

# **PERTH AND KINROSS LICENSING BOARD**

**Board Meeting: 16 August 2023**

## **ANNUAL FUNCTIONS REPORT 2022-2023**

**Report by Clerk to the Licensing Board**

### **PURPOSE OF REPORT**

This report provides the Board with an Annual Functions Report required under Section 9A of The Licensing (Scotland) Act 2005.

## **1. BACKGROUND/MAIN ISSUES**

- 1.1 In terms of The Licensing (Scotland) Act 2005, a Licensing Board must publish an annual functions report within 3 months of the end of the financial year.
- 1.2 In preparing an annual functions report a Licensing Board must include: -
  - (a) a statement explaining how the Board has had regard to: -
    - (i) the licensing objectives, and
    - (ii) the licensing policy statement and any supplementary licensing policy statement including the Board's statement under section 7 (1) (duty to assess overprovision) in the exercise of their functions under this Act during the financial year.
  - (b) a summary of the decisions made by the Board during the financial year
  - (c) information about the number of licences held under this Act in the Board's area (including information about the number of occasional licences issued during the year) and
  - (d) any other information about the exercise of the Licensing Board's functions under this Act as the Board consider appropriate.

## **2. CONCLUSION AND RECOMMENDATIONS**

- 2.1 This Report summarises the activity of the Licensing Board during the last financial year.

2.2 It is recommended that the Board:

- (i) approve the Annual Functions Report as shown as Appendix 1.

**Author(s)**

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**Approved**

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<b>Date 18 July 2023</b>		

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Council Text Phone Number 01738 442573

## ANNEX

### 1. IMPLICATIONS, ASSESSMENTS, CONSULTATION AND COMMUNICATION

<b>Strategic Implications</b>	<b>Yes / None</b>
Statement of Policy	No
<b>Resource Implications</b>	
Financial	No
Workforce	No
<b>Assessments</b>	
Equality Impact Assessment	None
<b>Consultation</b>	
Internal	No
External	No
<b>Communication</b>	
Communications Plan	No

### 1. CONSULTATION

1.1 As this report is for information to the Board no consultation is required.

### 2. APPENDICES

2.1 Annual Functions Report 2022-2023.

## Appendix 1 – Annual Functions Report

PERTH AND KINROSS  
LICENSING  
BOARD



### Perth and Kinross Licensing Board

#### Annual Functions Report 2022-2023



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## **1.0 Introduction – Perth and Kinross Licensing Board**

- 1.1 Perth and Kinross Licensing Board (“the Board”) is the licensing authority for the local government area of Perth and Kinross for the purposes of the Act. The current Board was formed in July 2022 and comprises 9 members all of whom are elected members of Perth and Kinross Council. The Board is responsible for the functions set out in paragraphs 1.3 and 1.4 below within Perth and Kinross.
- 1.2 Perth and Kinross shares borders with Dundee, Fife, Clackmannanshire, Highland, Aberdeenshire, Angus, Argyll and Bute and Stirling Councils and covers 5285 square kilometres. The 2011 Census states that 146,652 people live within the area, which stretches from the Spittal of Glenshee in the north to Blairingone in the South; in the East from Alyth and Blairgowrie and to the West, St. Fillans on the banks of Lochearn. The main administrative centre for Perth and Kinross is based in Perth.
- 1.3 The Licensing (Scotland) Act 2005 (“the Act”) makes provision for regulating the sale of alcohol and for regulating licensed premises and other premises on which alcohol is sold. The Gambling Act 2005 makes provision for regulating betting and gaming. It gives responsibility for licensing some forms of gambling to local authorities.
- 1.4 Under the Acts, Licensing Boards are responsible for considering applications for: -
  - All licences related to the sale of alcohol including premises licences, personal licences and occasional licences;
  - betting offices, gaming machines, small lotteries, bingo premises, track betting, adult gaming centres, family entertainment centres.

The vast majority of licences issued by the Licensing Board relate to the regulation of the sale of alcohol. Licensing under the Gambling Act forms only a small part of the work of the Board. For that reason, this report focuses on the work of the Board in relation to alcohol licensing.

## **2.0 The Licensing Objectives**

2.1 The Licensing (Scotland) Act sets out the following five alcohol licensing objectives (“the licensing objectives”): -

- preventing crime and disorder
- securing public safety
- preventing public nuisance
- protecting and improving public health
- protecting children and young people from harm

2.2 The licensing objectives provide the basis for the administration of the alcohol licensing regime. They also provide potential reasons for refusal of an application for the grant or variation of a premises licence or an occasional licence. Breach of the objectives may provide grounds for reviewing a premises licence. Conditions attached to a premises licence or an occasional licence may relate to any one or more of the licensing objectives.

2.3 In exercising its alcohol licensing functions under the Act, the Board is required to have regard to the licensing objectives.

## **3.0 Annual Function Report**

3.1 In the year from 1 April 2022 to 31 March 2023 the Board met every five to seven weeks with two exceptions.

3.2 All applications before the Board were dealt with in accordance with licensing legislation and the Board’s Statement of Licensing Policy 2018 – 2023.

3.3 Information and assistance was made available to those wishing to apply for a licence, make representations or lodge objections.

3.4 The Board is aware of the need to ensure that the licensing process is accessible to all. Assistance is therefore always available on request for those who require special arrangements to access any part of the process.

3.5 At the meetings, the Board adopts as informal a process as possible but consistent with the carrying out of the Board’s quasi-judicial functions.

3.6 The introduction of the Coronavirus (Scotland) Act 2020 (the 2020 Act) introduced several changes to the Licensing (Scotland) Act 2005 with the aim of minimising the disruption faced by the Board and licence holders as a result of the pandemic. A permanent change to legislation has now enabled this to continue and the Board has taken advantage of this to conduct business efficiently and ensure access to meetings for those who cannot travel to the meeting.

