

# **PERTH AND KINROSS LICENSING BOARD**

**Board Meeting: 1 July 2021**

## **ANNUAL FUNCTIONS REPORT 2020-2021**

**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.

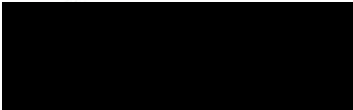
2.2 It is recommended that the Board:

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

**Author(s)**

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**Approved**

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## 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 2020-2021.

## Appendix 1 – Annual Functions Report

PERTH AND KINROSS  
LICENSING  
BOARD



### Perth and Kinross Licensing Board

#### Annual Functions Report 2020-2021



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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, 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, bordering with Clackmannanshire and Fife; in the East from Alyth and Blairgowrie and 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. The **Gambling Act 2005** makes provision for regulating betting and gaming. It gives authority for licensing some forms of gambling to local authorities.
- 1.4 Under the Acts, 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
  - betting premises, gaming machines, small lotteries, bingo premises, track betting, adult gaming centres, family entertainment centres.

## **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 persons from harm

2.2 The licensing objectives provide a 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 be based on 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 2020 to 31 March 2021 the Board met every six weeks with the exception of 2 July 2020, 10 December 2020 and 11 March 2021, to determine applications. The meetings of the Board scheduled to take place on 12 March 2020, 23 April 2020, 28 May 2020 and 28 January 2021 were cancelled in recognition of the coronavirus situation. In addition to the scheduled Board Meetings 6 Special Meetings of the Board took place between 6 May 2020 and 11 February 2021.

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.

- 3.6 The shift to virtual meetings has meant that people have to engage in a different way, however a range of options are available to enable people to participate and are supported to do that.

#### **4.0 Decisions of the Board**

- 4.1 The Board considered 18 new Premises Licence Applications (5 of which were downgraded to a Provisional), 21 Major Variations, a Transfer of a Premises Licence, a Major Variation on Transfer of a Premises Licence, 6 Occasional Licences and an Adult Gaming Centre Variation. Twelve objections, with one being withdrawn, and 7 representations in support were considered in relation to new Premises Licences; 3 objections were considered in relation to Major Variations; 1 objection was received in relation to the Transfer of a Premises Licence and 2 Objections, one anonymous, and 3 representations were received in relation to Occasional Licences. Two new Premises Licence Applications and 3 Major Variations are ready to be scheduled to a future Board Meeting. In addition to the above a further 3 new Premises Licence Applications and 4 Major Variations were received but require further communication with the Applicants to validate them. 115 Personal Licence applications were received during the period 1 April 2020 to 31 March 2021, 101 of which were new applications and 14 of which were renewals. The remainder of the applications have all been approved under delegated powers.

78 minor variations were approved under delegated powers, 3 of these variations were to include outdoor areas on the Premises Licence.

Where the Board received objections/representations to Occasional Licences, new Premises Licences and Major Variations the Board granted these applications subject to mandatory and local conditions being imposed. Local conditions imposed consisted of complying with any relevant legislation, directions and guidance of the UK and Scottish Governments in relation to coronavirus; whether the outdoor area could be used, and if so, what measures must be followed such as for numbers permitted, 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.

- 4.2 During the course of the year, the Board received 573 applications for Occasional Licences, a decrease of 467 applications compared to the same time period as the previous year. The decrease in applications for occasional licences was due to lockdown restrictions imposed by Covid-19 which meant that events were not taking place e.g. weddings, seasonal gatherings, gala days, markets, live music events, horse shows, light nights.

- 4.3 11 Extended Hours applications were received and 8 were approved under delegated powers. 3 were not considered as the premises was closed due to the Pandemic.
- 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.
- 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.

## **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, Board members at that time attended a day's mandatory training from Alcohol Focus Scotland in licensing legislation and Board functions with a further two members completing their training in December 2020 and January 2021. 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, Licensing Standards Officer, on and off sales representatives and an officer from the local University, however due to Covid-19 restrictions, no recent meetings have taken place.
- 7.3 Perth and Kinross Licensing Forum normally meets when possible 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 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. The Statement will be due for review again in 2023.

## **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 Reviews**

- 10.1 In the period 1 April 2020 to 31 March 2021 the Board considered 3 Premises Licence Reviews. Two related to breaches of Coronavirus rules and one due to the licence holder being convicted of a relevant offence. The Licensing Board issued one written warning, took no action on one and determined that grounds were not established on the other.
- 10.2 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. Six personal licence reviews were considered by the Board, 2 were revoked, 2 were endorsed, one had the offence noted on the personal licence with no other action and one was rejected by the Board due to lack of specification.

## **11.0 Covid-19 challenges and changes in relation to alcohol Licensing**

This year has been particularly challenging for Licensed Premises due to the Covid-19 pandemic. Alternative ways of operating businesses had to be utilised in line with guidance issued by the Scottish Government at specific times. As indoor drinking was not permitted during the summer period, a surge of Occasional Licences was sought for outside drinking areas for the use of land attached to Licenced Premises during spells when guidance allowed. Once easing of lockdown commenced in early July, there was a shift of attention by the trade to how they could safely open outdoor areas, and it was quickly identified that there was a need to have a guide available to licensees and applicants in relation to what would be required of them to be able to operate safely. Therefore, during July, the Depute Clerk, Licensing Manager and Licensing Standards Officer (LSO) collaborated with colleagues in the Housing and Environment Service so that a single set of guidance could be issued to licensed premises to support them in relation to the use of outdoor areas. The Licensing Manager and LSO also produced a licensing guide for the Board's web pages which included practical information and links to the HSE website on drafting risk assessments; links to the Scottish Government hospitality sector guidance; links to the corporate guidance and practical information about issues which premises would need to consider. The LSO continues to support the trade as restrictions ease and provide guidance as and when needed.

## **12.0 Conclusion**

- 12.1 Licensed premises in Perth and Kinross have been generally well run and generally problem free in the last year. We hope that with restrictions beginning to ease, licenced premises can get back to some form of normality and begin to prosper before the end of the 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 2021-2022.