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**Report to Clackmannanshire Licensing Board**

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**Date of Meeting: 3 July 2020**

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**Subject: Update on Outdoor Hospitality**

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**Report by: Clerk to the Licensing Board**

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**1.0 Purpose**

- 1.1. This brief report notes that there is now an indicative timeline set out by the Scottish Government to allow outdoor hospitality and then to re-open indoor hospitality. The report outlines the work Clackmannanshire Council has been doing to support this process. Finally the report identifies that the Licensing Board will have an important role to play in the re-opening process and therefore the Board is invited to consider establishing a sub-committee to deal with any applications over recess and also to review some guidance and some proposed conditions which may be applied to occasional licences during this period.

**2.0 Recommendations**

- 2.1. It is recommended that the Board
- 2.1.1. Note the work which Clackmannanshire Council, and in particular the Licensing Standards Officer, has been doing to support the re-opening of outdoor and indoor hospitality;
  - 2.1.2. Considers whether to establish a sub-committee of the Licensing Board with a quorum of three to determine applications over the summer recess; and
  - 2.1.3. Review and comment on the guidance and set of draft conditions which may be suggested by the Licensing Standards Officer to support the re-opening process (appendix 1)

**3.0 Considerations**

- 3.1. On the 24 June 2020 the Scottish Government published indicative dates for the re-opening of outdoor hospitality (which will include outdoor drinking areas) from 6 July 2020 and indoor hospitality (which will include licensed premises for on sales) from 15 July 2020. These measures will be subject to physical distancing and public health advice.

- 3.2. The Council had been preparing for this process and had established a group to review the potential issues. This group had included officers from the roads department, environmental health and licensing. This group has also been consulting external stakeholders. In addition the Licensing Standards Officers has been participating in national fora to share good practice and to consider the approaches of other authorities.
- 3.3. In addition the licensing team has responded to a number of enquiries from licence holders and premises owners about the process and options for them in terms of re-opening.
- 3.4. This work has been very responsive, particularly given the recently announced timelines and an up to date summary of the work will be provided by the Licensing Standards Officer at the Board meeting.
- 3.5. However it is clear that the Licensing Board will have a significant role to play as premises adapt to the re-opening requirement. It is anticipated that there will be two application processes which may be used: variation of licence or, more likely, occasional licences. There is already delegated authority in place to deal with the occasional licence applications where there is no representation received however given the circumstances it is considered that either Police Scotland or the Licensing Standards Officer will respond to some of the applications that are anticipated. In addition the Licensing legislation does not permit delegation of decision making in these circumstances.
- 3.6. One option for the Board to consider is whether it wishes to establish a sub-committee of the Board with a quorum of three to allow for quick decision making on these particular applications over the summer recess. These meetings could take place virtually and will be in accordance with the amendments to the licensing provisions which were brought in by the coronavirus legislation.
- 3.7. Finally the Board will be aware that the Statement of Licensing Policy already has provided a suite of conditions which may be applied to occasional licences and outdoor drinking areas. The benefit of setting these conditions out in advance is that applicants are informed of the likely kinds of matters which the Board will wish to see governed by conditions and can take this into account when preparing to make an application. It also allows for consistent and efficient decision making by the Board.
- 3.8. The Licensing Standards Officer has produced guidance for applicants and a set of conditions which he will suggest as part of representation he makes about applications at this time. The Board is therefore invited to review and comment on the guidance and the conditions – approval is not required as the Licensing Standards Officer will tailor the conditions he recommends to each application. However this review process will allow the Licensing Standards Officer to engage with businesses with a clearer understanding of the approach the Board is likely to take to suggested conditions.

#### 4.0 Sustainability Implications

- 4.1. No direct implications for the Council, although it is noted that there will be a fee payable to the Council for the processing of occasional licences or applications for variation. This paper is intended to simplify the process for making of applications to respond to the indicative timetable for the resumption of outdoor and indoor hospitality and as such it is intended to support businesses who trade in on sales of alcohol to restart while balancing the public health requirements.

#### 5.0 Resource Implications

##### 5.1. *Financial Details*

- 5.2. The full financial implications of the recommendations are set out in the report. This includes a reference to full life cycle costs where appropriate. Yes

- 5.3. Finance have been consulted and have agreed the financial implications as set out in the report. Yes

##### 5.4. *Staffing*

#### 6.0 Exempt Reports

- 6.1. Is this report exempt? Yes  (please detail the reasons for exemption below) No

#### 7.0 Declarations

The recommendations contained within this report support or implement our Corporate Priorities and Council Policies.

- (1) **Our Priorities** (Please double click on the check box )

- Clackmannanshire will be attractive to businesses & people and ensure fair opportunities for all
- Our families; children and young people will have the best possible start in life
- Women and girls will be confident and aspirational, and achieve their full potential
- Our communities will be resilient and empowered so that they can thrive and flourish

- (2) **Council Policies** (Please detail)

## 8.0 Equalities Impact

8.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations?

Yes  No

## 9.0 Legality

9.1 It has been confirmed that in adopting the recommendations contained in this report, the Council is acting within its legal powers. Yes

## 10.0 Appendices

10.1 Please list any appendices attached to this report. If there are no appendices, please state "none".

Appendix 1 – draft suggested conditions

## 11.0 Background Papers


11.1 Have you used other documents to compile your report? (All documents must be kept available by the author for public inspection for four years from the date of meeting at which the report is considered)

Yes  (please list the documents below) No

### Author(s)

NAME	DESIGNATION	TEL NO / EXTENSION
Lindsay Thomson	Clerk	2084

### Approved by

NAME	DESIGNATION	SIGNATURE
Lindsay Thomson	Clerk	

## **Guidance and Proposed Local Licensing Conditions For New Outdoor Drinking areas in Private Spaces, and Public Spaces**

During the ongoing SARS CoV-2 (Covid-19) Pandemic, and beyond into the recovery phases for business as we ease out of lockdown arrangements it is expected that many licensed premises will seek to open outdoor drinking areas attached to or adjacent to their premises. The anticipated date for opening outdoor spaces is 6<sup>th</sup> July, 2020, and indoor areas of licensed premises on 15<sup>th</sup> July, 2020

Both outdoor and indoor areas will be opened with certain restrictions in place and site operators will be expected to be able to comply with these.

