

# **PERTH AND KINROSS LICENSING BOARD**

**Board Meeting: 4 July 2019**

## **ANNUAL FUNCTIONS REPORT 2019**

**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, Section 9A 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 will be produced no later than three months of the end of the financial year and presented to the Board for their information.

2.2 It is recommended that the Board:

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

**Author(s)**

<b>Name</b>	<b>Designation</b>	<b>Contact Details</b>
Debra Merchant	Licensing Manager	Ext. No. 75159  Email: dmerchant@pkc.gov.uk

**Approved**

<b>Name</b>	<b>Designation</b>	<b>Signature</b>
<b>Sarah Rodger</b>	<b>Legal Manager</b>	
<b>Date</b> 04 June 2019		

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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 01/04/2018-31/03/2019

## Appendix 1 – Annual Functions Report

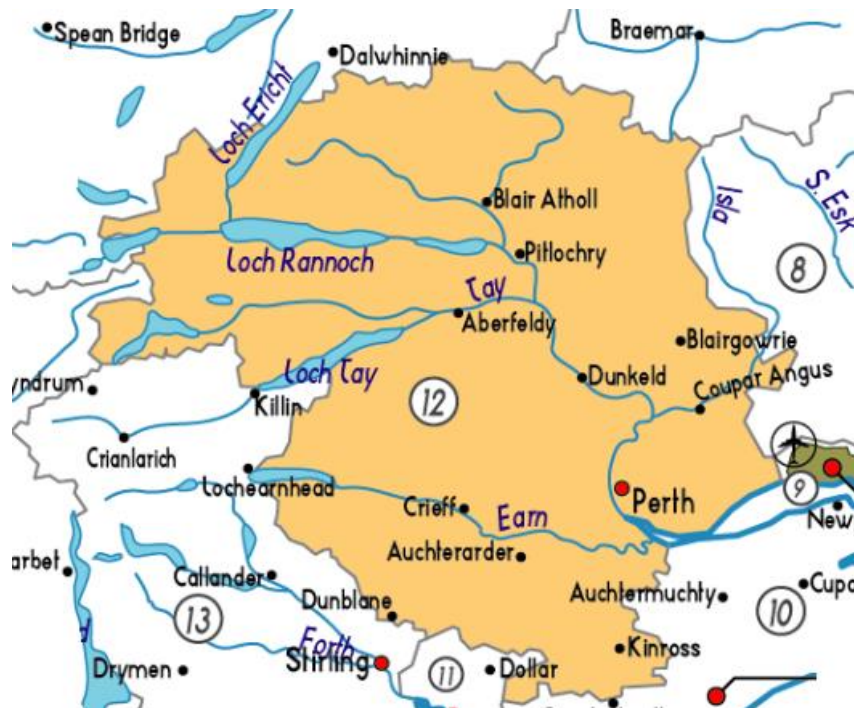
**PERTH AND KINROSS  
LICENSING  
BOARD**



### **Perth and Kinross Licensing Board**

### **Annual Functions Report**

**1/04/2018 – 31/03/2019**



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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, which was formed in May 2017, comprises 10 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, Clackmananshire, 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 bordering with Clackmanshire and Fife and in the East from Alyth and Blairgowrie to the West, St. Fillans on the banks of Lochearn bordering with Stirling. The main administrative centre for Perth and Kinross is based in Perth.
- 1.3 The Licensing (Scotland) Act 2005 as amended (“the Act”) makes provision for regulating the sale of alcohol and for regulating licensed premises and other premises on which alcohol is sold.
- 1.4 Under the Act, Licensing Boards are responsible for considering applications for:-
  - premises licences
  - occasional licences
  - provisional licences
  - temporary licences
  - personal licences
  - transfer of premises licences
  - variation of premises licences
  - extensions of licensing hours

## **2.0 The Licensing Objectives**

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

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

2.2 The licensing objectives provide a basis for the administration of the 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 be based on any one or more of the licensing objectives.

2.3 In exercising its 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 2018 to 31 March 2019, the Board met every six weeks, with the exception of July and October, to determine applications.

3.2 All applications before the Board were dealt with in an open and transparent manner 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 six weekly meetings, the Board adopts as informal a process as possible but consistent with the carrying out of the Board’s quasi-judicial function.

## **4.0 Decisions of the Board**

- 4.1 The Board received 12 new premises applications (2 of which were downgraded to Provisionals), 5 Provisional Premises Licences and 31 Major Variations. 1 objection and 1 representation were received in relation to a new provisional premises licence and 11 objections and 3 representations were received in relation to Major Variations. 303 Personal Licence applications were received during the period 1 April 2018 to 31 March 2019, 206 of which were new applications and 97 of which were renewals all of which were approved by the Board.

The objections/representations related to noise, rubbish, removal of a local condition, gaming not suitable when young families are present and location of premises.

164 minor variations were approved under delegated powers.

5 objections in writing were received with regard to new premises licences and 2 in relation to Major Variations. These mainly comprised concerns over perceived potential noise/nuisance and possible anti-social behaviour. The Board granted these applications subject to mandatory and local conditions being imposed. Local conditions imposed mainly consisted of noise mitigation policies and dispersal of patrons policies being in place.

