

## ***THE ABERDEENSHIRE LICENSING BOARD***

A Meeting of the ABERDEENSHIRE LICENSING BOARD appointed in terms of the Licensing (Scotland) Act 2005 will be held by **TEAMS** only on **WEDNESDAY, 22<sup>nd</sup> February 2023 at 10.15 A.M.**

Members are invited to join the call from **10 A.M.**

**15<sup>th</sup> February 2023**

**Karen Wiles  
Clerk to the Licensing Board**

### **BUSINESS**

1. **APOLOGIES FOR ABSENCE**

2. **DECLARATIONS OF INTEREST**

3. **STATEMENT ON EQUALITIES**

**(Pages 3-4)**

Consider, and if so decided, adopt:- "In line with the Board's legal duty under section 149 of the Equality Act 2010 the Board, in making decisions on the attached reports -

1. To have due regard to the need to -

- (i) eliminate discrimination, harassment and victimisation;
- (ii) advance equality of opportunity between those who share a protected characteristic and persons who do not share it; and
- (iii) foster good relations between those who share a protected characteristic and persons who do not share it.

2. Where an Integrated Impact Assessment is provided, to consider its contents and take these into account when reaching a decision

4. **MINUTES OF BOARD MEETING OF 14<sup>th</sup> December 2022 – FOR APPROVAL**

**(Pages 5-10)**

5. **LICENSING (SCOTLAND) ACT 2005 – APPLICATIONS FOR GRANT OF PREMISES AND PROVISIONAL PREMISES LICENCES – NON-CONTENTIOUS – FOR APPROVAL**

**(Pages 11-36)**

6. **LICENSING (SCOTLAND) ACT 2005 – APPLICATION FOR MAJOR VARIATION OF PREMISES LICENCES – NON-CONTENTIOUS - FOR APPROVAL** (Pages 37-62)
7. **LICENSING (SCOTLAND) ACT 2005 –REVIEW OF PREMISES LICENCE – HEARING** (Pages 63-130)
8. **LICENSING (SCOTLAND) ACT 2005 – APPLICATION FOR PERSONAL LICENCE - HEARING** (Pages 131-164)
9. **POLICY REPORTS**
  - (i) **Licensing (Scotland) Act 2005- Fee Review** (Pages 165-176)
    - Report including Appendix 1
    - Appendix 2 – Engage Responses – Fees Information from page
  - (ii) **Review of Policy Statement – Update Report** (Pages 177-418)
    - Report including Appendices 1 – 4
    - Appendix 2 – Engage Responses
    - Appendix 5 - Revised Statutory Guidance
  - (iii) **Consultation on Restricting Alcohol Advertising and Promotion** (Pages 419-490)
    - Report including Appendix 2
    - Appendix 1 Scottish Government Consultation Document
  - (iv) **Equalities – Equality Mainstreaming and Outcomes Progress Report 2021 - 2025** (Pages 491-586)
    - Cover Report for the Board
    - Appendix 1 - Draft Progress Report
    - Appendix 2 – Integrated Impact Assessment
10. **DATE OF NEXT MEETINGS –**
  - Informal Session with the Board – 15<sup>th</sup> March 2023
  - Board Meeting – 26<sup>th</sup> April 2023

## **STATEMENT ON EQUALITIES**

### **PUBLIC SECTOR EQUALITY DUTY – GUIDANCE FOR MEMBERS**

#### **What is the duty?**

In making decisions on the attached reports, Members are reminded of their legal duty under section 149 of the Equality Act 2010 to have due regard to the need to:-

- (i) eliminate discrimination, harassment and victimisation;
- (ii) advance equality of opportunity between those who share a protected characteristic and persons who do not share it; and
- (iii) foster good relations between those who share a protected characteristic and persons who do not share it. The “protected characteristics” under the legislation are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; and (in relation to point (i) above only) marriage and civil partnership.

#### **How can Members discharge the duty?**

To ‘have due regard’ means that in making decisions, Members must consciously consider the need to do the three things set out above. This requires a conscious approach and state of mind. The duty must influence the final decision. However, it is not a duty to achieve a particular result (e.g. to eliminate unlawful racial discrimination or to promote good relations between persons of different racial groups). It is a duty to have due regard to the need to achieve these goals. How much regard is ‘due’ will depend upon the circumstances and in particular on the relevance of the needs to the decision in question. The greater the relevance and potential impact that a decision may have on people with protected characteristics, the higher the regard required by the duty.

#### **What does this mean for Licensing Board decisions?**

Members are directed to the section in reports headed ‘Equalities, Staffing and Financial Implications’. This will indicate whether or not an Integrated Impact Assessment (IIA) has been carried out as part of the development of the proposals and, if so, what the outcome of that assessment is. An IIA will be appended to a report where it is likely that the action recommended in the report could have a differential impact (either positive or negative) upon people from different protected groups. The report author will have assessed whether or not an IIA is required. If one is not required, the report author will explain why that is. Where an IIA is provided, Members should consider its contents and take those into account when reaching their decision. Members should also be satisfied that the assessment is sufficiently robust and that they have enough of an understanding of the issues to be able to discharge their legal duty satisfactorily.

For more detailed guidance please refer to the following link:-

[http://www.equalityhumanrights.com/uploaded\\_files/EqualityAct/psed\\_technical\\_guidance\\_scotland.doc](http://www.equalityhumanrights.com/uploaded_files/EqualityAct/psed_technical_guidance_scotland.doc)





## **THE ABERDEENSHIRE LICENSING BOARD**

**Minute of the Meeting of the ABERDEENSHIRE LICENSING BOARD, held by MICROSOFT TEAMS only on WEDNESDAY 14<sup>th</sup> December 2022 at 10.15 a.m.**

Sederunt:

Board Members:

Mrs Marion Ewenson (Convenor); Ms Dawn Black (Vice-Convenor), Mr Stewart Adams; Mr Geoff Crowson; Mr Jeff Goodhall; Mr Trevor Mason; Mr Richard Menard; Mrs Jenny Nicol

In Attendance:

Lauren Cowie, Jill Joss, Fiona M. Stewart and Lynsey Kimmitt, Depute Clerks to the Board; Lisa Godini, Sarah Ward and Kevin MacDonald, Licensing Standards Officers; Sergeant Neil Grant, Police Scotland;

Observing:

Jenny Mearns, Administrator (Livestream), Harriet Tevendale, Paralegal; Cian Gullen, Trainee Solicitor; Delsya Borland, Administrator

Forum Members:

None

The Convenor welcomed everyone to the meeting.

### **1. APOLOGIES FOR ABSENCE**

Keith Simpson, Senior Licensing Standards Officer had tendered his apologies for the meeting.

### **2. DECLARATIONS OF INTEREST**

No declarations of interest were made.

### **3. STATEMENT ON EQUALITIES**

In making decisions on the following items of business, the Board **agreed**, in terms of Section 149 of the Equality Act 2010:-

1. To have regard to the need to: -

- (a) Eliminate discrimination, harassment and victimisation;
- (b) Advance equality of opportunity between those who share a protected characteristic and persons who do not share it; and
- (c) Foster good relations between those who share a protected characteristic and persons who do not share it.

2. *Where an Integrated Impact Assessment was provided, to consider its contents and take those into account when reaching their decision.*

4. **MINUTES OF BOARD MEETING OF 12<sup>th</sup> OCTOBER 2022 – FOR APPROVAL**

*The Board agreed the Minutes were a correct record of the meeting.*

5. **LICENSING (SCOTLAND) ACT 2005 - APPLICATION FOR PREMISES/PROVISIONAL PREMISES LICENCES – NON CONTENTIOUS**

*Following consideration of a report by the Clerk, dated 1<sup>st</sup> December 2022 in respect of applications for premises/provisional premises licences, copies of which had been circulated in advance, the Board decided the applications as undernoted:*

1. **Leslie Castle, Leslie, Inch, AB52 6NX**

*Granted subject to*

- *the local conditions set out in the Board report,*

2. **Murdoch Allan, 7 Station Road, Hatton, Peterhead, AB42 0RY**

*Granted subject to*

- *the local conditions set out in the Board report,*

6. **LICENSING (SCOTLAND) ACT 2005 - MAJOR VARIATIONS – NON CONTENTIOUS**

*Following consideration of a report by the Clerk, dated 1<sup>st</sup> December 2022 in respect of applications for major variations of premises licences, copies of which had been circulated in advance, the Board decided the applications as undernoted:*

1. **Butchers Arms, 14 West High Street, Inverurie, AB51 3SA**

*Granted subject to*

- *the local conditions set out in the Board report,*
- *the specific conditions set out in the Board report*

2. **Maryculter House Hotel, Kirkton of Maryculter, South Deeside Road, Maryculter, AB12 5GB**

*Granted subject to*

- *the local conditions set out in the Board report, to include local condition 32- The Licence Holder must take reasonable steps to ensure that litter and, where used, glass and bottles are removed from beer gardens and outside drinking areas on a regular basis.*
- *the specific conditions set out in the Board report*

3. **The Grange Inn, West Road, Peterhead, Aberdeenshire, AB42 2AQ**

Granted subject to

- the local conditions set out in the Board report

4. **Spar, 7 Prince Street, Peterhead, AB42 1PL**

Granted subject to

- the local conditions set out in the Board report

5. **Deeside Gliding Club (Aberdeenshire Ltd), Aboyne Airfield, Dinnet, Aboyne, AB34 5LB**

Granted in principle subject to

- receipt of the amended layout plans
- the local conditions set out in the Board report,

7. **LICENSING (SCOTLAND) ACT 2005 – APPLICATION FOR OCCASIONAL LICENCE – HEARING – INVERURIE BOWLING CLUB**

1. The applicant was not represented at the hearing and the Depute Clerk confirmed that the applicant had advised that he would not be in attendance.
2. Lisa Godini, Licensing Standards Officer was present at the hearing
3. Sergeant Grant represented the Chief Constable at the hearing.
4. The Board afforded the Licensing Standards Officer an opportunity to speak to her notice.
5. The Board afforded Police Scotland an opportunity to speak to their response.
6. Members were then afforded an opportunity to ask questions of all parties
7. Police Scotland and the Licensing Standards Officer were then afforded an opportunity to make concluding remarks.
8. The Depute Clerk advised everyone present of the Legal Test.
9. Members then debated the application in public.
10. The Convenor confirmed that Members had sufficient evidence before them on which to reach a decision
11. Mr Menard, seconded by Mr Goodhall, moved as a motion to refuse the application on the basis that granting the application would be contrary to paragraph 4.18 of the Boards policy statement and therefore granting the application would be inconsistent with the licensing objective of protecting children and persons from harm in terms of Section 59(6)c) of the Licensing (Scotland) Act 2005.
12. No other amendment was proposed.
13. The unanimous decision of the Board was therefore that the application was **refused** in terms of Section 59(6)(c) of the 2005 Act.

8. **LICENSING (SCOTLAND) ACT 2005 – PERSONAL LICENCE – NOTICE OF CONVICTION – HEARING – GAIL CLEAVER**

1. The licence holder was not represented at the hearing. The Board confirmed they would proceed in her absence.
2. Sergeant Grant represented the Chief Constable at the hearing.
5. The Board afforded Sergeant Grant from Police Scotland an opportunity to speak to their notice.

6. Members were then afforded an opportunity to ask questions.
7. Sergeant Grant from Police Scotland was afforded an opportunity to make concluding remarks.
8. The Board agreed to adjourn to seek legal advice in private.
10. On resuming the bench, the Depute Clerk advised that the Board had discussed the Legal Test, the relevancy of the evidence and confirmed that no decision had been made.
11. The Depute Clerk advised everyone present of the Legal Test.
12. The Convenor confirmed that Members had sufficient evidence before them on which to reach a decision
13. Mr Crowson, seconded by Mrs Nicol, moved as a motion to make an order that the Personal licence of Gail Cleaver should be **endorsed**, as having considered the nature of the relevant conviction, they were satisfied that it was necessary to do so for the purpose of the licensing objectives, namely the licensing objective of preventing crime and disorder.
14. Mr Adams, seconded by Mr Menard moved as an amendment to make an order that the Personal licence of Gail Cleaver should be **suspended for a period of 6 months**, as having considered the nature of the relevant conviction, they were satisfied that it was necessary to do so for the purpose of the licensing objectives, namely the licensing objective of preventing crime and disorder.
15. Members voted: - 6 votes for the motion (Mrs Black (Vice-Convenor), Mr Crowson, Mrs Ewenson (Convenor), Mr Goodhall, Mr Mason and Mrs Nicol) and 2 votes for the amendment (Mr Adams and Mr Menard). The motion was carried.
16. The decision of the Board was therefore to make an order that the Personal licence of Gail Cleaver should be **endorsed**, as having considered the nature of the relevant conviction, the Board were satisfied that it was necessary to do so for the purpose of the licensing objectives, namely the licensing objective of preventing crime and disorder.

**9(i). LICENSING (SCOTLAND) ACT 2005 - FEE REVIEW**

Following consideration of a report by the Clerk, dated 30<sup>th</sup> November 2022 in respect of proposals to increase fees to ensure that the costs of providing the licensing service is met by licensing income, the Board:

- (a) Agreed to a formal consultation on proposed changes to certain Licensing Board fees as detailed in this report and in Appendix 1, with amendment to £225 for s.33 and s.34 Transfer applications and £420 for Major variation applications, from the 15th December 2022 to the 23rd January 2023.
- (b) Agreed that the results of the consultation exercise be reported back to the Licensing Board in February with a view to introducing any changes to the fees from 1st April 2023

**9(ii). UPDATED TIMELINE- REVIEW OF STATEMENT OF LICENSING POLICY 2023-2028**

Following consideration of the updated timeline in respect of the review of the Board's Statement of Licensing Policy and Overprovision Policy, copies of which had been circulated in advance, the Board:

- (a) Noted the updated timeline attached to the report and that the Board is on schedule with the timeline
- (b) Discussed the content of the timeline.

10. **DATE OF NEXT MEETING – 22<sup>nd</sup> February 2023**

*Noted*

*The Convenor drew the meeting to a close, at which point the recording of the meeting ended.*

**The recordings of the meeting can be found at the following links:**

[Part One](#)

[Part Two](#)

[Part three](#)



# ***THE ABERDEENSHIRE LICENSING BOARD***

**REPORT TO LICENSING BOARD – 22<sup>nd</sup> February 2023**

**LICENSING (SCOTLAND) ACT 2005**

**APPLICATIONS FOR PREMISES/PROVISIONAL PREMISES LICENCES**

**NON-CONTENTIOUS APPLICATIONS**

## **1 Executive Summary/Recommendations**

1.1. This report relates to applications for the grant of premises/provisional premises licences which can only be determined by the Licensing Board.

