whether another joint meeting should be convened in six months. There was agreement to this proposal. Councillor Kelly suggested February or the beginning of March for the next joint meeting. Brian Kupris suggested that the Forum discuss at their next meeting what the Forum would like to put on the agenda for the joint meeting.

Callum MacLachlan queried whether there was any way in which the Licensing Board could recognise that licensees do more than just what is required by the Act. He considered that could be good as it could be seen by less competent licensees that it was a good idea to become a better licensee.

He questioned whether it could be Board policy to recognise better licensees. Councillor Kelly, chair of the Licensing Board, stated that this would be reflected in Board practice. Councillor McCuish questioned whether Callum MacLachlan was suggesting that there should be some benefit to being a good licensee. Callum MacLachlan confirmed. Councillor McKay reminded those present that the Board took into account local knowledge along with reports from the LSO, police, environmental health and other interested parties. Peter Robertson suggested that for a proposal, such as that raised by Callum MacLachlan, there would require to be some form of accreditation for licensees. Councillor Kelly stated that the premises

not toeing the line knew who they were and that nobody is getting away with anything.

Iain MacNaughton questioned whether a signal could be sent to licensees. Councillor Kelly responded that he believed that a signal had been sent where needed. Callum MacLachlan stated that it was important that licensees see the benefit of doing good work. Councillor McKay asked those present take those factors into account. Councillor Reay suggested that the reputation of the Licensing Board is evolving. If someone is not co-operating, the Board will come down heavy upon them and that this is known to licensees.

Tim Saul, a representative of the On-Trade on Bute, raised a query regarding license renewal fees and suggested that there had been an increase in fees which was too great. The question, however, was: is there a plan to review fee levels for renewals? Peter Robertson responded that the Board were aware of the issue and there had also been issues raised regarding the costs for application plans as required by the Act. Peter Robertson further stated that the administration of the licensing process is intended to be self funding. There had been huge amounts of work which had to be done but the level of work may level out. At that point, there may be some scope for capping or reducing fees. There is a perceived unfairness that the fees are set by rateable value but rateable value is capped. There is suggestion that large Tesco's and other large supermarket stores may end up paying the same licensing fees as smaller independent shops. He further stated that there had been a suggestion that fees should relate to the value of alcohol sold and that the Licensing Board could look to see if there was scope to consider the feeing levels. Councillor Kelly requested that a report be put to the Licensing Board.

Tim Saul suggested that the licence fee increases had led to a number of small premises deciding to de-licence when the new Act had come into force and a number of these had continued to operate as "bring your own bottle" premises. In his opinion, this permitted unsupervised consumption which was not controlled by the Act.

Eric Box raised consideration of correspondence from Alcohol Focus Scotland regarding the National Communities Project. Councillor Kelly stated that there had been an e-mail from a Carolyn Church who wished to look at the alcohol issues in the area. Councillor Currie queried whether another survey was needed. Callum MacLachlan was in agreement with Councillor Currie's point of view.

Fred Bruce queried whether Lochgilphead would provide a good base for a survey. Kath Cakebread suggested that the proposed project would be looking to show alcohol is a community issue rather than purely a health issue or purely a police issue. She further stated that she also had reservations about using Lochgilphead a base for the survey.

Callum MacLachlan queried who would pay for a survey such as this. Kath Cakebread responded that a similar project carried out in Blackburn had been paid for by the Robertson Trust. Eric Box said that Alcohol Focus Scotland were looking for one urban area and one rural area in which to carry out projects. Brian Kupris queried the Licensing Forum's role in this. Eric Box responded that initially Carolyn Church was looking to come to speak to the Forum.

Councillor McKay queried whether this was just a case of packaging lots of information in a different way. Councillor Reay suggested that alcohol is a cultural problem and further that projects, like the one proposed, were not going to solve it. Raymond Boyle queried why the surveys could not take place, as initially suggested, in Campbeltown or Rothesay. Eric Box responded that there were issues with the funding. Councillor Currie suggested that there may be a need for local group input too.

Councillor McAlister reminded those present that in the 1890's the Band of Hope was established to protect workers and young people from alcohol but we still see the same problems today. Further, in Sweden in the 1960's and 1970's, alcohol was subject to huge price increases but the outcome of this was to drive drinking underground. Eric Box queried whether his sense that there was no enthusiasm for taking part in the project was correct. This was confirmed by those present.