

ANGUS LICENSING BOARD – 16 AUGUST 2012

MODEL LOCAL CONDITIONS - CHILDREN

REPORT BY THE CLERK

ABSTRACT

To consider the current Model Local Conditions – Children and the terms by which the Board may wish to consider permitting Children and young persons to access and remain within licensed premises which are operated as clubs

1. RECOMMENDATION

It is recommended that the Board:-

- (i) Notes the current Model Local Conditions – Children contained in the Board's Statement of Licensing Policy approved by the Board at its meeting on 24 November 2012.
- (ii) Considers whether to amend the Model Local Conditions – Children to provide for an additional condition 2(a)(vii) which would provide as follows:-

(vii) Notwithstanding the foregoing restrictions, **if requested by an applicant or licence holder**, the Board may declare that it is satisfied that specific Licensed Premises qualify as a club of a prescribed description within the meaning of the Licensing (Clubs)(Scotland) Regulations 2007 and which is devoted primarily to some sporting purpose. In such instances, Children and Young Persons will be permitted to remain within the Licensed Premises, only if they are members of the club and solely for the purposes of their participation in a sporting event, but children will not be permitted in any bar or other area beyond 9:00 pm. For the avoidance of doubt, the viewing of a televised sporting event is not a sporting event for the purposes of this condition."

2. BACKGROUND

2.1 The Board has recently been required to consider applications from clubs seeking to permit greater access to their premises for children.

2.2 The current Model Local Conditions – Children contained in the Board's Statement of Licensing Policy approved by the Board at its meeting on 24 November 2012 are attached as Appendix 1. The Board will note that there is no reference to the terms by which the Board will permit children into premises which qualify as clubs within the meaning of Section 125 of the Licensing (Scotland) Act 2005 (and having regard to the terms of the Licensing (Clubs)(Scotland) Regulations 2007). The Board is asked to note that Condition 2(a)(vi) of the Model Local Conditions – Children currently provides as follows:-

"2(a)(vi) Notwithstanding the foregoing restrictions, **if requested by an applicant or licence holder**, the Board may declare that it is satisfied that specific Licensed Premises (such as a family leisure club or family orientated hotel) substantially cater for family activities and recreation involving children and young persons. In such instances, Children and Young Persons will be permitted to remain within the Licensed Premises during the hours when the Licensed Premises are catering for family activities and recreation, but children will not be permitted in any bar area beyond 9:00 pm."

2.3 It is submitted that few clubs would be able to avail themselves of this Condition (given they would not substantially cater for family activities and recreation involving children and young persons).

- 2.4 Section 125 of the Licensing (Scotland) Act 2005 provides that certain provisions of that Act do not apply in relation to premises which are used wholly or mainly for the purposes of any club of such description as may be prescribed (such as the requirement to name a premises manager and provisions in relation to overprovision). The Licensing (Clubs)(Scotland) Regulations 2007 described the type and kinds of clubs that benefit from these concessions. One of the qualification requirements that are imposed on clubs is that no person under 18 is to be admitted as a member of the club (unless the club is devoted primarily to some sporting purpose or is a students' union). It is submitted that if children are to be permitted on club premises then they should be members of the club (which would mean that any relaxation of Children's Conditions would only relate to clubs devoted primarily to some sporting purpose or a students' union).
- 2.5 In respect of children who are visiting club premises from another club to participate in a sporting event, it would be open to clubs to provide in their constitutional documents for temporary membership, which would permit them to remain in licensed premises for the duration of the sporting event.
- 2.6 If the Board is minded to relax the Model Local Conditions – Children further in respect of clubs then the Board is invited to consider adopting the following additional Condition:-
- (vii) Notwithstanding the foregoing restrictions, **if requested by an applicant or licence holder**, the Board may declare that it is satisfied that specific Licensed Premises qualify as a club of a prescribed description within the meaning of the Licensing (Clubs)(Scotland) Regulations 2007 and which is devoted primarily to some sporting purpose. In such instances, Children and Young Persons will be permitted to remain within the Licensed Premises, only if they are members of the club and solely for the purposes of their participation in a sporting event, but children will not be permitted in any bar or other area beyond 9:00 pm. For the avoidance of doubt, the viewing of a televised sporting event is not a sporting event for the purposes of this condition.”

3. FINANCIAL IMPLICATIONS

There are no financial implications arising directly from this report.

4. HUMAN RIGHTS IMPLICATIONS

There are no Human Rights issues arising directly from this report.

5. EQUALITIES IMPLICATIONS

The issues dealt with in this report have been the subject of consideration from an equalities perspective (as required by legislation). An equalities impact assessment is not required.

6. CONSULTATION

The Head of Finance and the Chief Constable have been consulted in the preparation of this report.

**SHEONA C HUNTER
CLERK TO THE LICENSING BOARD**

NOTE: No background papers were relied on to any material extent in preparing the above report.