### **Recommendations**

1.2. **It is recommended that the Board considers the materials before them and, in respect of each application in turn, –**

- (a) **Determines whether there is enough evidence before the Board to allow a determination to be made, or whether the Board needs to defer consideration of the matter to the next available Board meeting for further material to be made available; and**
- (b) **Where the Board has concluded that there is sufficient evidence before them to allow a determination to be made, to consider in respect of each of the applications made, whether said applications should be granted or refused.**

## **2 Purpose and Decision-Making Route**

2.1 The applications referred to in **Appendix 1** to this Report have not been previously considered by the Board.

2.2 The Depute Clerk has determined that the applications listed in **Appendix 1** are non-contentious applications and asks that the Board consider the same.

## **3 Discussion**

### **Consultations**

3.1 The Depute Clerk examined the applications in detail and the Applicant then addressed any issues requiring to be addressed. Thereafter, the Depute Clerk

forwarded the applications to the following persons or bodies as part of the consultation process:

- a) Police Scotland;
- b) Scottish Fire and Rescue Service;
- c) The Environmental Health, Planning and Building Standards Services of Aberdeenshire Council;
- d) The Licensing Standards Officer;
- e) The appropriate Community Council;
- f) Public Health; and
- g) Neighbouring Occupiers.

3.2 At the same time as the applications were consulted on, the applicants required to display a site notice at the premises, in a location where it could be easily read by members of the public, advertising the fact that an application had been made. The Licensing Standards Officers checked to ensure the site notices had been appropriately displayed, and had been displayed for the correct time period, as part of their consultation exercise for each premises.

3.3 The applications were also advertised on the Council's website.

#### **Objections and Representations**

3.4 In relation to each of the applications to be considered by the Board –

- (a) there are no valid objections to the application;
- (b) the size and capacity of the premises, the general nature of the premises, and any entertainment to be provided on the premises are to be substantially the same as at the date of the application; and
- (c) the hours sought in the Operating Plan are within the Licensing Board's general policy on Licensing Hours as set out in its Statement of Licensing Policy.

3.5 In some cases, the Licensing Standards Officers, Police Scotland and Building Standards Officers made representations. These were copied to the applicants who have made the appropriate amendments to their applications in order to satisfy the representations made.



- 3.6 If granted, certain mandatory conditions listed in the Licensing (Scotland) Act 2005 will attach to premises licences. The conditions attaching will depend on the activities listed in the operating plans of the premises.
- 3.7 The Board indicated in its Policy Statement that local conditions would apply to premises licences in certain circumstances. The Depute Clerk has listed the relevant conditions it is recommended that the Board apply to the licence in the table in **Appendix 1**. The Applicant has agreed to the proposed conditions in each case. **Appendix 2** contains the list of available local conditions, as set out in the Board's Policy Statement.
- 3.8 Any applicant who has taken issue with the representations made in respect of their application will have their application considered at a full hearing of the Board, which will be the subject of a separate report.
- 3.9 In line with the decision taken by the Board at their meeting on 12<sup>th</sup> August 2020, the applicants have not been asked to attend the Board.
- 3.10 If the Board does not consider that this is a sufficient hearing to consider the application, then consideration of the application should be deferred to a future Board Meeting to allow for further information to be provided and/or to allow the applicant to be cited to attend.

### **Implications**

- 3.11 If the Board determines that a licence should be granted, it will take effect from the date of grant and can be traded, where the application is for a full premises licence. Where a provisional premises licence is granted, the licence must be confirmed prior to the licence being able to be traded.

### **Procedure**

- 3.12 Each application should be considered on its own merits.
- 3.13 Members' options in disposing of the applications are: -
- (a) To grant the application;
  - (b) Refuse the application;
  - (c) Grant subject to varied hours and/or additional conditions; or

(d) Determine that further evidence is required in which case the application should be referred to the next available Board Meeting in order that the applicant may present their case in full or further information can be obtained in the interim.

3.14 When coming to a decision the Board must consider the evidence provided and the contents of this report. Supplementary advice and information can be made available by Officers, if required.

3.15 The legal test is attached as **Appendix 3** to this report.

#### **4 Priorities, Implications and Risk**

4.1 The Board must determine this matter on its own merits in accordance with the legal tests set out in the relevant legislation. The Board is a separate legal entity to Aberdeenshire Council and therefore the Council's priorities do not apply to this report.

4.2 The applications are within the terms of the Board's policy.

4.3 The table below shows whether risks and implications apply if the recommendations are agreed:

**Table 1 Risks and Implications**

<b>Subject</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>
Financial		<b>X</b>	
Staffing		<b>X</b>	
Equalities and Fairer Scotland Duty		<b>X</b>	
Children and Young Peoples' Rights and Wellbeing		<b>X</b>	
Climate Change and Sustainability		<b>X</b>	

Health and Wellbeing		X	
Town Centre First		X	

- 4.4 An Integrated Impact Assessment has not been carried out as the processing of the applications has not identified any issues that would fall within the remit of the IIA and the Board must determine this matter in line with the legal test.
- 4.5 There are no staffing and financial implications.
- 4.6 The Council's Corporate and Directorate Risk Registers do not apply to the Licensing Board as it is a separate legal entity.
- 4.7 The Council's Town Centre Principle does not apply in respect of this matter as the Licensing Board is a separate legal entity.

## 5 Governance

- 5.1 The Board can consider this application in terms of the paragraph 1.5 of the current Scheme of Delegation which provides that consideration of a premises licences is a matter reserved to the Board.

**Karen Wiles**

**Clerk to the Board**

**Report Prepared by** Fiona M Stewart, Senior Solicitor (Governance), Depute Clerk to the Board

**Date:** 7<sup>th</sup> February 2023

List of Appendices:

Appendix 1 - Details of applications, consultation responses and recommended conditions

Appendix 2 – List of Board's Local Conditions

Appendix 3 – Legal Test



**APPENDIX ONE**

**LIST OF NON-CONTENTIOUS APPLICATIONS**

Name of Applicant and IDOX reference	Name and address of Premises	Details of Application	Remarks and Recommended Conditions
<p><b>1. Cambus O May UK Ltd</b></p> <p><b>Agent: Shaun Ward, Knight Training</b></p> <p><b>LAPROV/01822/22/LK</b></p> <p><b>Provisional Premises Licence</b></p>	<p>Cambus O May Hotel Ballater Aberdeenshire AB35 5SE</p>	<p>The application is in relation to a traditional Victorian Highland Hotel, bar and restaurant. The bar will be primarily for hotel guests and will work in tandem with the restaurant. External clients will be catered for subject to the needs of hotel guests.</p> <p>The application proposes to have an outdoor drinking area in the terraced area.</p> <p>Children and young people will be permitted to access the property.</p> <p>The following additional activities are proposed: conference facilities, receptions, club or other group meetings, live performances, dance facilities, theatre, films, gaming and televised sport. There will be recorded music used as background music in the restaurant area.</p> <p>There will be a small offering of sales of alcohol for consumption off the premises.</p> <p>Proposed Hours:</p> <p>On sales:</p>	<p><b>Representations</b></p> <p><b>Building Standards</b> – A comment was made noting that a building warrant for the installation of a woodchip boiler to the premises is still outstanding with the expectation that this is to be resolved within a number of days. This comment has been passed onto the applicant’s agent. This is a provisional licence application so this matter being outstanding should not impact the granting of a provisional licence. No other comments were made in relation to the application.</p> <p><b>Police Scotland</b> – Police Scotland made a representation in relation to the application, noting that they would have no objection to the application if the following conditions could be agreed:</p> <p><u>Outdoor Drinking Proposed Conditions:</u></p> <ol style="list-style-type: none"> <li>1. A terminal hour of 2200 hours for on sales on all days requested</li> <li>2. No amplified music to be played therein</li> <li>3. Signage to be displayed indicating that alcohol is not to be removed from the licensed areas</li> <li>4. Where there is no existing delineation/boundary, the area to be delineated by barrier or similar</li> </ol> <p><u>Children and Young Persons</u></p>

Name of Applicant and IDOX reference	Name and address of Premises	Details of Application	Remarks and Recommended Conditions
		<p>11.00-23:00 daily Off sales: 10.00-22.00 daily</p>	<ol style="list-style-type: none"> <li>1. Children from 0-15 will only be allowed entry when accompanied by a responsible adult at all times.</li> <li>2. Young people to be accompanied by a responsible adult after 2000 hours.</li> <li>3. Resident children to be allowed entry in all areas, however those parts of the premises where alcohol is served for consumption, they must be accompanied by an adult at all times. Resident young persons to be allowed entry at all areas, however those parts of the premises where alcohol is served for consumption they must be accompanied by an adult after 2000 hours.</li> </ol> <p><b>Certificate of Confirmation</b></p> <p>The applicant has yet to submit the certificate of compliance relating to display of the site notice at the premises.</p> <p><b>Recommended Local Conditions for Licence:</b></p> <ol style="list-style-type: none"> <li>1. General Management for All Premises – Conditions 1-4</li> <li>2. Noise – All Premises – Condition 5</li> <li>3. Lockfast Store – All Premises – Condition 6</li> <li>4. Children and Young Persons – Conditions 7-11</li> <li>5. Vulnerability – All Premises – Condition 19</li> <li>6. CCTV – All Premises – Condition 21</li> </ol>

Name of Applicant and IDOX reference	Name and address of Premises	Details of Application	Remarks and Recommended Conditions
			<p>7. Beer Gardens and outside Drinking Areas – Conditions 31 – 33. **Condition 31 to have a terminal hour of 2200 hours</p> <p><b>Conditions specific to the application</b></p> <p><b>In respect of the outside areas the following conditions be applied:</b></p> <ol style="list-style-type: none"> <li>1. A terminal hour of 2200 hours for on sales on all days requested</li> <li>2. No amplified music to be played therein</li> <li>3. Signage to be displayed indicating that alcohol is not to be removed from the licensed areas</li> <li>4. Where there is no existing delineation/boundary, the area to be delineated by barrier or similar</li> </ol> <p><b>In respect of children and young people, the following conditions to be applied:</b></p> <ol style="list-style-type: none"> <li>1. Children from 0-15 will only be allowed entry when accompanied by a responsible adult at all times.</li> <li>2. Young people to be accompanied by a responsible adult after 2000 hours.</li> <li>3. Resident children to be allowed entry at all areas, however those parts of the premises where alcohol is served for consumption, they must be accompanied by an adult at all</li> </ol>



Name of Applicant and IDOX reference	Name and address of Premises	Details of Application	Remarks and Recommended Conditions
			<p>times. Resident young persons to be allowed entry at all areas, however those parts of the premises where alcohol is served for consumption they must be accompanied by an adult after 2000 hours.</p> <p>The applicant has agreed to all of these conditions being imposed.</p> <p><b>It is recommended that this application is granted in principle subject to receipt of the certificate of confirmation relating to display of the site notice at the premises.</b></p>
<p><b>2. Turriff United Football Club</b></p> <p><b>LAPREM/00050/22/FMS/CG</b></p> <p><b>Premises Licence</b></p>	<p>Turriff United Football Club – Supporters Bar The Haughs Queens Road Turriff AB53 4EF</p>	<p>The application is in relation to a new supporters bar at the Haughs, Turriff</p> <p>The premises will have no core hours, operating solely on reasonable variations as it is only intended that the premises be open on match days and for certain functions as follows:</p> <p>Match days Saturday &amp; Sunday 11.00am – 12.00 Midnight Monday to Friday 6.00pm – 12.00 Midnight</p>	<p><b>Representations</b></p> <p><b>Building Standards</b> – No comments to make</p> <p><b>Community Council</b> – no response received</p> <p><b>Environmental Health</b> – no response received</p> <p><b>Licensing Standards Officer -</b> I confirm that the 21-day site notice was on display and signed 15th December 2022.</p> <p>In respect of the application, it is the intentions of the applicant to only open on match days or pre-arranged functions / fundraising / meeting events hence the purpose of no core licensing hours, just seasonal, as</p>

Name of Applicant and IDOX reference	Name and address of Premises	Details of Application	Remarks and Recommended Conditions
		<p>Other Activities Activities being private functions, meetings, club team building and social events, seminars, weddings, funeral teas, christenings and other fundraising activities for other organisations</p> <p>Monday Friday 11.00am – 12.00 Midnight Saturday &amp; Sunday 11.00am – 12.00 Midnight</p> <p>Off Season Mid April – July for Club friendly matches, other matches and fundraising events for club and other organisations</p> <p>Monday Friday 11.00am – 12.00 Midnight Saturday &amp; Sunday 11.00am – 12.00 Midnight</p> <p>Off sales will be permitted between 10.00am and 10.00pm while the Supporters Bar is open</p> <p>Other activities to be provided during and outwith seasonal hours are:</p>	<p>not open on a day-to-day basis. The applicant has removed the pool table, therefore the reference to pool in Question 5 of the activities should be removed. The terms of access at Question 6 of the operating plan, for under 18's is not clear; I therefore verified with the applicant their intentions, and I've interpreted as follows: Terms : Children and Young persons must be accompanied by responsible adult. Ages: Children 0 - 15 years &amp; Young Persons 16 &amp; 17 years Times: Children and Young Persons are permitted until 2000 hrs, unless attending private function until terminal hour I request Question 6 of the operating plan is updated , with clear Terms, Ages, Times and Parts access in line with consultee responses. I recommend the following conditions in line with licensing boards policy, as follows: 1-5 , 7 - 11 &amp; 19 - 21 . I've no further comments or observations.</p> <p><b>Neighbours</b> – no responses received</p> <p><b>NHS Grampian</b> - no response received</p> <p><b>Planning Service</b> – no comments to make</p> <p><b>Police Scotland</b> –</p>

Name of Applicant and IDOX reference	Name and address of Premises	Details of Application	Remarks and Recommended Conditions
		<p>Conference facilities, restaurant facilities, bar meals, receptions including weddings, funerals, birthdays, retirements etc, club or other group meetings, etc, recorded music, gaming, indoor/outdoor sports, televised sports</p> <p>Any other activities include fund raising events for the Club and other organisations such as race nights, quiz nights, speaker events, business brunch/lunch/dinner, sportsmans' dinner, coffee mornings, award presentations.</p> <p>The premises will operate as a public house and not as a members club</p>	<p>I have to advise you that neither the applicant nor any connected person has been convicted of any relevant offence.</p> <p>I am unable to confirm the existence of any foreign offence in respect of the applicant or any connected person.</p> <p>In terms of Section 22(1)(b)(ii) and (iii) of the same Act and in support of the, Preventing Public Nuisance from licensing objective, I make the following representation to the application,</p> <p>In In respect of children 0-15 years, I request the following conditions be attached:</p> <ol style="list-style-type: none"> <li>1. The Operating Plan be modified to reflect that children 0-15 be accompanied by a responsible person aged 18 years or over until 2000 hours.</li> <li>2. No children to be permitted at the bar area;</li> </ol> <p>In In respect of young persons 16 &amp; 17 years, I request the following conditions be attached:</p> <ol style="list-style-type: none"> <li>1. The Operating Plan be modified to reflect that, young persons aged 16 and 17 will be admitted to the premises until 2000 hours. In the event of a private function young persons are allowed entry, accompanied by a responsible person aged18 years or over until the terminal hour.</li> </ol>

