

PERTH AND KINROSS LICENSING BOARD

Board Meeting: 2 July 2020

ANNUAL FUNCTIONS REPORT 2019-2020

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.

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Approved

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Date 21 May 2020		

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ANNEX

1. IMPLICATIONS, ASSESSMENTS, CONSULTATION AND COMMUNICATION

Strategic Implications	Yes / None
Statement of Policy	No
Resource Implications	
Financial	No
Workforce	No
Assessments	
Equality Impact Assessment	None
Consultation	
Internal	No
External	No
Communication	
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 2019-2020.

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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 with one vacancy at present. 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 transfers 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 centre, 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 2019 to 31 March 2020 the Board met every six weeks, with the exception of May and July 2019 and March 2020, 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 8 new Premises Licence Applications (1 of which was downgraded to a Provisional), 5 Provisional Premises Licence Applications, one Temporary Premises Licence Application and 22 Major Variations. One objection was received in relation to a new premises licence and 4 objections and 1 representation were received in relation to Major Variations. 464 Personal Licence applications were received during the period 1 April 2019 to 31 March 2020, 240 of which were new applications and 224 of which were renewals. 19 new applications and 4 renewals are still to be considered. The remainder of the applications have all been approved under delegated powers.

The objections/representation related to overprovision, noise and extension of licensing hours during the week.

124 minor variations were approved under delegated powers.

One objection in writing was received with regard to a new premises licence and 4 objections and 1 representation in relation to Major Variations. The Board granted these applications subject to mandatory and local conditions being imposed. Local conditions imposed consisted of noise mitigation policies and dispersal of patrons policies being in place.

4.2 During the course of the year, the Board received 1040 applications for Occasional Licences, a decrease of 160 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. The decrease in applications for occasional licences was due to the following establishments being granted premises licences: -

- The Byre at Inchyra was granted a premises licence on 7 November 2019,
- Comrie Croft was granted a provisional licence for off sales on 16 August 2018,
- Errol Park House and Stables was granted their premises licence on 26 September 2019
- Variation (Major) for Perth Race Course was granted on 25 April 2019

4.3 40 extended hours applications were received. The Board granted 2 and refused one; 26 were approved under delegated powers; 10 were withdrawn and 1 not considered as the applicant already had "seasonal variations" listed on their premises licence, therefore this application for extended hours was not required 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.

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, Licensing Standards Officer, on and off sales representatives and an officer from the local University.
- 7.3 Perth and Kinross Licensing Forum 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 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 Personal Licence Renewals – Mandatory 10 Year Renewals

- 10.1 On 6th August 2018, the Scottish Government announced the process for the 10 year personal licence renewals. All personal licence holders whose licences were issued on or before 1st September 2009 were made aware that the requirement to renew their licences started in 2018. To renew their licence, refresher training had to be undertaken and the application fee was set at £50.00. The law required that if a personal licence holder wished to renew their licence they had to do so, by application to the licensing board no earlier than 1st September 2018 and no later than 31st May 2019.

11.0 Reviews

- 11.1 In the period 1 April 2019 to 31 March 2020 the Board considered 4 Premises Licence Reviews. They all related to unpaid annual fees. One licence was suspended, and 3 licences were revoked by the Licensing Board.
- 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, one was revoked, 2 were endorsed and one has been deferred to a future meeting of the Board.

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 2020-2021.