**West Lothian Licensing Team - Alcohol licensing newsletter**

**June 2015**

**Introduction**

In the first part of this newsletter we have included West Lothian Licensing Board’s draft changes to its festive policy which will be of interest to all licence holders who may wish to apply for additional licensed hours during the festive periods 2015/16 to 2018/19.

Our newsletter also contains information in a number of areas where the requirements of the legislation and application process can lead to complications for licence holders, and is designed to assist you in managing your licensing requirements in these areas, if required.

**Festive Policy**

The Board has undertaken a review of its festive policy following experience of its policy in practice in the 2014/15 festive period. Following this the Board is considering draft changes to its current festive policy (please see below). This includes added dates for the festive periods 2017/18 and 2018/19.

Your comments are invited on the draft changes. Please note that these must be received no later than 31 July 2015 to allow a report detailing all responses received to be considered at the Board meeting on 14 August 2015. You can email comments to the licensing board email address contained at the bottom of this newsletter.

***“DRAFT FESTIVE POLICY 2015/2019***

*Subject to each application being considered on its own merits in relation to the premises and the activities which will take place within the premises the Board is prepared to relax its usual policy on terminal hours as follows -*

* *to allow all nightclub premises\* (as defined in paragraph 9.6 of the Board’s Statement of Licensing Policy 2013-2016 see below) to sell alcohol until 4am on the dates below, and*
* *to allow all premises other than nightclubs to sell alcohol until 2am on the dates below*

*1. Festive Period 2015/16: 18-19, 24-26, and 31 December 2015 and 1 January 2016.*

*2. Festive Period 2016/17: 16-17 23-25, 30-31 December 2016 and 1 January 2017.*

*3. Festive Period 2017/18: 22, 23-25, 29-31 December 2017 and 1 January 2018.*

*4. Festive Period 2018/19: 16-17 23-25, 30-31 December 2018 and 1 January 2019.*

*(Dates for the festive period 2018/19 have been included in this policy to allow applications to be made timeously for festive extensions during the period before the Policy Statement is revised again which is likely to be in November 2018.)*

*Any premises opening beyond 1am will have the following additional condition imposed –*

*“There shall be strictly no admittance to the premises after 1am which prevents persons leaving to smoke outwith the premises being readmitted.”*

*Applications require to be made on the most up to date version of the form which is available from the alcohol licensing page of the Council’s website -* [*http://www.westlothian.gov.uk/article/3062/Extended-Hours*](http://www.westlothian.gov.uk/article/3062/Extended-Hours)

*Out of date versions of the form cannot be accepted. Applications for all of the above dates can be made using one form and must be submitted at least 35 days prior to the date of the proposed event.*

***Definition of nightclub as contained in paragraph 9.6 of the Board’s Statement of Licensing Policy 2013-2016***

*\*“9.6 For the purpose of this policy nightclubs are defined as those premises which fall within the definition of Late Opening Premises contained in The Licensing Conditions (Late Opening Premises) (Scotland) Regulations 2007 (SSI 336) i.e.*

*“Premises (other than premises to which paragraph 3 applies) the capacity of which is at least 250 people and which –*

*• will regularly provide at any time between 1am and 5am*

*□ live or recorded music with a decibel level exceeding 85dB;*

*□ facilities for dancing; or*

*□ adult entertainment; or*

*• when fully occupied are likely to have more customers standing than seated””*

**Completing and submitting application forms**

Over the past year we have made changes to the guidance notes for applicants attached to the board’s application forms. We encourage all applicants to refer to these guidance notes before making their application, to ensure that they are entitled to make the application (most applications require to be made by the premises licence holder or their agent), and that the form they are using is the appropriate one for the application they wish to make.

To ensure that applicants have access to these guidance notes we ask all applicants to use the board’s up to date application forms currently available on the board’s web pages. Alternatively paper copies of the forms are available from the Civic Centre reception or can be posted on request. Contact details including the address for the Board’s web pages are contained at the bottom of this newsletter.

Please make sure that your application form is completed fully. Please also make sure that you return the full original premises licence with your application which, for all applications, means the premises licence, summary premises licence, operating plan and layout plan. When your application has been processed you will be issued with a full new premises licence. Please provide us with a telephone number and email address in your application, in order that we can contact you quickly regarding your application, if required.

We ask all applicants to consider these requirements carefully as, if applications are not submitted correctly and/ or are incomplete, they will be returned to applicants and their agents, and will have to be resubmitted. In the case of the leaving and appointment of a premises manager, this may result in premises being unable to lawfully sell alcohol until the matter is further addressed (please see sections on pages 4 and 5 below).

**Variations**

If you wish to change the operation of your premises, you will require to submit a variation application to change the relevant details of the way in which your premises operate, as contained in the operating plan which forms part of your premises licence.