The following guidance should be considered by Licence Holders and applicants prior to making applications to Clackmannanshire Licensing Board in relation to licensing of new outdoor areas.

### **Options for Licensing**

There are two options for licensing outdoor areas for the service, sale and consumption of alcohol, and two types of area that could be licensed.

The types of area are as follows

- 1 **Private Areas**, attached to the curtilage of the existing licensed premises, that form part of the land or deed of the existing building and which is under the ownership or control of the Premises Licence Holder.

Examples would be yards, existing gardens or patios, or even car parks, and may include paved areas to the front of premises that have been adopted by Council, although still owned by the premises.

- 2 **Public areas** forming public footpaths, roadways, car parks and perhaps recreation areas adjacent to and closely connected to a licensed premise.

The options for licensing are

- A. Permanent and long term licensing via a non minor variation application or,
- B. Temporary licensing using an occasional licence or a series of occasional licences.

Occasional licences are likely to be the most viable option for businesses in the short term.

An occasional licence can be granted for up to 14 days at a time and the Licensing Board will be willing to accept groups of Occasional licence applications to allow longer periods of trade.

The Licensing Board will consider applications for normal commencement of licensed hours each day (11am), , however it is anticipated that in line with the reasons outlined in their statement of Licensing Policy and then only in exceptional circumstances will they grant a licence for use of an outdoor area after 10pm.

### **Other Departments**

Applicants are asked to make contact with Clackmannanshire Council Planning Department and Roads Department (if relevant), in advance of lodging a Licensing application, to ensure that their proposed business does not have any adverse impact on these departments.

This is particularly important where applicants are seeking to licence public open spaces in Clackmannanshire.

Applicants will be asked to complete a supplementary information form along with their application which contains a sketch plan showing the proposed location, layout and dimensions of the area they are seeking to licence.

The supplementary information form will ask applicants to confirm they have consulted with Planning and Roads Departments where required.

### **Consumption of Alcohol in Designated Public Places – Bye Laws**

Almost all of the built up areas in Clackmannanshire and certainly every public space adjacent to on sales licensed premises is located within the current bye-law prohibition area and as such the consumption of alcohol in that area is an offence.

The bye law contains an exemption from this offence if the area is covered by a premises or occasional licence.

Premises seeking to licence space in a public area should take steps to ensure that customers do not move into the unlicensed area in possession of alcohol and risk committing an offence. That should be easy enough as premises will be expected to provide adequate supervision of outdoor areas to ensure that only seated customers are present.

If a premises fails to manage this situation effectively it may be decided that the area is unsuitable for future or ongoing licensing.

### **Local Licensing Conditions**

If you are granted an occasional licence for an outdoor area, regardless of whether that is a private or public space it is almost certain that the Licensing Board will be asked to apply the following local licensing conditions on the licence.

In completing your application for an occasional licence you should read and sign the declaration confirming that that you have read, understood and accept that these conditions may be applied to your licence. Doing this may speed up the administrative process

The conditions are considered necessary and expedient for the purposes of ensuring compliance with the licensing objectives.

### **List of Conditions**

- 1 Alcohol sold for consumption in the licensed outdoor area will be ordered from, and delivered to the table, by staff employed at the premises,
- 2 The outdoor area must be clearly separated from any neighbouring unlicensed area by a physical barrier such as a fence or series of ropes and posts of at least 1 metre in height.
- 3 The outside area can only be occupied by persons seated at a table.
- 4 The licence holder must ensure that alcohol is only consumed by persons seated at a table.
- 5 (For Licensed public spaces only) All drinks whether alcoholic or not sold or supplied for consumption in the outdoor area, will be sold in or decanted into plastic or polycarbonate drinking vessels.
- 6 No entertainment, live or recorded music or performances will be permitted in any outdoor area.

### **Referral to Environmental Health**

All premises who are granted a licence for an new outdoor drinking area will be referred to Environmental Health who are responsible for monitoring compliance with the current COVID19 regulations and for providing the relevant guidance in relation to the Health and safety of staff and customers.

Applicants must ensure that their email and telephone contact details are completed on the application form.

**Clackmannanshire Licencing Board**

**Occasional Licence Application**

**Supplementary information form**

Have you read and understood that your licence, if granted may be subject to the conditions, listed in this guidance?

Yes/No

Do you consent to these conditions being applied to the licence on grant?

Yes/No

Have you made contact with the Planning Department at Clackmannanshire Council to discuss you proposals?

Yes/No

Have you made contact with the Roads Department (Public Spaces only) to discuss your proposals?

Yes/No

Please confirm that you have enclosed a sketch plan of showing the location, dimensions and seating arrangements in the proposed licensed area.

Name

Email Address :

Telephone No:

Name of Premises

Signed.....

Date.....2020

Useful email addresses

[Licensing@clacks.gov.uk](mailto:Licensing@clacks.gov.uk)

[roads@clacks.gov.uk](mailto:roads@clacks.gov.uk)

[planning@clacks.gov.uk](mailto:planning@clacks.gov.uk)

[ehealth@clacks.gov.uk](mailto:ehealth@clacks.gov.uk)