Name of Applicant and IDOX reference	Name and address of Premises	Details of Application	Remarks and Recommended Conditions
			<p><b>Public</b> - no responses received</p> <p><b>Scottish Fire &amp; Rescue Service</b> - no response received.</p> <p><b>Certificate of Confirmation</b></p> <p><b>The applicant submitted the certificate of compliance relating to display of the site notice at the premises.</b></p> <p><b>Recommended Local Conditions for Licence:</b></p> <ol style="list-style-type: none"> <li>1. General Management for All Premises – Conditions 1-4</li> <li>2. Noise – All Premises – Condition 5</li> <li>3. Lockfast Store – All Premises – Condition 6</li> <li>4. Children and Young Persons – Conditions 7-11</li> <li>5. Vulnerability – All Premises – Condition 19</li> <li>6. CCTV – All Premises – Condition 21</li> </ol> <p><b>Conditions specific to the application</b> None</p> <p>The applicant has been asked to submit a revised operating plan addressing the issues raised by the LSO and Police Scotland by 20<sup>th</sup> February 2023</p> <p><b>It is recommended that this application is granted where a revised operating plan has been received by 20<sup>th</sup> February 2023, failing which the matter should be deferred to the Board on 26th April 2023</b></p>

Name of Applicant and IDOX reference	Name and address of Premises	Details of Application	Remarks and Recommended Conditions
			<b>for determination once the revised operating plan has been received.</b>
<p><b>3. William David Gatt Per Stuart Kerrshaw, Agent LAPROV/01206/22/FMS/CG Provisional Premises Licence</b></p>	<p>Whitehills Premier Store 8A Loch Steet Whitehills AB45 2LT</p>	<p>The premises form a new, purpose-built, local convenience store, comprising of convenience store, shop, café and related facilities with alcohol store and staff facilities, located in a mixed commercial and residential area within the village of whitehills</p> <p>Opening hours will be:</p> <p>On Sales Monday – Sunday 11.00 – 22.00</p> <p>Off Sales Monday – Sunday 10.00 – 22.00</p>	<p><b>Representations</b></p> <p><b>Building Standards</b> – Building Standards is not in a position to comment on this provisional premises licence application, the submission of completion for the building warrant has not been accepted yet and there is currently an amendment to warrant being processed to show all changes. Please also be aware that the plan provided with this application is not as per the drawings submitted in our amendment,</p> <p><b>NOTE: This will not affect this application as a completion certificate is not required for a provisional premises licence but will be required for the application for confirmation of the provisional premises licence</b></p> <p><b>Community Council</b> - no response received</p> <p><b>Environmental Health</b> – no response received</p> <p><b>Licensing Standards Officer</b> – I have the following observations and recommended conditions in respect of this application:</p> <p>Layout Plans The key for off sale displays requires updating to reflect correct displays under each header for</p>

Name of Applicant and IDOX reference	Name and address of Premises	Details of Application	Remarks and Recommended Conditions
			<p>Accessible and Inaccessible, currently on proposed layout plans as follows (Just requires headers swapped around)</p> <p>Total Display Area of Alcohol (<b>Accessible</b>) Upper wall shelving = 3.0m(w) x 1.6m(h) = 4.8 m<sup>2</sup></p> <p>Total Display Area of Alcohol (<b>Inaccessible</b>) Wall shelving = 1.0m (w) x 1.8m(h) = 1.8m<sup>2</sup> Lockable spirits = 1.6m (w) x 1.8m(h) = 2.88m<sup>2</sup> Wall shelving (Beer Cave) = 16.0m (w) x 1.8m (h) = 28.8m<sup>2</sup> Beer/Wine Stacks = 2.4m(w) x 1.2m(h) = 2.88m<sup>2</sup></p> <p>Total display Area = 41.16m<sup>2</sup></p> <p>Local Conditions I recommend the following conditions: 1, 2, 3, 4, 6, 8-11, 19 &amp; 21</p> <p>Specific Conditions in terms of the Board's Policy for Alcohol Deliveries and Internet Sales:</p> <ul style="list-style-type: none"> <li>• Age verification policies for delivery drivers where the recipient of the alcohol is believed to be under the age of 25</li> <li>• Training for delivery drivers</li> <li>• Requirements for the customer to sign on receipt of delivery of alcohol</li> <li>• Delivery drivers to keep refusal registers</li> </ul>

Name of Applicant and IDOX reference	Name and address of Premises	Details of Application	Remarks and Recommended Conditions
			<ul style="list-style-type: none"> <li>• Arrangements to ensure that orders are not left in nominated safe places</li> <li>• Training for staff delivering alcohol to be the same level as staff who sell or supply alcohol within licensed premises</li> </ul> <p>I confirm the site notice was on display on 16<sup>th</sup> November</p> <p><b>Neighbours</b> - no response received</p> <p><b>NHS Grampian</b> - no response received</p> <p><b>Planning</b> – no comments made</p> <p><b>Police</b> - no comments made</p> <p><b>Public</b> - no response received</p> <p><b>Scottish Fire &amp; Rescue Service</b> no response received</p> <p><b>Certificate of Confirmation</b></p> <p>The applicant has not yet submitted the certificate of compliance relating to display of the site notice at the premises.</p> <p><b>Recommended Local Conditions for Licence:</b></p> <ol style="list-style-type: none"> <li>1. General Management for All Premises – Conditions 1-4</li> <li>2. Noise – All Premises – Condition 5</li> </ol>










Name of Applicant and IDOX reference	Name and address of Premises	Details of Application	Remarks and Recommended Conditions
			<p>3. Lockfast Store – All Premises – Condition 6  4. Children and Young Persons – Conditions 7-11  5. Vulnerability – All Premises – Condition 19  6. CCTV – All Premises – Condition 21</p> <p><b>Conditions specific to the application</b>  In respect of alcohol deliveries –  a) Age verification policies for delivery drivers where the recipient is believed to be under the age of 25  b) Delivery drivers to keep refusal register  c) Arrangements to ensure that orders are not left in nominated safe places  d) Training for staff delivering alcohol to be at the same level as staff who sell or supply alcohol within licensed premises</p> <p>To comply with Section 119 of the Licensing (Scotland) Act 2005 in relation to keeping day and delivery books</p> <p>The applicant has been asked to submit a revised key to the layout plans addressing the issues raised by the LSO by 20<sup>th</sup> February 2023</p> <p><b>It is recommended that this application is granted, subject to receipt of a certificate of confirmation, where the revised document has been received by 20<sup>th</sup> February 2023, failing which the matter should be deferred to the Board on 26th April 2023 for determination once the necessary documentation has been received.</b></p>






























APPENDIX 2

## LOCAL CONDITIONS: PREMISES LICENCES


### A. THE ABERDEENSHIRE LICENSING BOARD

Local Conditions		Objective
<b>General Management for All Premises</b>		
1	The provisions relating to management of licensed premises contained within the Board's current policy statement, particularly <b>Appendix 1</b> thereto, <b>must</b> be complied with.	<b>PCD, SPS, PPN PIPH, PCYPFH</b> 
2	Premises Licence Holders <b>must</b> ensure that the premises, internally and externally, are maintained in good, clean and tidy condition at all times.	<b>SPS, PPN</b> 
3	Premises Licence Holders <b>must</b> ensure that Refusal Registers and Daily Incident logs are accessible for inspection by Police and Licensing Standards Officers	<b>PCD, SPS</b> 
4	The Licence Holder <b>must</b> ensure that any general authorisation for the sale of alcohol required within the premises is – <ul style="list-style-type: none"> <li>• in writing</li> <li>• available for inspections by Police and Licensing Standards Officers</li> <li>• brought to the attention of and signed by all parties; and</li> <li>• enforced by the premises manager</li> </ul>	<b>PCD, SPS, PPN, PIPH, PCYPFH</b> 
<b>Noise – All Premises</b>		
5	Noise from amplified and non-amplified music, singing and speech sourced from licensed premises <b>shall not</b> be audible in adjoining properties after 11.00 p.m.	<b>PPN</b> 
<b>Lockfast Store – All Premises</b>		
6	All alcohol not on display within the premises <b>must</b> be kept within a designated lockfast store on the premises, and shown on the layout plan attached to the premises licence.	<b>PCD, SPS</b> 
<b>Children and Young Persons – On Sale Premises</b>		
7	Children under the age of twelve years, <b>shall not</b> have direct access to pool tables, darts boards or gaming machines in any part of the premises to which they have access or are allowed entry.	<b>PCYPFH</b> 
8	The Licence Holder <b>shall</b> provide safe high chairs for the use of young children	<b>SPS, PCYPFH</b> 
9	The Licence Holder <b>shall</b> provide heating facilities for baby/toddler's food at no cost to the customer.	<b>SPS, PCYPFH</b> 









10	The Licence Holder <b>shall</b> provide containers for the disposal of soiled nappies	SPS, PPN, PCYPFH   
11	The Licence Holder <b>shall</b> ensure that heating sources are adequately protected.	SPS, PCYPFH  
<b>Premises Providing Late Night Entertainment – On Sale Premises</b>		
12	Alcohol <b>shall</b> be provided for consumption on the premises only.	PCD, SPS, PPN   
13	The entertainment to be provided <b>shall</b> be:XXX to be defined by the Board on a case-by-case basis	PCD, SPS, PPN   
14	The entertainment provided <b>shall</b> be on a continuous basis with breaks of not more than 15 minutes in any one hour.	PCD, SPS, PPN   
15	All public notices or advertisements including social media <b>shall</b> contain the following information:- a. The name and address of the premises b. The entertainment to be provided on the premises c. The commencement time of the entertainment d. The price of entry e. The terminal hour for the premises. f. The time of the curfew, where operated, <b>must</b> be advertised.	PCD, SPS, PPN   
16	The Licence Holder <b>shall</b> display a notice at the entrances to the venue clearly defining the policy of the venue relating to the use of illegal substances and weapons within the venue and stating that criminal offences will be reported to Police Scotland	PCD, SPS, PPN, PIPH    
17	The premises <b>shall</b> have a dispersal policy to ensure patrons are not put in vulnerable situations after leaving the premises. The policy <b>must</b> be in writing. All members of staff <b>shall</b> be informed of the policy. The policy <b>shall</b> be made available to customers, and for inspection. The policy <b>shall</b> be reviewed regularly and a detailed record of reviews kept.	PCD, SPS, PPN, PIPH    
<b>Adult Entertainment – On Sale Premises</b>		
18	Children and young persons <b>are not permitted</b> to attend any event involving adult entertainment.	PCYPFH 
<b>Vulnerability – All Premises</b>		









































19	<p>The Licence Holder <b>must</b> have in place a duty of care policy to ensure a standard approach is taken when any patron appears to be displaying signs of excessive intoxication.</p> <p>The Licence Holder <b>must</b> ensure that all staff have additional training in identifying signs of excessive intoxication and an enhanced awareness of vulnerability through intoxication.</p> <p>The Licence Holder <b>shall</b> ensure that staff training records are made accessible for inspection by Police Scotland and Licensing Standards Officers.</p>	<p><b>PCD, SPS, PPN PIPH, PCYPFH</b></p> 
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**Door Supervisors – On Sale Premises**






20	<p>The Premises Licence Holder <b>must</b> ensure that sufficient numbers of Security Industry Authority licensed stewards are on duty to ensure a safe and responsibly run premises. Such persons <b>must</b> be easily identifiable as such to persons present, display the appropriate identification, and should be made aware of their duties, policies and practices, by the Premises Licence Holder. They <b>must</b> be responsible, capable, aware of their duties and not drink alcoholic liquor for the duration of their active employment. Their duties are to:</p> <ol style="list-style-type: none"> <li>a. Confirm that persons who seek access to the premises have paid for admission or have appropriate passes/invitations;</li> <li>b. Identify and refuse entry to drunken persons</li> <li>c. Identify and refuse entry to any persons banned through pubwatch or by any other means;</li> <li>d. Actively police the premises and to perform all activities in line with their role under the Private Security Act 2001;</li> <li>e. Supervise entrance doors/access points at all times to ensure that no fire or other exits are blocked;</li> <li>f. Be aware of the fire safety precautions and procedures and all other policies and practices;</li> <li>g. Be aware of the premise’s drug prevention policy;</li> <li>h. Provide assistance to patrons, including customer care, directions to facilities and health and safety;</li> <li>i. Ensure that no patron removes glasses, or open or closed vessels from the premises when exiting for any reason.</li> <li>j. Remain on the premises until the end of permitted hours and all patrons have vacated the premises, including patrolling the vicinity outside the premises to assist dispersal from the premises after the premises close;</li> <li>k. Be aware of the provisions of the Licensing (Scotland) Act 2005 which impact on the running of the premises;</li> </ol>	<p><b>PCD, SPS, PPN PIPH</b></p> 
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**CCTV – All Premises**

21	<p>Where a CCTV system is installed this <b>must</b> comply with the required standard and be maintained in working order and staff <b>must</b> be able to operate the system.</p> <p>Images recorded on CCTV <b>must</b> be kept for at least seven days and <b>must</b> be made available to Police Scotland on request</p>	<p>PCD, SPS, PPN</p> 
<b>Members Clubs</b>		
22	<p>Members Clubs <b>must</b> comply with the provisions of <b>Supplementary Policy Statement 7</b> of the Board's current policy statement.</p>	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 
23	<p>Members Clubs <b>shall</b> adhere to the terms of the Club's constitution or rules attached to their premises licence</p>	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 
24	<p>Where the Club has submitted draft constitution or rules with their application for a premises licence, they <b>shall</b> submit a copy of the approved constitution or rules to the Clerk to the Board within 28 calendar days of the draft constitution/rules being approved by the Club's governing body.</p>	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 
25	<p>Where the Club revises its constitution or rules in the future, the Club <b>must</b> submit a copy of the proposed revisions to the Board for approval and thereafter submit a copy of the approved revised constitution or rules to the Clerk to the Board, within 28 calendar days of the draft constitution/rules being approved by the Club's governing body.</p>	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 
26	<p>Where there are any changes to the list of connected persons in relation to the Club, the Club <b>must</b> submit details of the names, addresses, postcodes, dates and places of birth of the new connected persons and an updated list of all connected persons, to the Clerk to the Board, within 28 calendar days of the changes to connected persons being approved by the Club's governing body.</p>	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 
27	<p>The Club <b>must</b> ensure that at all times, there at least two members of staff, or Committee Members, or volunteers involved in the management of the Club who are trained to the standard of a Personal Licence Holder. If the persons trained change at any time, evidence of an up-to-date training certificate <b>must</b> be submitted to the Clerk within two months of change in personnel.</p>	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 
28	<p>Any person requiring to hold a training certificate for the purposes of condition 26 above, <b>must</b> complete a refresher training course within a period of 3 months of the 5-year anniversary of the date of the initial training certificate and submit a copy of the refresher training certificate to the Clerk within 28 calendar days of receipt of the updated certificate. Further refresher training will be completed at 5 yearly intervals thereafter in line with this condition.</p>	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 