The following changes can be made by a **minor variation application** which, by law, must be granted, and so do not require to be referred to the Board for a decision to be taken by the Board as to whether to grant or refuse the application. These include:-

1. Any variation of the layout plan which does not result in any inconsistency with the operating plan.
2. Any restriction of the terms on which children/young persons are allowed entry to the premises.
3. Any variation of the information relating to the premises manager (including substitution of a new premises manager).
4. Any change in the name of the premises.
5. Any reduction in the licensed hours which does not result in the premises opening any earlier or closing any later.
6. Any increase in the minimum age at which children/young persons may be allowed onto the premises.
7. Any reduction in the times at which children/young persons are allowed onto the premises.
8. Any restriction in the access of children/young persons to certain parts of the premises.
9. Any reduction in the capacity of the premises whether resulting from a variation to the layout plan or otherwise.

All other changes must be made by a **non-minor (or major) variation application**,which must be advertised and referred to the Board for a decision to be taken as to whether or not to grant the application. These applications can take several months to be processed.

Guidance regarding the operation of your premises and submitting applications is available from the Licensing Standards Officers (LSOs). As they are often out of the office the best way to contact the LSOs is by emailing [LSO@westlothian.gov.uk](mailto:LSO@westlothian.gov.uk) or by leaving a message on 01506 281595 or 01506 281630.

**Change of Address and Updated Personal Information**

It is a legal requirement that you notify the Board of any change of name or address of either yourself as licence holder, a connected person if applicable or the designated premises manager within one month of the change. There is no fee for this and it assists the team in keeping you informed of any important information regarding your licence. The full premises licence must be returned to the board with written notification of the change (premises licence, summary premises licence, operating plan and layout plan). If the identity of the licence holder is changing i.e. the licence is to go from being held by one person, company etc. to another, a transfer application is required.

It would also assist the Board if telephone numbers and e-mail addresses are kept up to date. These can be e-mailed to [licensingboard@westlothian.gov.uk](mailto:licensingboard@westlothian.gov.uk)

**Premises licence holders - advising the Board that your designated premises manager has left**

For many licensed premises the premises manager named in the premises licence is an employee, whose employment status may change at some point. Alcohol can normally only be sold at your premises when your premises manager is still employed at your premises. However, by law there are steps you can take which will enable you to sell alcohol although your premises manager has left.

If you give written notice to us that your premises manager has left not later than seven days after the date on which they have left, by law there will then be a period of five weeks from the end of the first seven days for you to apply to nominate a new premises manager, in which period you can continue to sell alcohol. However, if at the end of the five weeks you have not applied to nominate a new premises manager, effective either immediately or before the expiry of the five weeks, your premises licence will be varied to contain details of no premises manager. You will then be unable to sell alcohol lawfully until a valid application to nominate a new premises manager is received, and is either effectively immediately or becomes effective.

By law these same requirements and timescales also apply to other circumstances affecting your premises manager, including if they have otherwise become incapable of acting as premises manager (which includes if their personal licence has been revoked or suspended).

The Board has a notification form which we strongly recommend you use to ensure that all of the required information is provided. Please note that notification must be given by the licence holder and there is no fee for this. You can download the form by typing the following web address into your internet browser:

<http://www.westlothian.gov.uk/media/982/Notification-of-Dismissal-Resignation-Death-etc-of-Premises-Manager-Section-54/pdf/section54.pdf>

Other forms of notification will also be accepted; however, please note that the following information must be provided:

* premises details
* premises licence holder details
* event e.g. death of premises manager or premises manager has ceased to work at the premises
* date of event

**Applications to nominate a new premises manager**

You can download an application form to nominate a new premises manager by typing the following web address into your internet browser:

[**http://www.westlothian.gov.uk/media/1020/Application-for-Variation-of-Premises-Licence-to-Intimate-a-New-Premises-Manager/pdf/applicationofvariation**](http://www.westlothian.gov.uk/media/1020/Application-for-Variation-of-Premises-Licence-to-Intimate-a-New-Premises-Manager/pdf/applicationofvariation)

Applications to nominate a new premises manager can take effect immediately if this is specified in the application (see application form question 6). Only valid applications can be accepted i.e. the application form is completed in full, contains accurate information and the correct fee is enclosed. Please refer to the guidance notes to ensure the form is submitted correctly. Incomplete applications will be returned and, if such an application has been made to take immediate effect, it cannot take effect immediately.

**Website**

If you type the following address into your search engine, this will take you to the main Licensing Board web page, from where you can choose a link on the left to access Licensing Board information: [www.westlothian.gov.uk/article/2011/Alcohol-Licences](http://www.westlothian.gov.uk/article/2011/Alcohol-Licences)