- 4.2 During the course of the year, the Board received 1200 applications for Occasional Licences, an increase of 61 applications compared to the same time period as the previous year. In line with the Licensing Policy Statement, where premises apply for large numbers of occasional licences, they are encouraged to apply for a Premise Licence:-

- **Inchyra Byre – 86**
- **Comrie Croft – 59**
- **Perth Race Course – 25**
- **Errol Park – 29**
- **Guardswell Farm – 29**
- **Moness Country Club (Marquee) – 29**

Remaining numbers of occasional licences are made up of applications received for Farmers Markets, community events such as galas, fetes and



agricultural shows, village halls and members clubs to enable them to invite non-members to attend functions.

4.3 31 extended hours applications were received. Two were granted by the Board, 27 approved under delegated powers, 1 withdrawn and 1 not considered due to being outwith Board Policy and insufficient time for the application to be considered by the Board.

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 Licensed Hours**

5.1 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. A change was considered through Perth and Kinross Licensing Board Policy Statement 2018-2023 and as a result the Licensing Board approved an amendment to extend the hours for Social Demand, Function and Entertainment.

5.2 In terms of the Act, the sale of alcohol for consumption off the premises is not permitted before 10.00 am and after 10.00 pm.

5.3 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.

5.4 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.

5.5 Extended hours applications are individually assessed on their own merits. When the extended hours sought are in respect of on sale premises 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.

- 5.6 The Board has a policy of permitting longer licensed hours over the Christmas/New Year period and a press release is provided to inform Premises Licence Holders.

## **6.0 Licensing Board Training**

- 6.1 As stated at the beginning of this report, our current Board comprises of 10 Members who are elected Councillors for Perth and Kinross Council. They are appointed by the Council as Board Members.
- 6.2 In May 2017, all nominated Board members attended a day's mandatory training from Alcohol Focus Scotland in licensing legislation and Board functions. This included a post training examination which all were required to pass. Further training was provided to Members by the Depute Clerk to the Board and the Licensing Standards Officer which further enhanced the knowledge of the Members.

## **7.0 Licensing Forum**

- 7.1 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.
- 7.2 In January 2018 the group re-formed. Members include representatives from the Drugs and Alcohol Partnership, Police Scotland, NHS Tayside, Licensing Standards Officer, on and off sales representatives and an officer from the local University.
- 7.3 Perth and Kinross Licensing Forum meets on a quarterly basis at various venues within Perth and tries to accommodate the members with regard to timings of meetings. The Licensing Forum was consulted during the recent Licensing Board Policy Statement 2018-2023 review.

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

- 8.1 Consultation on the revised Statement took place between June and August 2018 and responses received were considered by the Licensing Board prior to approval. Significant changes to the Licensing Board Policy Statement are noted as follows:-
- An increase in licensing hours for Social Demand, Functions and significant entertainment venues.
  - Any specific premises applying for in excess of 30 Occasional Licences per year would be encouraged to apply for a Premises Licence.
  - Members Club ratios now allow a maximum of ten guests per member.

## **9.0 Statement of Gambling Principles – 2019-2022**

- 9.1 Section 349 of the Gambling Act 2005 requires all Licensing Boards to prepare and publish every three years a statement of the principles that it proposes to apply in exercising its functions under the Act. The Statement of Principles is largely dictated by the legal framework, and therefore there is limited scope for the Licensing Board to deviate from this. A revised statement of principles for 2019-2022 was approved by the Licensing Board in December 2018.

## **10.0 Minimum Unit Pricing**

- 10.1 Minimum unit pricing of alcohol commenced 1 May 2018. The price per unit was set by the Scottish Parliament at 50p per unit and all licenced premises including premises covered by Occasional Licences were to ensure alcohol was not sold below the base price. The formula for calculating the minimum unit price was provided by the Scottish Government. A further mandatory condition was imposed on all Premises Licences within the area which resulted in new conditions being sent to all licenced premises within Perth and Kinross.

## **11.0 Reviews**

- 11.1 In the period 1 April 2018 to 31 March 2019 the Board considered 6 Premises Licence Reviews. Three of these related to offences and were noted by the Board. Of the remaining two, one licence was suspended and one licence revoked by the Licensing Board for unpaid annual fees. A further review was requested by Police Scotland on the basis of grounds relevant to the licensing objectives. Thereafter the Board considered the review and agreed that the premises licence holder be given a written warning.
- 11.2 In the course of Board business, applications for Personal Licences were only heard and determinations made on them if the applicant had relevant convictions or a representation had been made from Police Scotland stating that the applicant was not a fit and proper person to hold a licence. Four personal licence reviews were requested by Police Scotland and after consideration by the Board, no further action was taken.

## **12.0 Conclusion**

- 12.1 Licensed premises in Perth and Kinross have been generally well run and generally problem free in the last year.
- 12.2 The efforts of officers and partners are recognised involved 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.
- 12.3 The Board will continue to ensure that good practice continues and the licensing objectives are complied with during the period 2018-2019.