29	That up to 5 visitors per member <b>shall</b> be permitted in the club premises provided they are signed into the club by that member into a book kept for that purpose by the club. Such visitors <b>must</b> be bone fide guests of the member signing them in.	SPS, PPN  
30	All promotional materials, including the use of social media, <b>must</b> specify that events are open to Members and Guests only, unless an Occasional Licence is in place. Events <b>must</b> be advertised in the press as for “Members and Guests only”	SPS, PPN  
<b>Beer Gardens and Outside Drinking Areas</b>		
31	Beer Gardens and outside drinking areas <b>must not</b> be used for activities linked to the sale or consumption of alcohol after 11.00pm	PCD, SPS, PPN, PIPH, PCYPFH     
32	The Licence Holder <b>must</b> take reasonable steps to ensure that litter and, where used, glass and bottles are removed from beer gardens and outside drinking areas on a regular basis.	SPS, PPN, PIPH, PCYPFH    
33	The Licence Holder <b>shall</b> consider the use of safe alternatives to glass containers and bottles in beer gardens and outside drinking areas.	PCD, SPS, PPN, PIPH, PCYPFH     
<b>Hybrid Premises</b>		
34	Premises operating as “other premises” during the day and wishing to operate as Nightclubs thereafter <b>must</b> ensure that the premises are closed down and cleared of patrons, particularly children and young persons, for at least one hour prior to the commencement of operating as a nightclub at the premises	PCD, SPS, PPN, PCYPFH    
<b>Festive Season Conditions for Premises opening after 1.00a.m.</b>		
35	A person trained to the satisfaction of the Licensing Board in administering first aid <b>must</b> be present on the premises from 1.00a.m. (on any day when the premises are open at that time) until the time at which the premises next close	SPS, PIPH, PCYPFH   
36	A designated person who is the holder of a personal licence <b>must</b> be present on the premises from 1.00a.m. (on any day when the premises are open at that time) until the time at which the premises next close	PCD, SPS, PPN, PIPH, PCYPFH     
37	There <b>must</b> be written policies in existence concerning - <ul style="list-style-type: none"> <li>• The evacuation of the premises; and</li> <li>• The prevention of the misuse of drugs on the premises.</li> <li>• Duty of care (‘Vulnerability through Intoxication’)</li> </ul>	PCD, SPS, PPN, PIPH, PCYPFH     
38	There <b>must</b> be persons responsible for checking on the safety and wellbeing of persons using any toilet facilities on the premises.	PCD, SPS, PPN, PIPH, PCYPFH     

39	<p>A person who holds a licence granted under Section 8 of the Private Security Industry Act 2001 <b>must</b> be positioned at every entrance to the premises from 1.00a.m. (on any day when the premises are open at that time) until the time at which the premises next close.</p>	<p><b>PCD, SPS, PPN, PIPH, PCYPFH</b></p> 
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Key to objectives		
	<b>PCD</b>	Prevention of Crime and Disorder
	<b>SPS</b>	Securing Public Safety
	<b>PPN</b>	Preventing Public Nuisance
	<b>PIPH</b>	Preventing and Improving Public Health
	<b>PCYPFH</b>	Protecting Children and Young Persons from Harm

**NOTE: Additional Conditions specific to individual licensed premises may be attached by the Board to premises licences depending on the circumstances of the particular application, over and above the pool conditions listed in this document.**

**APPENDIX 3 - Licensing (Scotland) Act 2005**

**Part 3 & Sections 17-28, 45**

**Grant Premises Licence or Provisional Premises Licence**

**LEGAL TEST**

The legal test is set out in Section 23 of the Act.

- (1) An application for a premises licence is to be determined in accordance with this section.
- (2) The Licensing Board **must** hold a hearing for the purpose of considering and determining the application.
- (3) In considering and determining the application, the Board **MUST** take account of the application documents (as listed below)
- (4) The Board **MUST**, in considering and determining the application, consider whether any of the grounds for refusal applies and,
  - (a) if none of them applies, the Board **MUST** grant the application, or
  - (b) if any of them applies, the Board **MUST** refuse the application.
- (5) The grounds for refusal are –
  - (a) that the subject premises are excluded premises
  - (b) that the application **must** be refused under section 25(2), 64(2) or 65(3) [the applicant has been lodged within a period of 12 months of the date of a previous refusal]
  - (ba) that the Licensing Board considers, having regard to the licensing objectives that the applicant is not a fit and proper person to be the holder or a licence.
  - (c) That the Licensing Board considers that the granting of the application would otherwise be inconsistent with one or more of the Licensing objectives.
  - (d) that, having regard to –
    - (i) the nature of the activities proposed to be carried on in the subject premises,
    - (ii) the location, character and condition of the premises, and
    - (iii) the persons likely to frequent the premises

The Board considers that the premises are unsuitable for use for the sale of alcohol.

- (e) that the Board considers that, if the application were to be granted, there would, as a result, be overprovision of licensed premises, or licensed premises of the same or similar description as the subject premises in the locality.
- (6) In considering whether either of the grounds for refusal specified in Section 23(5)(ba) and (c) applies, the Licensing Board **must** in particular take into account –
  - (a) any conviction, notice of which is given by the chief constable under Section 21(4)(b), and
  - (b) any report given by the chief constable under Section 24A(2) (power of the Board to request the Chief Constable to provide an anti-social behaviour report)
- (7) Where the Licensing Board considers that –
  - (a) they would refuse the application as made, but
  - (b) if a modification proposed by them were made to the operating plan, or layout plan, or both) for the subject premises accompanying the application, they would be able to grant the application,

The Board **MUST**, if the applicant accepts the proposed modification, grant the application as modified.
- (8) Where the Licensing Board REFUSES the application-
  - (a) the Board **MUST** specify the ground for refusal, and
  - (b) if the ground for refusal is that specified in Section 23(5)(ba) or (c), the Board **MUST** specify the licensing objective or objectives in question.

1. Chapter 8 of the Scottish Government's Statutory Guidance to Licensing Authorities relates to premises licences. The Board should note that in terms of Section 142(4) of the Act, a Board deciding not to follow this guidance **must** give Ministers notice of that decision together with a statement of the reasons for it.



# ***THE ABERDEENSHIRE LICENSING BOARD***

**REPORT TO LICENSING BOARD HEARING – 22<sup>nd</sup> February 2023**

**LICENSING (SCOTLAND) ACT 2005**

**APPLICATIONS FOR MAJOR VARIATIONS OF VARIATION OF PREMISES  
LICENCE – NON CONTENTIOUS APPLICATIONS**

## **1. Executive Summary/Recommendations**

1.1. This report relates to applications for major variations of premises licences which can only be determined by the Licensing Board.

### **Recommendations**

1.2. It is recommended that the Board considers the materials before them and, in respect of each application in turn, –

- (a) Determines whether there is enough evidence before the Board to allow a determination to be made, or whether the Board needs to defer consideration of the matter to the next available Board meeting for further material to be made available; and
- (b) Where the Board has concluded that there is sufficient evidence before them to allow a determination to be made, to consider in respect of each of the applications made, whether said applications should be granted or refused.

## **2. Purpose and Decision-Making Route**

2.1. The applications referred to in **Appendix 1** of this report have not been previously considered by the Board.

2.2. The Depute Clerk has determined that the applications for major variation of premises licences listed at **Appendix 1** to this report are non-contentious applications and asks that the Board consider same.

## **3. Discussion**

## **Consultations**

- 3.1. The Depute Clerk examined the applications in detail and the Applicants then addressed any issues requiring to be addressed. Thereafter, the Depute Clerk forwarded the applications to the following persons or bodies as part of the consultation process:
- (a) Police Scotland;
  - (b) Scottish Fire and Rescue Service;
  - (c) The Environmental Health, Planning and Building Standards Services of Aberdeenshire Council;
  - (d) The Licensing Standards Officer;
  - (e) The appropriate Community Council;
  - (f) Public Health, and
  - (g) Neighbouring Occupiers.
- 3.2. At the same time as the applications were consulted on, the applicants required to display a site notice at the premises, in a location where it could be easily read by members of the public, advertising the fact that an application had been made. The Licensing Standards Officers checked to ensure the site notices had been appropriately displayed, and had been displayed for the correct time period, as part of their consultation exercise for the premises.
- 3.3. The applications were also advertised on the Council's website.

## **Objections and Representations**

- 3.4. In relation to each of the applications to be considered by the Board –
- (a) There are no valid objections to the application.
  - (b) the size and capacity of the premises, the general nature of the premises, and any entertainment to be provided on the premises are to be substantially the same as at the date of the application; and

- (c) the hours sought in the Operating Plan are within the Licensing Board's general policy on Licensing Hours as set out in its Statement of Licensing Policy.
- 3.5. In some cases, the Licensing Standards officers, Police Scotland and Building Standards Officers made representations. These were copied to the applicants who have made the appropriate amendments to their applications in order to satisfy the representations made.
- 3.6. The Board indicated in its Policy Statement that local conditions would apply to premises licences in certain circumstances. The Depute Clerk has listed the relevant conditions it is recommended that the Board apply to the licence in the table in **Appendix 1**. The Applicant has agreed to the proposed conditions in each case. **Appendix 2** contains the list of available local conditions, as set out in the Board's Policy Statement.
- 3.7. Any applicant who has taken issue with representations made will have their application considered at a full hearing of the Board, which will be the subject of a separate report.
- 3.8. In light of the fact that these applications are considered to be non-contentious, they have been put to the Board for consideration without the applicants requiring to be present.
- 3.9. If the Board does not consider that this is a sufficient hearing to consider the application, then consideration of the application should be deferred to a future Board Meeting to allow for further information to be provided and/or to allow the applicant to be cited to attend.

### **Implications**

- 3.10. If the Board determines that the application should be granted, the variation will take effect from the date of grant. An amended premises licence will be prepared and issued to the licence holder.

3.11 Where the Board refuses an application, the licence holder retains the premises licence as originally granted by the Board, or as previously varied by the Board, and can continue to trade that licence.

### **Procedure**

3.12 Each application should be considered on its own merits.

3.13 Members' options in disposing of the applications are:-

(a) To grant the application;

(b) Refuse the application;

(c) Grant subject to varied hours and/or additional conditions; or

(d) Determine that further evidence is required in which case the application should be referred to the next available Board Meeting in order that the applicant may present their case in full or further information can be obtained in the interim.

3.14 When coming to a decision the Board must consider the evidence provided and the contents of this report. Supplementary advice and information can be made available by Officers, if required.

3.15 The legal test is attached as **Appendix 3** to this report.

## **4. Priorities, Implications and Risk**

4.1 The Board must determine this matter on its own merits in accordance with the legal tests set out in the relevant legislation. The Board is a separate legal entity to Aberdeenshire Council and therefore the Council's priorities do not apply to this report.

4.2 The applications are within the terms of the Board's policy.

4.3 The table below shows whether risks and implications apply if the recommendations are agreed:

**Table 1 Risks and Implications**

<b>Subject</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>
Financial		X	
Staffing		X	
Equalities and Fairer Scotland Duty		X	
Children and Young Peoples' Rights and Wellbeing		X	
Climate Change and Sustainability		X	
Health and Wellbeing		X	
Town Centre First		X	

- 4.4 An Integrated Impact Assessment has not been carried out as the processing of the applications has not identified any issues that would fall within the remit of the IIA and the Board must determine this matter in line with the legal test.
- 4.5 There are no staffing and financial implications.
- 4.6 The Council's Corporate and Directorate Risk Registers do not apply to the Licensing Board as it is a separate legal entity.
- 4.7 The Council's Town Centre Principle does not apply in respect of this matter as the Licensing Board is a separate legal entity.

## **5. Governance**

- 5.1. The Board can consider these applications in terms of paragraph 1.6 of the current Scheme of Delegation which provides that consideration of such applications is a matter reserved to the Board.

**Karen Wiles**  
**Clerk to the Board**

**Report Prepared by:** Fiona M Stewart, Senior Solicitor (Governance), Depute Clerk to the Board

**Date:** 7<sup>th</sup> February 2023

### **Appendices**

**Appendix 1** – List of Applications to be considered

**Appendix 2** – List of Local Conditions

**Appendix 3** – Legal Test

**Licensing (Scotland) Act 2005, section 29**

**APPLICATION FOR MAJOR VARIATION OF PREMISES LICENCE**

**LAPREM/00144/22/ADEC**

**1. Name of Applicant/Agent name & address (include postcode)**

Whyte and Mackay Limited  
4<sup>th</sup> Floor St Vincent Plaza  
319 St Vincent Street  
Glasgow  
G2 5RG

Janet Hood (agent)

**2. Name & address of premises (inc. postcode) (pulled from system)**

Fettercairn Distillery Café Shop and Visitor Centre  
Distillery Road  
Fettercairn  
Laurencekirk  
Aberdeenshire  
AB30 1YB

	EXISTING LICENSED HOURS		PROPOSED LICENSED HOURS	
	ON SALE	OFF SALE	ON SALE	Off Sale
<b>Monday</b>	10:00 – 17:30	10:00 – 17:30	10:00 – 00:00	10:00 – 22:00
<b>Tuesday</b>	10:00 – 17:30	10:00 – 17:30	10:00 – 00:00	10:00 – 22:00
<b>Wednesday</b>	10:00 – 17:30	10:00 – 17:30	10:00 – 00:00	10:00 – 22:00
<b>Thursday</b>	10:00 – 17:30	10:00 – 17:30	10:00 – 00:00	10:00 – 22:00
<b>Friday</b>	10:00 – 17:30	10:00 – 17:30	10:00 – 01:00	10:00 – 22:00
<b>Saturday</b>	10:00 – 17:30	10:00 – 17:30	10:00 – 01:00	10:00 – 22:00
<b>Sunday</b>	10:00 – 17:30	10:00 – 17:30	10:00 – 00:00	10:00 – 22:00

- Brief overview of the proposed change(s) to the premises licence

**The applicant wants to:**

- Amend On-Sales core hours: from Monday to Sunday 10am to 5.30pm to Monday -Thursday 10am to midnight, Fridays & Saturdays 10am to 01:00am, and Sundays 10am to midnight.
- Amend Off-Sales core hours from: Monday to Sunday 10am to 5.30pm to Monday to Sunday 10am to 10pm.
- Add the following new activities: Conference facilities, Restaurant facilities, Bar meals, Receptions (including wedding, funeral, birthdays, retirements etc), Club or other group meetings etc, Live performances, Dance facilities, Theatre, Films.
- Amend the details of activities to be provided outwith core licensed hours to the following: Tasting and sampling of whiskies can take place during core hours. There will be no overlap of activities so no requirement for shutdown as per Board Policy. Food will be supplied as and when required for events by local businesses with Food Safety PASS certificate. All activities in column 4 can commence at 06:00am to include set up and continue through core hours.
- Amend any other activities Q5(f) to read as follows:

THE PREMISES ARE DESIGNED TO BE USED AS A DISTILLERY VISITOR CENTRE - in terms of Licensing (Scotland) Act 205 Schedule 3 paragraph 13(3) the premises form part of a larger site which is used principally for the production of alcoholic drinks, and (ii) the visitor attraction is used principally to provide information about and promote the history and attributes of a particular alcoholic drink or a particular category of alcoholic drink.