## 4.0 Decisions of the Board

- 4.1 The Board experienced a busy year with new premises licence applications and occasional licence applications. The following table sets out the information relating to the number of applications approved by the Board:

Premises licences	16
Major variations to existing premises licence	21
Personal licence	160
Minor variations	132
Transfer/Transfer and variation	50
Occasional licences	1175
Extended hours	3

- 4.2 Applications for new premises licences and applications for major variation are all dealt with at Licensing Board meetings. The vast majority of other applications are all dealt with under delegated powers.
- 4.3 The Board considered 4 objections and one representation in relation to applications to vary an existing licence.

Where the Board received objections/representations to occasional licences, new premises licences or Major Variations the Board granted these applications subject to mandatory and local conditions being imposed. Local conditions imposed dealt with the following issues:-

- compliance with any relevant legislation, directions and guidance of the UK and Scottish Governments in relation to coronavirus;
  - the extent to which an outdoor area could be used, and if so, what measures must be followed such as for maximum occupancy, hygiene, and social distancing, use of music or television;
  - noise mitigation and dispersal of patrons policies and
  - policies to manage the taking of orders and delivery/collection of alcohol.
- 4.4 In assessing applications, the Board used a considerable number of different sources of information to enable them to reach determinations. These sources included reports from Police Scotland, Scottish Fire and Rescue Service, Licensing Standards Officer, Building Standards, Planning and Environment Services.



## **5.0 Reviews**

- 5.1 In the period 1 April 2022 to 31 March 2023 the Board considered 4 premises licence reviews. It was determined that grounds were established in 2 of these cases. One premises licence was revoked as the licence holder was not a fit and proper person to be the holder of a premises licence, and the other one was suspended on the basis of breach of mandatory condition 10(2) of the premises licence (payment of annual fees). In regard to the remaining two, the review proposals were withdrawn as the annual fees were paid.
- 5.2 Two personal licence reviews were considered by the Board, one of which was revoked as the licence holder was not a fit and proper person to be the holder of a personal licence, and the other one led to the offence being noted on the personal licence with no other action.

## **6.0 Licensed Hours**

- 6.1 In granting licences the Board recognised that licensing hours are important to individual licensed premises but can have a wider impact for an area. Balanced against this, the Board did not wish to unnecessarily inhibit the development of thriving and safe evening and night-time local economies which are important for investment, employment, and tourism.
- 6.2 In terms of the Act, the sale of alcohol for consumption off the premises is not permitted before 10.00 am or after 10.00 pm.
- 6.3 Each application for a premises licence is assessed on its own merits against the policy hours appropriate to the type of activity and venue for which a licence is being sought.
- 6.4 Should an application be received in respect of opening earlier than 11 am for on sales, the Board will expect the applicant to justify their request and demonstrate measures that promote the five licensing objectives.
- 6.5 Extended hours applications are individually assessed on their own merits. When the extended hours sought are in respect of on sale and are outwith on sale policy hours appropriate to the applicant's premises, the applicant is required to demonstrate to the Board that there are good reasons for the hours sought and that the hours are appropriate in the circumstances. The applicant will require to provide the Board with sufficient information to enable a decision to be made in this regard. This information will include:-
- the hours sought;
  - a description of the special event or occasion;
  - the proposed activities to take place during these hours;
  - when each activity will take place;
  - management arrangements to be in place for the special event or occasion.

## **7.0 Licensing Board Training**

- 7.1 As stated at the beginning of this report, the Board comprises of 9 members who are elected Councillors for Perth and Kinross Council. They are appointed by the Council as Board Members.
- 7.2 In June 2022, 9 Board members attended a day's mandatory training from Alcohol Focus Scotland, covering licensing legislation and Board functions. This mandatory training included an examination which all were required to pass. All members of the Board passed the required exam to enable them to sit as members of the Licensing Board.
- 7.3 All members also undertook 2 hours of internal training provided by the Depute Clerk to the Licensing Board.

## **8.0 Licensing Forum**

- 8.1 The role of the Licensing Forum is to keep under review the operation of the Licensing (Scotland) Act in the Perth and Kinross area and to give advice and make recommendations to the Board in relation to those matters as the Forum deems appropriate. The Forum is the community's voice on alcohol issues.
- 8.2 In January 2018 the group re-formed. Members include representatives from the Drugs and Alcohol Partnership, Police Scotland, Licensing Standards Officer, on and off sales representatives and an officer from the local University. However due to Covid-19 restrictions and the impact of the covid 19 pandemic, no meetings have taken place since 2020. Support has been given which has enabled the group to re-form in preparation to discuss the new Licensing Board Policy Statement due in 2023.

## **9.0 Perth and Kinross Licensing Board Policy Statement – 2018-2023**

- 9.1 Consultation on the revised Statement took place between June and August 2018 and is due to be reviewed in 2023.

## **10.0 Conclusion**

- 10.1 The Board are fully aware of the extreme difficulties experienced by Perth and Kinross trade since March 2020 as a direct result of the COVID 19 Pandemic. The Board recognises the detrimental impact upon the trade and have aimed as always to assist the trade where they could. Licensed premises in Perth and Kinross have been generally well run and generally problem free in the last year. Officers have strived to support the trade and continue to provide assistance and guidance as required.

- 10.2 The efforts of Council staff and partners are recognised in ensuring that licensed premises in Perth and Kinross are compliant and kept well informed of the requirements of licensing legislation and regulations. Licence holders' efforts are acknowledged with regard to compliance with legal requirements and the management of well-run businesses in trading conditions which have continued to be extremely challenging.
- 10.3 The Board will continue to ensure that good practice continues, and the licensing objectives are complied with during the period 2023-2024.