

## LSO REPORT

Since the 1<sup>st</sup> of September 2009 we have carried out 135 routine premises inspections. Many of the premises have required re-visits as a result of various compliance issues e.g. lack of statutory signage, lack of or incorrect staff training, signing in books not being kept up to date etc. However, in the majority of cases this has not been due to an unwillingness to comply but more often as a result of an unintended oversight on the part of the licensee and where issues have been highlighted these have been addressed immediately. As we move further down the line we have noticed a marked improvement in compliance as premises become more comfortable with the new legislation and the level of co-operation we have received from the premises we have inspected so far has encouraged us.

While our role post-transition has been largely focused on ensuring compliance, we have still been involved in providing guidance to any interested parties/licensees and we anticipate that this will be ongoing as public awareness of the role of the LSO increases. An area of particular success has been the ability to mediate any complaints and objections to a licence. We have received positive feedback from the public and licensees that we have dealt with in these situations who have found the mediation process a helpful tool in resolving disputes and therefore avoiding hearings.

The process of carrying out routine inspections has however flagged up some issues as described below:

- Where solicitors/agents have been used we have found in some cases that the lack of communication between agent and client has resulted in licences (premises & personal) not being issued to clients in time or being issued without the relevant information. This has been most noticeable in cases where Solicitors from out with the local area have been used. Another problem has been that for some premises, solicitors have made applications asking for conditions, activities, hours etc that the clients do not require or were unaware that they had. This creates compliance issues when some premises are inspected resulting in the premises being required to submit a variation application to bring them in line with local/mandatory conditions.
- The topic of irresponsible drinks promotions has been a long running issue from day one. As LSO's we have discussed the issue at a local, regional, and national level and there is little consensus across Scotland on how and when *Schedule 3 Section 8* of the Act applies, particularly in respect of off sales. However it is hoped that the recently proposed Alcohol Bill will address these issues.
- Duty To Trade –There has been some confusion among licensees as to what constitutes a duty to trade. The common fear being that a premises would have to stay open at all costs and we would review a licence if for example, on some occasions, premises shut an hour early because there

was no one in the premises. We have been clarifying this issue through our inspections and other visits.

- The inclusion of registered clubs in the 2005 Act has raised the most issues during transition and post September 09. Under the previous system of registration with the Sheriff the clubs retained a great deal of autonomy particularly as there was no one to check compliance. As a result the perception has been that the legislation/local conditions are a new and excessive burden when in many ways the statutory/local requirements have changed very little and have in some cases allowed Clubs more freedom than they would have had under the old regime e.g. the provision of occasional licences for clubs to allow non members access. The issues that are most commonly raised are:
  - o The limit on the number guests per member.
  - o The number of occasional licences that are available to registered clubs and the situations in which they can be used – concerns have been expressed that there are not enough occasional licences available to cater for events in Clubs.
  - o The proper utilisation of a register of members/guests/Temporary members.
- Variations – initially there was a lot of confusion surrounding applications for major and minor variations. This area of the Act was overlooked with little guidance being provided and no pro forma applications being created as had been done for premises and personal licence applications. However the situation has vastly improved with the creation of application forms and guidance at a local level.
- Occasional licences – we have been involved in processing approx 150 occasional licence applications since the 1<sup>st</sup> of September. The majority of these have been made by voluntary organisations for small community events. These have been easy to deal with and have not been subject to further conditions. Where issues have arisen is in respect of the larger events:
  - o The application form is inadequate, requiring the applicant to provide only basic details of the event, which in the case of larger events requires further investigation by the LSO's to establish whether any conditions should be attached to the licence.
  - o Local conditions – the inconsistency of approach when attaching local conditions to events in the past has led to confusion and frustration amongst applicants about what conditions apply and when. However, we have made every effort to reassure event organisers that each event will be judged on its own merits and conditions, if necessary, will be attached accordingly.

As was expected with a piece of legislation of this scope there have been some teething problems, however various measures are successfully being implemented to address these issues:

## APPENDIX: 1

- We have been working with the Board and Grampian Police to create a standard set of local conditions for occasional licences as well as an additional information questionnaire for applicants to complete.
- We will continue to organise visits/meetings with voluntary organisations, event committees, and registered clubs to provide guidance and hopefully clarity.
- The creation of application forms and guidance by the Depute Clerk for major/minor variation and transfers has enabled us to better answer any queries on this subject.
- LSO's are undertaking shift work at weekends and evenings to better ensure compliance with the legislation and to witness the practical implementation of policies and procedures.
- We have also been, wherever possible, working with Grampian Police to share information and best practice when ensuring compliance with the legislation. An example of this being LSO participation in the 'Safer Streets' campaign, which involved joint inspections of licensed premises with police officers over the festive period.
- The ease of communication between ourselves, the Depute Clerk and the Legal and Governance Licensing team has proved to be extremely helpful when trying to resolve any licensing issues or when seeking guidance.