The premises will be open to the general public for distillery visits/tours, whisky tastings, markets and promotions otherwise all activities will be pre booked.

Whisky tastings as part of distillery visits/tours will be in 20ml measures and can be offered in the visitor centre, warehouse number 2 and such other places as from time to time may be appropriate for such activities.

Alcohol products made by the premises licence holder will be on display in the visitor centre which will offer information concerning the history, attributes and provenance of the products on sale..

The premises will not operate in the manner of a public house and no alcohol will be sold for on sale consumption or served for on sale consumption except when there is a distillery tour, distillery visits/tours, except as detailed below.

In order to benefit the local community and ancillary to the main use of the visitor centre - the premises can be booked from time to time for events including without prejudice to the generality markets, events such as corporate and private dinners, weddings, whisky tastings, food and drink matchings.

Off sales of whiskies and other products can take place during normal off sales hours from within the visitor centre.

1. Film in conjunction with whiskey tours, conferences or other events as and when required.

- Amend Off-Sales Capacity from 15.8806m2 to Visitor Centre off sales display area NIL SUBJECT TO Licensing (Scotland) Act 2005, Schedule 3 paragraph 13(3) no capacity for off sales.
- Amend On-Sales Capacity from Maximum number of people at any one time will be 45 to Visitor Centre – 60 and maximum number for whisky tastings in Warehouse No.2 – 10.\*  
*\*(10 revised to 15 - see sections 3 and 4 below.)*

### **Certificate of Confirmation**

**The applicant has submitted the certificate of compliance relating to display of the site notice at the premises.**

### **3. Brief outline of representations made**

#### **Police Scotland**

A representation was received stating:

The variation requested consists of the following modifications to tastings and the Visitor Centre operating plan:

1. A change in core licensed hours for on sales from 1000 to 1730 hours daily to 1000 to 0000 hours Sunday to Thursday and from 1000 to 0100 hours Friday and Saturday;
2. Amend core licensed hours for off sales from 1000 to 1730 hours daily to 1000 to 2200 hours daily;
3. Inclusion of Conference facilities, Restaurant/Bar Meals, Receptions, Club Meetings, Live Performances, Theatre and Films as per the wording provided;
4. Amend terms, times and parts of the premises for children and young persons with the wording provided;
5. Increase the licensed area and amendment to capacity, to include the premises marked as the Warehouse No.2 and Visitor Centre and the interlinking corridor, as per the layout plan provided.

In terms of Section 29(5) this request can be considered a variation.

I have no adverse comment to make regarding the variation proposed.

### **LSO**

A representation was received stating:

- I have no adverse comments to make nor additional conditions to impose.
- I can confirm that the site notice has been displayed correctly.

### **Building Standards**

A representation was received stating:

- I can confirm that Building Standards have no objections to the above application.
- The maximum occupancy capacity is 60 people.

Following clarification that the proposed On-Sales capacity was 60 in respect of the Visitor Centre and 10 for the Warehouse No. 2 building, Building Standards stated they would accept an increased capacity for the Warehouse No. 2 building to accommodate staff accompanying a tour party from 10 to 15.

### **Mearns Community Council**

A representation was received stating that Mearns Community Council had no objection to this variation of licence.

### **Planning**

A representation was received stating that Development Management had no comments.

### **NHS Grampian**

An acknowledgement of the consultation was received but no representation or further comment was received.

### **Environmental Health**

No representation or comment was received.

### **No other objections or representations were made in respect of the application.**

#### 4. Applicant's response to representations

- The Applicant's Agent accepted Building Standards' suggestion to increase the capacity for the Warehouse No.2 Building from 10 to 15. Police Scotland and the LSO confirmed they had no adverse comments to make on this and there were no further comments from other consultees. The Agent submitted a revised Operating Plan and Layout Plan.
- The Applicant's Agent has indicated that they are willing to comply with the local conditions noted below which are recommended by the Licensing Service.

### **Recommended Conditions for Licence:**

1. General Management for All Premises – Conditions 1-4
2. Noise – All Premises – Condition 5
3. Lockfast Store – All Premises – Condition 6
4. Children and Young Persons – Conditions 7-11
5. Vulnerability – All Premises – Condition 19
6. CCTV – All Premises – Condition 21

### **Conditions specific to the application:**

There are no conditions specific to the application.



**Licensing (Scotland) Act 2005, section 29**  
**APPLICATION FOR MAJOR VARIATION OF PREMISES LICENCE**  
**LAPREM/00203/22/LK**

<p><b>1. Name of Applicant/Agent name &amp; address (include postcode)</b></p> <p>Aldi Stores Limited Holly Lane Atherstone Warwickshire CV9 2SQ</p> <p>Agent: TLT Solicitors, Glasgow</p>	<p><b>2. Name &amp; address of premises (inc. postcode) (pulled from system)</b></p> <p>Aldi Ythan Terrace Ellon AB41 9LJ</p>
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	EXISTING LICENSED HOURS		PROPOSED LICENSED HOURS	
	ON SALE	OFF SALE	ON SALE	Off Sale
<b>Monday</b>	N/A	10:00 - 22:00	No Change	No Change
<b>Tuesday</b>	N/A	10:00 - 22:00	No Change	No Change
<b>Wednesday</b>	N/A	10:00 - 22:00	No Change	No Change
<b>Thursday</b>	N/A	10:00 - 22:00	No Change	No Change
<b>Friday</b>	N/A	10:00 - 22:00	No Change	No Change
<b>Saturday</b>	N/A	10:00 - 22:00	No Change	No Change
<b>Sunday</b>	N/A	10:00 - 22:00	No Change	No Change

**3. Brief overview of the proposed change(s) to the premises licence**

**The applicant wants to:**

- Add seasonal variations namely to increase their alcohol display from 1 to 31 December annually and for a week prior to Easter Sunday (as it falls) for a duration of 21 days
- Add recorded music as an activity during and outwith core hours and amending Operating Plan to provide that: "Background music may be played during and outwith core hours"
- Add click and collect/delivery service as an activity
- Add "Deposit Return Scheme" facility as an activity
- Increase permanent off-sale display capacity to 29.00676m2 and seasonal display to 7.200m2
- Change in layout plan to reflect change in display and capacity

**Certificate of Confirmation**

The applicant has yet to submit the certificate of compliance relating to display of the site notice at the premises.

**4. Brief outline of representations made**

**Police Scotland**

- A representation was submitted with no comment on the majority of the changes proposed. In respect of the proposal to add a Click and Collect/Delivery service, Police Scotland recommended that the application be granted subject to a condition that a recorded age verification system is in place in respect of any remote/online sale of alcohol.

**LSO**

- The LSO made no adverse comments and recommended that the current conditions on the licence carry over to the amended licence.

**No other objections or representations were made in respect of the application**

5. Applicant's response to representations

- The applicant has indicated that they are willing to comply with the condition proposed by Police Scotland, the local conditions noted below which are recommended by the Licensing Service as well as a Specific Condition, also noted below and recommended by the Licensing Service.

**Recommended Conditions for Licence:**

1. General Management for All Premises – Conditions 1-4
2. Noise – All Premises – Condition 5
3. Lockfast Store – All Premises – Condition 6
4. Vulnerability – All Premises – Condition 19
5. CCTV – All Premises – Condition 21

**Conditions specific to the application:**

1. The licence holder should incorporate the following control measures to the operation of the business:
  - a) Age verification policies for Click and Collect workers/delivery drivers where the recipient is believed to be under the age of 25
  - b) Click and Collect workers and Delivery drivers to keep refusal registers
  - c) Arrangements to ensure that orders are not left in nominated safe places
  - d) Training for staff delivering alcohol/working at Click and Collect points to be at the same level as staff who sell or supply alcohol within licensed premises
  - e) To comply with section 119 of the Licensing (Scotland) Act 2005 in relation to keeping day and delivery books

**It is recommended that this application is granted in principle subject to receipt of the certificate of confirmation relating to display of the site notice at the premises.**

**Licensing (Scotland) Act 2005, section 29**  
**APPLICATION FOR MAJOR VARIATION OF PREMISES LICENCE**  
**LAPREM/00173/22/ADEC**

**1. Name of Applicant/Agent name & address (include postcode)**

Duff House Royal Golf Club  
The Barnyards,  
Banff  
Aberdeenshire  
AB45 3SX

By Mr Kenneth John White (Head Steward)

**2. Name & address of premises (inc. postcode) (pulled from system)**

Duff House Royal Golf Club  
The Barnyards,  
Banff  
Aberdeenshire  
AB45 3SX

	EXISTING LICENSED HOURS		PROPOSED LICENSED HOURS	
	ON SALE	OFF SALE	ON SALE	Off Sale
<b>Monday</b>	10:00 – 00:30	N/A	09:00 – 00:30	No Change
<b>Tuesday</b>	10:00 – 00:30	N/A	09:00 – 00:30	No Change
<b>Wednesday</b>	10:00 – 00:30	N/A	09:00 – 00:30	No Change
<b>Thursday</b>	10:00 – 00:30	N/A	09:00 – 00:30	No Change
<b>Friday</b>	10:00 – 00:30	N/A	09:00 – 00:30	No Change
<b>Saturday</b>	10:00 – 00:30	N/A	09:00 – 00:30	No Change
<b>Sunday</b>	10:00 – 23:00	N/A	09:00 – 23:00	No Change

**3. Brief overview of the proposed change(s) to the premises licence**

**The applicant wants to:**

- Amend the Club's Constitution (addition of new Rule IV Management 8: overturn/amend a sub-committee or Ladies or Seniors Committee decision).
- Amend Core Opening Time on Mondays to Sundays from 10:00 to 09:00.
- Amend Seasonal Variations during 1<sup>st</sup> October to 31<sup>st</sup> March, to extend 'Club or private function' to Mondays to Thursdays, and change the terminal hour on Fridays and Saturdays from 23:00 to 23:30.
- Amend Activities to extend the restaurant closing time on Fridays to Sundays during 1<sup>st</sup> October – 31<sup>st</sup> March, and on Mondays to Sundays during 1<sup>st</sup> April to 30<sup>th</sup> September from 20:00 to 21:00; and, in respect of 'Televised Sport', to include 'subscription service and/or box office sporting events'.
- Add a second outside Drinking Area.
- Increase the capacity of the outside areas A and B from 20 to 30 (only one area to be used at any one time).
- Change the terms for children's and young persons' access to include 'Club function' and extend the time for children's and young persons' access from 21:00 to 22:00.

**Certificate of Confirmation**

**The applicant has submitted the certificate of compliance relating to display of the site notice at the premises.**

**4. Brief outline of representations made**

**Police Scotland**

A representation was received stating recommending the following conditions:

In respect of Children and Young Persons:

- Children from 0-15, will only be allowed entry until 2200 hours or in respect of private function until terminal hour and accompanied by a responsible adult at all times;
- Young people 16-17, to be accompanied by a responsible adult after 2200 hours.
- Terminal hour of 2200 for all outdoor drinking areas.

In respect of the Outside Areas:

- No amplified music to be played in all outdoor areas.
- Where there is no existing delineation/boundary, the areas to be delineated by barrier or similar.
- Children be allowed entry accompanied by a responsible adult at all times.

The above are included in the recommended conditions below.

### **LSO**

A representation was received stating that the LSO had no objection subject to recommending the following conditions:

- Local Conditions 1-4, 5, 6, 7-11, 19, 20, 21, 22-30 and 31-33.
- A terminal hour of 10pm for the Beer Gardens
- No amplified music within either of the outside areas used as Beer Gardens.

The above are included in the recommended conditions below.

### **Building Standards**

A representation was received stating that the Building Standards has no comments on the application.

### **Planning**

A representation was received stating that the Planning Service has no comments on the application.

### **NHS Grampian**

An acknowledgement of the consultation was received but no representation or further comment was received.

### **No other objections or representations were made in respect of the application**

#### **5. Applicant's response to representations**

- The applicant has indicated that they are willing to comply with the conditions proposed by Police Scotland, the local conditions noted below which are recommended by the Licensing Service as well as Specific Conditions, also noted below and recommended by Police Scotland and the Licensing Service.

#### **Recommended Conditions for Licence:**

1. General Management for All Premises – Conditions 1-4
2. Noise – All Premises – Condition 5
3. Lockfast Store – All Premises – Condition 6
4. Children and Young Persons – Conditions 7-11
5. Vulnerability – All Premises – Condition 19
6. Door Supervisors – Condition 20
7. CCTV – All Premises – Condition 21
8. Members Clubs – Conditions 22 - 30
9. Beer Gardens and outside Drinking Areas – Conditions 31 – 33\*

**\*Condition 31 to have a terminal hour of 22:00 hours**

**Conditions specific to the application:**

**In respect of Children & Young Persons the following conditions be applied:**

1. Children from 0-15, will only be allowed entry until 22:00 hours or in respect of private function until terminal hour and accompanied by a responsible adult at all times;
2. Young people 16-17, to be accompanied by a responsible adult after 2200 hours.

**In respect of the Outside Areas the following conditions be applied:**

1. Terminal hour of 2200 for all outdoor drinking areas.
2. No amplified music to be played in all outdoor areas.
3. Where there is no existing delineation/boundary, the areas to be delineated by barrier or similar.
4. Children be allowed entry accompanied by a responsible adult at all times.

**Licensing (Scotland) Act 2005, section 29  
APPLICATION FOR MAJOR VARIATION OF PREMISES LICENCE  
LAPREM/00119/22/JJ**

<p><b>1. Name of Applicant/Agent name &amp; address (include postcode)</b></p> <p>Raemoir Garden Centre Ltd Raemoir Road Banchory AB31 4EJ</p>	<p><b>2. Name &amp; address of premises (inc. postcode)</b></p> <p>Raemoir Garden Centre Raemoir Road Banchory AB31 4EJ</p>
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	EXISTING LICENSED HOURS		PROPOSED LICENSED HOURS	
	ON SALE	OFF SALE	ON SALE	Off Sale
Monday	11:00 – 16:00* 11:00 – 17:30**	10:00 – 18:00	11:00 both restaurant/café- 16:00 restaurant 17:00 cafe	10:00 – 17:00
Tuesday	11:00 – 16:00* 11:00 – 17:30**	10:00 – 18:00	11:00 both restaurant/café- 16:00 restaurant 17:00 cafe	10:00 – 17:00
Wednesday	11:00 – 16:00* 11:00 – 17:30**	10:00 – 18:00	11:00 both restaurant/café- 16:00 restaurant 17:00 cafe	10:00 – 17:00
Thursday	11:00 – 16:00* 11:00 – 17:30**	10:00 – 18:00	11:00 both restaurant/café- 16:00 restaurant 17:00 cafe	10:00 – 17:00
Friday	11:00 – 16:00* 11:00 – 17:30**	10:00 – 18:00	11:00 both restaurant/café- 16:00 restaurant 17:00 cafe	10:00 – 17:00
Saturday	11:00 – 16:00* 11:00 – 17:30**	10:00 – 18:00	11:00 both restaurant/café- 16:00 restaurant 17:00 cafe	10:00 – 17:00
Sunday	11:00 – 16:00* 11:00 – 17:30**	10:00 – 18:00	11:00 both restaurant/café- 16:00 restaurant 17:00 cafe	10:00 – 17:00

**Notes:**  
Restaurant\*,  
Café \*\*

3. Brief overview of the proposed change(s) to the premises licence

**The applicant wants to:**

- Propose to vary opening times for the restaurant to 10:00 – 16:00 Monday to Sunday (previously 0900-16.00) with alcohol served from 11:00-16.00. See proposed licensed hours in table above.
- Propose to vary opening times for the café to 10.00– 17:00 Monday to Sunday (previously 0900-17.30) with alcohol served from 11:00- 17.00. See proposed licensed hours in table above.
- To amend hours for sale of alcohol for consumption off premises to 10:00 - 17:00 (previously 10:00 – 18:00). See proposed licensed hours in table above.

- Propose to alter the seating for both the restaurant and the café. In the restaurant, propose to extend the existing restaurant area to include a covered outdoor seating area. This would increase the amount of seating available in the restaurant area as shown on the layout plan from 100 to 110.
- A new indoor counter and server area is proposed in the restaurant. In the café, propose to decrease the amount of indoor seating and to extend an outdoor seating area to the front of the building. The overall amount of café seating will remain the same.
- Propose to remove the previous café server area to increase the retail area.
- The area for alcohol off-sales is proposed to include an additional display area for seasonal off-sales as detailed in the layout plan. This additional off-sale area would be used from October to December.
- Propose to relocate the existing off sales display. This will not increase the size of the display but will simply alter its location.
- Previous seasonal variations are no longer required.
- It is intended to start selling alcohol by delivery as part of online ordering service.

#### **Certificate of Confirmation**

The applicant has submitted the certificate of compliance relating to the display of the site notice at the premises.

#### **4. Brief outline of representations made**

##### **Police Scotland**

A representation was received, and the following specific conditions were recommended to be attached:

In terms of the Outdoor Drinking facilities:

1. The area to be delineated by a physical barrier or similar;
2. The area is subject to a terminal hour of 1700 hours daily;
3. Signage to be displayed indicating that no alcohol is to be removed beyond the licensed area;
4. No amplified music to be played therein.

In respect of the online sale of alcohol and in particular to the element relating to the delivery of alcohol, Police Scotland recommended that the variation be granted with the condition that there is a recorded age verification system in place in respect of remote/online sales and that 'Challenge 25' is carried out at any point of collection or delivery of alcohol.

The above are included in the recommended conditions below

##### **LSO**

A representation was received and the LSO noted that in the Operating Plan, the applicant has stated that the premises will be open until 20:00 hours for Cardholder discount days and sought confirmation whether on sales and/or off sales will take place during these times. If so, then the LSO advised that this should be confirmed in the Operating plan.

Recommended Local conditions:- 1,2,3,4,19,21,32 and 33.

Recommended additional specific conditions:

1. If there are to be deliveries of alcohol to non-trade sales, the licence holder should incorporate the following control measures to the operation of their business:
  - • Age verification policies for delivery drivers where the recipient is believed to be under the age of 25
  - • Delivery drivers to keep refusal register
  - • Arrangements to ensure that orders are not left in nominated safe places
  - • Training for staff delivering alcohol to be at the same level as staff who sell or supply alcohol within licensed premises

- To comply with Section 119 of the Licensing (Scotland) Act 2005 in relation to keeping day and delivery books

The above are included in the recommended conditions below

### **Building Standards**

Noted that the floor layout of the premises is being altered and seating areas extended. The floor plan provided with the application does not concur with the approved Building Warrants and drawings; further, completion certificates are not in place. Building Standards advised that all works carried out should be regularised, Building Warrants amended and approved as necessary and completion certificates sought. They confirmed that they do not think there is a need to hold things up for the licence, but the omissions may affect the Insurance cover for the premises.

### **No other objections or representations were made in respect of the application**

#### 5. Applicant's response to representations

- The applicant agreed to the local conditions and specific conditions. The applicant's agent provided an amended Operating Plan, in response to the LSO representation and confirmed that that no on-sales will take place after normal licensed hours during these events and Off-sales only will take place after normal licensed hours. The applicant's agent advised that the applicant is already in touch with Building Standards regarding their comment and the matters are being addressed. Police Scotland and the LSO withdrew their representations.

### **Recommended Conditions for Licence:**

1. General Management for All Premises – Conditions 1-4
2. Noise – All Premises – Condition 5
3. Lockfast Store – All Premises – Condition 6
4. Vulnerability – All Premises – Condition 19
5. CCTV – All Premises – Condition 21
6. Beer Gardens and outside Drinking Areas – Conditions 32 – 33

### **Conditions specific to the application**

#### **1. In respect of the outside areas the following conditions be applied:**

- a) The area to be delineated by a physical barrier or similar;
- b) The area is subject to a terminal hour of 1700 hours daily;
- c) Signage to be displayed indicating that no alcohol is to be removed beyond the licensed area;
- d) No amplified music to be played therein.

#### **2. If there are to be deliveries of alcohol to non-trade sales, the licence holder should incorporate the following control measures to the operation of their business:**









- a) Age verification policies for delivery drivers where the recipient is believed to be under the age of 25
- b) Delivery drivers to keep refusal register
- c) Arrangements to ensure that orders are not left in nominated safe places
- d) Training for staff delivering alcohol to be at the same level as staff who sell or supply alcohol within licensed premises
- e) To comply with Section 119 of the Licensing (Scotland) Act 2005 in relation to keeping day and delivery books





























3. There will be a recorded age verification system in place in respect of remote/online sales




## APPENDIX 2 LOCAL CONDITIONS: PREMISES LICENCES


### A. THE ABERDEENSHIRE LICENSING BOARD







Local Conditions	Objective	
<b>General Management for All Premises</b>		
1	<p>The provisions relating to management of licensed premises contained within the Board's current policy statement, particularly Appendix 1 thereto, must be complied with.</p>	<p>PCD, SPS, PPN PIPH, PCYPFH</p> 
2	<p>Premises Licence Holders must ensure that the premises, internally and externally, are maintained in good, clean and tidy condition at all times.</p>	<p>SPS, PPN</p> 
3	<p>Premises Licence Holders must ensure that Refusal Registers and Daily Incident logs are accessible for inspection by Police and Licensing Standards Officers</p>	<p>PCD, SPS</p> 
4	<p>The Licence Holder must ensure that any general authorisation for the sale of alcohol required within the premises is –</p> <ul style="list-style-type: none"> <li>• in writing</li> <li>• available for inspections by Police and Licensing Standards Officers</li> <li>• brought to the attention of and signed by all parties; and</li> <li>• enforced by the premises manager</li> </ul>	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 
<b>Noise – All Premises</b>		
5	<p>Noise from amplified and non-amplified music, singing and speech sourced from licensed premises shall not be audible in adjoining properties after 11.00 p.m.</p>	<p>PPN</p> 
<b>Lockfast Store – All Premises</b>		
6	<p>All alcohol not on display within the premises must be kept within a designated lockfast store on the premises, and shown on the layout plan attached to the premises licence.</p>	<p>PCD, SPS</p> 
<b>Children and Young Persons – On Sale Premises</b>		
7	<p>Children under the age of twelve years, shall not have direct access to pool tables, darts boards or gaming machines in any part of the premises to which they have access or are allowed entry.</p>	<p>PCYPFH</p> 
8	<p>The Licence Holder shall provide safe high chairs for the use of young children</p>	<p>SPS, PCYPFH</p> 








9	The Licence Holder shall provide heating facilities for baby/toddler's food at no cost to the customer.	SPS, PCYPFH  
10	The Licence Holder shall provide containers for the disposal of soiled nappies	SPS, PPN, PCYPFH   
11	The Licence Holder shall ensure that heating sources are adequately protected.	SPS, PCYPFH  
<b>Premises Providing Late Night Entertainment – On Sale Premises</b>		
12	Alcohol shall be provided for consumption on the premises only.	PCD, SPS, PPN   
13	The entertainment to be provided shall be:XXX to be defined by the Board on a case-by-case basis	PCD, SPS, PPN   
14	The entertainment provided shall be on a continuous basis with breaks of not more than 15 minutes in any one hour.	PCD, SPS, PPN   
15	All public notices or advertisements including social media shall contain the following information:- a. The name and address of the premises b. The entertainment to be provided on the premises c. The commencement time of the entertainment d. The price of entry e. The terminal hour for the premises. f. The time of the curfew, where operated, must be advertised.	PCD, SPS, PPN   
16	The Licence Holder shall display a notice at the entrances to the venue clearly defining the policy of the venue relating to the use of illegal substances and weapons within the venue and stating that criminal offences will be reported to Police Scotland	PCD, SPS, PPN, PIPH    
17	The premises shall have a dispersal policy to ensure patrons are not put in vulnerable situations after leaving the premises. The policy must be in writing. All members of staff shall be informed of the policy. The policy shall be made available to customers, and for inspection. The policy shall be reviewed regularly and a detailed record of reviews kept.	PCD, SPS, PPN, PIPH    
<b>Adult Entertainment – On Sale Premises</b>		
18	Children and young persons are not permitted to attend any event involving adult entertainment.	PCYPFH 
<b>Vulnerability – All Premises</b>		




























<p>19</p>	<p>The Licence Holder must have in place a duty of care policy to ensure a standard approach is taken when any patron appears to be displaying signs of excessive intoxication.</p> <p>The Licence Holder must ensure that all staff have additional training in identifying signs of excessive intoxication and an enhanced awareness of vulnerability through intoxication.</p> <p>The Licence Holder shall ensure that staff training records are made accessible for inspection by Police Scotland and Licensing Standards Officers.</p>	<p>PCD, SPS, PPN PIPH, PCYPFH</p> 
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**Door Supervisors – On Sale Premises**

<p>20</p>	<p>The Premises Licence Holder must ensure that sufficient numbers of Security Industry Authority licensed stewards are on duty to ensure a safe and responsibly run premises. Such persons must be easily identifiable as such to persons present, display the appropriate identification, and should be made aware of their duties, policies and practices, by the Premises Licence Holder. They must be responsible, capable, aware of their duties and not drink alcoholic liquor for the duration of their active employment. Their duties are to:</p> <ol style="list-style-type: none"> <li>a. Confirm that persons who seek access to the premises have paid for admission or have appropriate passes/invitations;</li> <li>b. Identify and refuse entry to drunken persons</li> <li>c. Identify and refuse entry to any persons banned through pubwatch or by any other means;</li> <li>d. Actively police the premises and to perform all activities in line with their role under the Private Security Act 2001;</li> <li>e. Supervise entrance doors/access points at all times to ensure that no fire or other exits are blocked;</li> <li>f. Be aware of the fire safety precautions and procedures and all other policies and practices;</li> <li>g. Be aware of the premise’s drug prevention policy;</li> <li>h. Provide assistance to patrons, including customer care, directions to facilities and health and safety;</li> </ol>	<p>PCD, SPS, PPN PIPH</p> 
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	<p>i. Ensure that no patron removes glasses, or open or closed vessels from the premises when exiting for any reason.</p> <p>j. Remain on the premises until the end of permitted hours and all patrons have vacated the premises, including patrolling the vicinity outside the premises to assist dispersal from the premises after the premises close;</p> <p>k. Be aware of the provisions of the Licensing (Scotland) Act 2005 which impact on the running of the premises;</p>	
<b>CCTV – All Premises</b>		
21	<p>Where a CCTV system is installed this must comply with the required standard and be maintained in working order and staff must be able to operate the system.</p> <p>Images recorded on CCTV must be kept for at least seven days and must be made available to Police Scotland on request</p>	<p>PCD, SPS, PPN</p> 
<b>Members Clubs</b>		
22	Members Clubs must comply with the provisions of Supplementary Policy Statement 7 of the Board's current policy statement.	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 
23	Members Clubs shall adhere to the terms of the Club's constitution or rules attached to their premises licence	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 
24	Where the Club has submitted draft constitution or rules with their application for a premises licence, they shall submit a copy of the approved constitution or rules to the Clerk to the Board within 28 calendar days of the draft constitution/rules being approved by the Club's governing body.	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 
25	Where the Club revises its constitution or rules in the future, the Club must submit a copy of the proposed revisions to the Board for approval and thereafter submit a copy of the approved revised constitution or rules to the Clerk to the Board, within 28 calendar days of the draft constitution/rules being approved by the Club's governing body.	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 
26	Where there are any changes to the list of connected persons in relation to the Club, the Club must submit details of the names, addresses, postcodes, dates and places of birth of the new	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 

	connected persons and an updated list of all connected persons, to the Clerk to the Board, within 28 calendar days of the changes to connected persons being approved by the Club's governing body.	
27	The Club must ensure that at all times, there at least two members of staff, or Committee Members, or volunteers involved in the management of the Club who are trained to the standard of a Personal Licence Holder. If the persons trained change at any time, evidence of an up-to-date training certificate must be submitted to the Clerk within two months of change in personnel.	PCD, SPS, PPN, PIPH, PCYPFH 
28	Any person requiring to hold a training certificate for the purposes of condition 26 above, must complete a refresher training course within a period of 3 months of the 5-year anniversary of the date of the initial training certificate and submit a copy of the refresher training certificate to the Clerk within 28 calendar days of receipt of the updated certificate. Further refresher training will be completed at 5 yearly intervals thereafter in line with this condition.	PCD, SPS, PPN, PIPH, PCYPFH 
29	That up to 5 visitors per member shall be permitted in the club premises provided they are signed into the club by that member into a book kept for that purpose by the club. Such visitors must be bone fide guests of the member signing them in.	SPS, PPN 
30	All promotional materials, including the use of social media, must specify that events are open to Members and Guests only, unless an Occasional Licence is in place. Events must be advertised in the press as for "Members and Guests only"	SPS, PPN 
<b>Beer Gardens and Outside Drinking Areas</b>		
31	Beer Gardens and outside drinking areas must not be used for activities linked to the sale or consumption of alcohol after 11.00pm	PCD, SPS, PPN, PIPH, PCYPFH 
32	The Licence Holder must take reasonable steps to ensure that litter and, where used, glass and bottles are removed from beer gardens and outside drinking areas on a regular basis.	SPS, PPN, PIPH PCYPFH 
33	The Licence Holder shall consider the use of safe alternatives to glass containers and bottles in beer gardens and outside drinking areas.	PCD, SPS, PPN, PIPH, PCYPFH 

Hybrid Premises		
34	Premises operating as “other premises” during the day and wishing to operate as Nightclubs thereafter must ensure that the premises are closed down and cleared of patrons, particularly children and young persons, for at least one hour prior to the commencement of operating as a nightclub at the premises	PCD, SPS, PPN PCYPFH    
Festive Season Conditions for Premises opening after 1.00a.m.		
35	A person trained to the satisfaction of the Licensing Board in administering first aid must be present on the premises from 1.00a.m. (on any day when the premises are open at that time) until the time at which the premises next close	SPS, PIPH, PCYPFH   
36	A designated person who is the holder of a personal licence must be present on the premises from 1.00a.m. (on any day when the premises are open at that time) until the time at which the premises next close	PCD, SPS, PPN, PIPH, PCYPFH     
37	There must be written policies in existence concerning - <ul style="list-style-type: none"> <li>• The evacuation of the premises; and</li> <li>• The prevention of the misuse of drugs on the premises.</li> <li>• Duty of care (‘Vulnerability through Intoxication’)</li> </ul>	PCD, SPS, PPN, PIPH, PCYPFH     
38	There must be persons responsible for checking on the safety and wellbeing of persons using any toilet facilities on the premises.	PCD, SPS, PPN, PIPH, PCYPFH     
39	A person who holds a licence granted under Section 8 of the Private Security Industry Act 2001 must be positioned at every entrance to the premises from 1.00a.m. (on any day when the premises are open at that time) until the time at which the premises next close.	PCD, SPS, PPN, PIPH, PCYPFH     

Key to objectives		
	PCD	Prevention of Crime and Disorder
	SPS	Securing Public Safety
	PPN	Preventing Public Nuisance
	PIPH	Preventing and Improving Public Health
	PCYPFH	Protecting Children and Young Persons from Harm

**NOTE: Additional Conditions specific to individual licensed premises may be attached by the Board to premises licences depending on the circumstances of the particular application, over and above the pool conditions listed in this document.**



## APPENDIX 3 LEGAL TEST

<p style="text-align: center;"><b>Licensing (Scotland) Act 2005</b> <b>Part 3 &amp; Sections 29-32</b> <b>Application for Variation of a Premises Licence</b></p>
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### LEGAL TEST

The legal test is set out in Section 30 of the Act.

- (1) A premises licence variation application received by a Licensing Board is to be determined in accordance with this section.
- (2) If the variation sought is a MINOR variation, the Board MUST grant the application.
- (3) In any other case, the Licensing Board MUST hold a hearing for the purposes of considering and determining the application.
- (4) Where a hearing is held under subsection (3), the Board MUST consider whether any of the grounds for refusal applies and,
  - (a) if none of them applies, the Board MUST grant the application, or
  - (b) if any of them applies, the Board MUST refuse the application.
- (5) **The grounds for refusal are –**
  - (a) **that the application must be refused under Section 32(2), 64(2) or 65(3)<sup>1</sup>**
  - (b) **That the Licensing Board considers that the granting of the application would otherwise be inconsistent with one or more of the Licensing objectives.**
  - (c) **that, having regard to –**
    - (i) **the nature of the activities proposed to be carried on in the subject premises,**
    - (ii) **the location, character and condition of the premises, and**
    - (iii) **the persons likely to frequent the premises****The Board considers that the premises are unsuitable for use for the sale of alcohol in accordance with the proposed variation.**
  - (d) **that the Board considers that, if the application were to be granted, there would, as a result, be overprovision of licensed premises, or licensed premises of the same or similar description as the subject premises (taking account of the variation) in the locality.**
- (6) **Where the Licensing Board grants the application, the Board may make a variation of the conditions to which the licence is subject.**
- (7) **Where the Licensing Board REFUSES the application-**

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<sup>1</sup> Section 32(2) - where a previous variation application has been refused by the Board and before the expiry of the period of one year beginning with the date of the earlier refusal;  
Section 64(2) – where to grant the hours sought would result in alcohol being sold on the premises during a continuous period of 24 hours or more, unless the Board is satisfied that there are exceptional circumstances to justify a grant; and  
Section 65(3) that the hours for off sales would be before 10.00a.m. after 10.00p.m. or both



- (a) the Board MUST specify the ground for refusal, and**  
**(b) if the ground for refusal is that specified in Subsection (5)(b), the Board MUST specify the licensing objective or objectives in question.**

1. Chapter 8 of the Scottish Government's Statutory Guidance to Licensing Authorities relates to premises licences. The Board should note that in terms of Section 142(4) of the Act, a Board deciding not to follow this guidance must give Ministers notice of that decision together with a statement of the reasons for it.



# **THE ABERDEENSHIRE LICENSING BOARD**

**REPORT TO LICENSING BOARD HEARING – 22<sup>nd</sup> February 2023**

**LICENSING (SCOTLAND) ACT 2005**

**Section 28**

**DETERMINATION AS TO WHETHER PREMISES LICENCE HAS CEASED TO HAVE EFFECT - HEARING**

**Sections 36 - 40**

**APPLICATION FOR REVIEW OF PREMISES LICENCE - HEARING**

## **1. Executive Summary/Recommendations**

- 1.1. This report relates to a request for a review of a premises licence in terms of Section 36(1) of the Licensing (Scotland) Act 2005 (“the 2005 Act”) which is a matter which can only be determined by the Licensing Board.
- 1.2. As a preliminary matter, the Board is being asked to determine whether the relevant premises licence has ceased to have effect in terms of Section 28 of the 2005 Act.
- 1.3. Should the Board determine the premises licence has ceased to have effect, no further action will be taken.
- 1.4. Should the Board determine that the premises licence still has effect, the Board will continue to consider the request for review of the premises licence and determine the request in line with the Legal Test set out in this Report.

### **Recommendation**

- 1.5. **It is recommended that the Board considers the materials before them and –**
  - (a) **Determines whether there is enough evidence before the Board to allow a determination to be made, or whether the Board needs to defer consideration of the matter to the next available Board meeting; and**

- (b) **Where the Board has concluded that there is sufficient evidence before them to allow a determination to be made:**

**FIRST: Preliminary Matter**

- (i) **Determine whether the premises licence has ceased to have effect in terms of Section 28 of the 2005 Act.**

**If the Board determines the licence has ceased to have effect, no further action requires to be taken as the licence will no longer exist**

**SECOND: Review of Premises Licence**

**Where the Board has determined that the licence continues to have effect, the Board should consider the request for review of the Licence as attached at Appendix 1 to this Report and consider -**

- (i) **If any of the grounds for review have been established; AND**
- (ii) **Where any of the grounds for review have been established what steps require to be taken under Section 39(2) of the Act.**
- (c) **Determines whether the Board requires to hold any hearing in terms of Section 84 of the Act in respect of any personal licence holder working at the premises where appropriate to do so.**

**2. Purpose and Decision-Making Route**

2.1. Sarah Ward, Licensing Standards Officer lodged an application for review of a premises licence by letter dated 26<sup>th</sup> January 2023. The application seeks the review of the premises licence for The Masons Arms Hotel, 1 Castle Street, Rosehearty, AB43 7JJ. A copy of the review application is attached as **Appendix 1** to this Report and referred to for its terms.

2.2. The grounds for review submitted by the LSO are:-

- i. Failure to pay Annual fee per Schedule 3 paragraph 10 of the Licensing (Scotland) Act 2005;

- ii. Failure to comply with Section 14 (2) (a) (i) of the Act, Compliance notice served 2<sup>nd</sup> November 2022;
  - iii. Premises ceased to have effect under S28 (5)(b) of the Licensing (Scotland) Act 2005 and Licensing Boards Policy statement (supplementary Policy 6, para 6.13)
- 2.3. The Masons Arms Hotel, 1 Castle Street, Rosehearty, AB43 7JJ is the subject of premises licence No AB-N-P006. The premises licence holder is DD and DS Limited, 9 Loch Street, Rosehearty, AB43 7JT. The Company has been the premises licence holder since 1<sup>st</sup> September 2009. The Designated Premises Manager named on the licence is David Dougal Whyte, 9 Loch Street, Roshearty, AB43 7JT. His Personal Licence Number is AB-N-385.
- 2.4. A copy of the premises licence is attached as **Appendix 2** to this Report.
- 2.5. A copy Mr Whyte's Personal Licence is attached as **Appendix 3** to this Report.
- 2.6. A copy of the review application was forwarded to the Licence Holder on 7<sup>th</sup> February 2023.
- 2.7. This matter has not been considered by the Board previously.

### **3. Discussion**

#### **Preliminary Matter**

- 3.1. Email correspondence from the LSO indicates that the premises appears to have ceased trading since at least the Spring of 2022. To date there has been no formal surrender of the licence.
- 3.2. Section 28(5) of the 2005 Act provides that a premises licence ceases to have effect where the premises cease to be used for the sale of alcohol.
- 3.3. Section 298 of the Act is silent as to how long premises must be closed in order that the licence is deemed to no longer be of effect. However, the Board's current Statement of Licensing Policy; Supplementary Policy 6 states at paragraph 6.3 –

***“Where any premises ceases to be used for the sale of alcohol for a period of more than three months, the Board will conclude that the licence has ceased to have effect in terms of Section 28 of the Act. A new premises licence will be required before alcohol can be sold from the premises. The Board will consider each case on its own merits. This period may be extended if circumstances arise that merit this. Licence Holders should request extensions in writing to the Board and should outline the reasons the extension is sought. All requests will be considered by the Board.”***

- 3.4. As at the date of writing this report, the premises has not traded for a period equating to more than three months. No request for an extension or explanation for the premises closure has been forthcoming from the licence holder. The Board is therefore invited to make a finding that the premises licence has ceased to have effect in terms of Recommendation 1.5.b.(i) of this Report.
- 3.5. Where the Board so decides, the request for review of the premises licence will fall as there will no longer be a premises licence in effect to review.

#### **Review of Premises Licence**

- 3.6. Where the Board determines that the premises licence is in fact still in effect it is recommended that the Board proceeds to consider the application for review of the premises licence and:
- (a) Considers if any of the grounds of review have been established; and
  - (b) If so established, what steps, if any, require to be taken as per Recommendation 1.5.(b)(ii), (iii) of this Report.
- 3.7. Payment of the annual fee is a mandatory condition of a premises licence. Where an LSO believes that a condition of licence has been breached, he/she may service a notice on the Licence Holder under Section 4(2) of the 2005 Act requiring such action to be taken to remedy the breach as may be specified in the notice.

- 3.8. If the Licence Holder fails to take the action specified in the Section 4(2) notice, the LSO may make an application for review of the licence on the grounds that one of the conditions of the licence has been breached. The Board MUST hold a hearing to determine the review application.
- 3.9. The LSO's letter of 26<sup>th</sup> January 2023 advises that a ground of review of the premises licence is that one of the conditions of the premises licence has been breached, namely that the Licence Holder has failed to pay the annual fee of £220.00. This ought to have been paid by 1<sup>st</sup> October 2022. Part 4 of the LSO's letter narrates the steps that have been taken to try to ensure that the annual fee is paid. The final step was the issue of a Compliance Notice under Section 14(2) of the 2005 Act on 16<sup>th</sup> November 2022 which gave the Licence Holder a further 7 days to make payment, failing which an application for review of the licence would be brought before the Board. A copy of the Compliance Notice is included in the Application for Review which forms **Appendix 1** to this Report. The Compliance Notice was sent by recorded delivery mail and has not been responded to.

### **Consultations**

- 3.10. In terms of Section 38(4) of the Act, where not the person seeking the review application, the Licensing Standards Officer must prepare and submit a report to the Board on the premises licence review proposal.
- 3.11. No consultations have taken place in respect of this review application, it having been submitted by the Licensing Standards Officer.

### **Legal Test**

- 3.12. The Legal Test forms **Appendix 4** to this Report.

### **The Board's Powers**

- 3.13. If the Board is not satisfied that a ground of review is established then no action can be taken.

3.14. Where the Board is satisfied that a ground of review is established under Section 39(1) of the 2005 Act (whether or not on the basis of any circumstances alleged in the premises licence review proposal/application considered at the hearing) the Board may take any of the following steps as the Board considers necessary or appropriate for the purposes of any of the licensing objectives:-

- (a) **Issue a Written Warning.** Where a written warning is given, the licence holder can continue to trade under the terms of his premises licence as currently granted;
- (b) **Vary the terms of the Licence:** Where a variation of the licence is made, the licence holder can continue to trade under the terms of the varied premises licence
- (c) **Suspend the licence for such period as the Board sees fit.** Where the Board suspends the licence, the licence holder cannot trade for the duration of the suspension.
- (d) **Revoke the Licence.** Where the Board revokes the licence, there is no longer a premises licence that can be traded.

3.15. The Board may also make a finding in terms of Section 84 of the Act in respect of any personal licence holders who are or were working in the licensed premises in respect of which the premises licence was issued acted in a matter which was inconsistent with any of the licensing objectives and call for a Hearing to consider whether the personal licences held by those persons should be revoked, suspended or endorsed as per Recommendation 1.5(c) of this Report. To that end, the Designated Premises Manager has also been informed of the review application and has a right to be in attendance, but not take part in, the premises licence review hearing.

3.16. The Licence Holder has the right to appeal any of the decisions made by the Board with regard to the premises licence.

## **Procedure**



- 3.17. The review of premises licence should be considered on its own merits.
- 3.18. The Licence Holder, Chief Constable, and the Licensing Standards Officer have been invited to attend the Hearing by letter dated 7<sup>th</sup> February 2023. Notices included a copy of this report, the Legal Test and the Board's Guidance on procedures for Hearings.
- 3.19. The Designated Premises Manager has also been invited to attend the Hearing as the outcome of the Hearing may affect his personal licence.
- 3.20. Members should follow the procedure outlined at **Appendix 5** to this Report.
- 3.21. In terms of the Board's procedure, any documentation/written submissions lodged by any of the parties, will be circulated to Members and all parties prior to the meeting taking place, where it is possible to do so. Such written documentation/submissions will form **Appendix 6** to this Report, if submitted.
- 3.22. When coming to a decision the Board must consider the evidence provided and the contents of the legal test. Supplementary advice and information can be made available by Officers, if required.

#### **4. Priorities, Implications and Risk**

- 4.1 The Board must determine this matter on its own merits in accordance with the legal test set out in the relevant legislation. The Board is a separate legal entity to Aberdeenshire Council and therefore the Council's priorities do not apply to this report.
- 4.2 The table below shows whether risks and implications apply if the recommendations are agreed:

**Table 1 Risks and Implications**

<b>Subject</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>
Financial		X	
Staffing		X	
Equalities and Fairer Scotland Duty		X	
Children and Young Peoples'		X	

Rights and Wellbeing			
Climate Change and Sustainability		X	
Health and Wellbeing		X	
Town Centre First		X	

4.3 An Integrated Impact Assessment (“IIA”) has not been carried out as the application for review has not identified any issues that would fall within the remit of the IIA and the Board must determine this matter in line with the legal test.

4.4 There are no staffing and financial implications.

4.5 There are no Risks identified in respect of this matter in terms of the Corporate and Directorate Risk Registers as the Licensing Board is considering the application as the Licensing Authority in a quasi-judicial role and must determine each application on its own merits in accordance with the legal tests set out in the relevant legislation.

4.6 The Town Centre Principle does not apply in respect of this matter as the Board is considering the applications as Licensing Authority in a quasi-judicial role and must determine the applications on their own merits in accordance with the legal tests set out in the relevant legislation

## 5 Governance

5.1 In terms of paragraph 1.11 of Part 1 of the Boards’ current approved Scheme of Delegation, such hearings are a matter reserved to the Licensing Board.

**Karen Wiles**  
**Clerk to the Board**

**Report Prepared by Fiona M Stewart, Senior Solicitor (Governance), Depute Clerk to the Board**  
**Date: 7<sup>th</sup> February 2023**  
**File Reference: LAPREM/419/08**

### Appendices

**Appendix 1 – Application for Review of Premises Licence**

**Appendix 2 – Copy Premises Licence**

**Appendix 3 – Copy Personal Licence of Designated Premises Manager**

**Appendix 4 – Legal Test**

**Appendix 5 – Procedure**

**Appendix 6 – Written Submissions**

**APPENDIX 1**

**Copy Application For Review of Premises Licence**

Our Ref: SMW / LAPREM/419/08  
Ask for: Sarah Ward  
Direct Dial: [REDACTED]  
Email: [REDACTED]

Infrastructure Services  
Environmental Health  
St Leonards  
Sandyhill Road  
Banff  
AB45 1SD  
[www.aberdeenshire.gov.uk](http://www.aberdeenshire.gov.uk)  
DX 521328 Banff

The Depute Clerk  
Aberdeenshire Licensing Board

26.01.2023

Dear Sirs,

**Premises Licence Review Application-  
In Terms of Sec 36 (4)(b) Licensing (Scotland) Act 2005**  
**Sirs DD & DS Limited, AB-N-P006 - The Masons Arms Hotel, 1 Castle Street,  
Rosehearty, Aberdeenshire, AB43 7JJ**

**1. Grounds for Review**

It is the view of the Civic Licensing Standards Officer that the following grounds for a board review exist:

- (i) Failure to pay Annual fee per Schedule 3 paragraph 10 of the Licensing (Scotland) Act 2005;
- (ii) Failure to comply with Section 14 (2) (a) (i) of the Act, Compliance notice served 2<sup>nd</sup> November 2022;
- (iii) Premises ceased to have effect under S28 (5)(b) of the Licensing (Scotland) Act 2005 and Licensing Boards Policy statement (supplementary Policy 6, para 6.13)

**2. Previous premises Licence Review Applications:**

None.

**3. Background to Premises:**

- (i) The current premises licence holder applied, during transition from the '76 Act to the 2005 Act for a premises licence; said licence was granted by North Aberdeenshire Licensing Board , with Grand Father rights, and the licence was granted with effect from 1<sup>st</sup> September 2009. Said Ltd company were incorporated in 2008 with registered address as 9 Loch Street, Rosehearty, Aberdeenshire. AB43 7JT, with Debbie Whyte as Secretary and David Dougal Whyte as Director.
- (ii) No application has been lodged to vary the premises licence, since date of grant.

**4. History of Premises – Failure to pay Annual Fees**

On the 1<sup>st</sup> September 2022, The licensing wrote Sirs DD & DS Limited to advise that in terms of paragraph 7 (2) of the Licensing (Fees)(Scotland)

Regulations 2007 the annual fee in respect of the premises was due no later than 1<sup>st</sup> October 2022. The fee due is £220.00, based on a rateable value for the premises of £9000.00.

**Copy of letter attached. [A]**

On 13<sup>th</sup> October 2022, Sarah Ward, Civic Licensing Standards Officer, wrote by email to DD & DS Ltd to advise them that we were experiencing technical difficulties with the online payments, and alternative options to resolve, if applicable.

**Copy of email attached. [B]**

Following no response, on the 2<sup>nd</sup> November 2022, Sarah Ward, Civic Licensing Standards Officer, wrote to DD & DS Ltd, advising that the annual fee had still not been paid. The letter (emailed and sent recorded delivery) reiterated non-compliance with Schedule 3 para 1 of the Licensing (Scotland) Act 2005 may result in revocation of the licence. The letter gave a further 7 days to pay. If not paid a compliance notice would be served under Section 14(2)(a) of the Act. Guidance was also provided in terms of the licensing boards policy in respect of where the premises ceases to be used for the sale of alcohol.

**Copy of non-compliant letter attached and confirmation of letter being signed for on the 3<sup>rd</sup> November 2022. [C]**

Again, following no acknowledgement by email, On 16<sup>th</sup> November 2022, Sarah Ward, Civic Licensing Standards Officer, once again wrote to DD & DS Ltd (recorded delivery) In this letter she advised that from the records it appeared that the annual fee of £220.00 remained outstanding. On this occasion she issued along with the letter, a Compliance Notice under Section 14(2)(a) of the Act. This notice gave the Licence Holder a further 7 days to make payment or result in a review hearing at the meeting of Aberdeenshire Licensing Board. The letter and compliance notice were sent to 9 Loch Street, Rosehearty, recorded delivery.

**Copy of Letter, Compliance Notice attached. Unfortunately, we've been unable to trace if received via Royal Mail, and letter not returned. [D]**

**To date the fee remains outstanding**

## **5. Conclusion and recommendation**

The premises licence holder has failed to comply with several requests to pay the annual fee, which is a mandatory condition under Schedule 3 para 10 of the Licensing (Scotland) Act 2005. Further to these requests, a Compliance notice was served on DD & DS Limited, under Section 1(2)(a) of the Act, also not complied with. In addition, supplementary Policy 6 para 6.13 indicates that a premises ceases to have effect if it is no longer used for the sale of alcohol.

It appears that the premises have been closed for some time – I've been unable to identify when the premises last traded, however several visits were carried out early spring 2022 and summer 2022, identifying the premises closed, with no sign of trading. The Licence Holder has been provided guidance in terms of the licensing

boards policy in terms of closure, however, to date the licence holder has not responded nor have the premises licence holders been in contact with the Licensing Team.

Considering all of the above, I recommend that the premises licence be revoked.

Yours sincerely,



**Sarah Ward**  
Civic Licensing Standards Officer

**If you have difficulty reading this document, please contact  
Sarah Ward** 

Enc: various email / letters of non-compliance and Section 14  
Notice

[A]



Case Ref LAPREM/419/08

Legal and People  
Viewmount  
Arduithie Road  
Stonehaven  
AB39 2DQ

Sirs DD & DS Limited  
The Masons Arms Hotel  
1 Castle Street  
Rosehearty  
Aberdeenshire  
AB43 7JJ

[www.aberdeenshire.gov.uk](http://www.aberdeenshire.gov.uk)

Email [licapps@aberdeenshire.gov.uk](mailto:licapps@aberdeenshire.gov.uk)

1 September 2022

Dear Licence Holder,

**ANNUAL FEE**  
**LICENCE NUMBER: AB-N-P006**  
**LICENCE HOLDER: SIRSD & DS LIMITED**  
**PREMISES: MASONS ARMS HOTEL**

I refer to the above premises and write to advise that in terms of paragraph 7(2) and (3) of the Licensing (Fees) (Scotland) Regulations 2007 the annual fee in respect of the premises is due no later than **1 October each year.**

**The annual fee due for the premises is £220.00.**

The annual fee is based on the rateable value for the premises (unless the premises are clubs/visitor attractions/private accommodation). Please notify the Board immediately if you believe that the record we have is not the correct rateable value for the premises.

Paragraph 10 of the Mandatory Conditions requires payment of the annual fee for the year ahead by 1 October. Failure to make this payment will result in contact from the Licensing Standards Officer and may result in a review of the licence for a failure to comply with a mandatory condition.

You must therefore ensure that the annual fee is paid by 1 October at the latest. No invoice will be issued.

#### **How to Pay**

**Online payment using a debit or credit card is the quickest and most convenient method.** If using this method please go the following web address:-

- [www.aberdeenshire.gov.uk](http://www.aberdeenshire.gov.uk)
- Click on the word "Pay"
- At the bottom of the list click on "Liquor licence annual fee"
- Complete your details on screen

**If you have difficulty reading this document, please contact**  
**[licapps@aberdeenshire.gov.uk](mailto:licapps@aberdeenshire.gov.uk)**

*Serving Aberdeenshire from mountain to sea – the very best of Scotland*

If you are unable to pay online please contact [licapps@aberdeenshire.gov.uk](mailto:licapps@aberdeenshire.gov.uk) and we will arrange a telephone payment or provide you with the details for a BACS transfer.

If you wish to pay via bank transfer, please ensure that you advise us when the payment has been made, and let us know the reference used, so we can track your payment.

**Please be aware that Aberdeenshire Council no longer accept cash or cheque payments.**

Yours faithfully,

**The Licensing Team**



**From:** Sarah Ward [REDACTED]  
**Sent on:** Friday, September 16, 2022 2:07:17 PM  
**To:** Masons Arms [REDACTED]  
**Subject:** ACTION - Closure Masons Arms Roseheartly AB-N-P006  
**Urgent:** High

**Follow up:** Follow up  
**Start date:** Thursday, January 26, 2023 12:00:00 AM  
**Due date:** Thursday, January 26, 2023 12:00:00 AM

Good Afternoon Debbie & David,  
I note I've not received a response from yourselves in respect of your intentions for the premises licence held; as you'll be aware licensing have issued licence holders their reminders for annual fee payments.

I refer to my email below, with relevant guidance, please confirm your intentions?

Thanks in Advance,  
Regards  
Sarah

Sarah Ward  
Civic Licensing Standards Officer

**From:** Sarah Ward  
**Sent:** 08 August 2022 14:54  
**To:** Masons Arms [REDACTED]  
**Subject:** ACTION - Closure Masons Arms Roseheartly AB-N-P006  
**Importance:** High

Good Afternoon David & Debbie,

I note that the premises have been closed for sometime, as I've visited on a number occasions, latterly on Saturday evening; I note there is no record of closure against the premises licence held by Aberdeenshire Licensing Board.

In terms of the premises licence held for the premises, the licensing boards policy states the following:

6.13

*"Where any premises ceases to be used for the sale of alcohol for a period of more than three months, the relevant Board will conclude that the licence has ceased to have effect in terms of Section 28 of the Act. A new premises licence will be required before alcohol can then be sold from the premises. The relevant Board will consider each case on its own merits. This period may be extended if circumstances arise that merit this. Licence Holders should request extensions in writing to the relevant Board and should outline the reasons the extension is sought. All requests will be considered by the licensing Board."*

As you will be aware your Annual Fee will be due soon and letters of reminder will be sent; If it is your intentions to remain closed, then you will need to write to the licensing boards, explaining your circumstances, in order for them to consider your extension.

I suggest you write to them as soon as possible by email to [licapps@aberdeenshire.gov.uk](mailto:licapps@aberdeenshire.gov.uk) outlining the current status and your intentions for the premises.

Alternatively, you may surrender the premises licence, the please confirm this by email to [licapps@aberdeenshire.gov.uk](mailto:licapps@aberdeenshire.gov.uk) and return the premises licence to Stonehaven.

Any queries, please do not hesitate to contact me.

Kind Regards,  
Sarah

Sarah Ward  
Civic Licensing Standards Officer



Contactable by:

Guidance / Application forms.

 [Licensing - Aberdeenshire Council](#)  [Environmental Health - Aberdeenshire Council](#)

To Lodge Licensing Applications Liquor or Civic, please email [licapps@aberdeenshire.gov.uk](mailto:licapps@aberdeenshire.gov.uk) or for the following applications, please use our online system:

**Occasional Licence** [Occasional licence to sell alcohol - Aberdeenshire Council](#)

**Personal Licence Grant and Renewal** [Personal licence to sell alcohol - Aberdeenshire Council](#)

[B]

**From:** Sarah Ward  
**Sent:** 13 October 2022 10:01  
**Subject:** ACTION - Annual Fee Reminder 2022/2023  
**Importance:** High

Good Morning,

Schedule 3 paragraph 10 of the Licensing (Scotland) Act 2005 – Payment of Annual Fees.

As many of you may have noticed we are having technical difficulties with the online payment system for 2022/2023 Annual Liquor Licensing Fees.

I am currently unable to trace the annual fee payment which was due by 1<sup>st</sup> October 2022. It may be that you've already made payment and therefore I ask if you can confirm when and how the payment was made e.g. date and reference to the receipt number.

If payment has not been made please go to - [www.aberdeenshire.gov.uk](http://www.aberdeenshire.gov.uk)

- Click on the word "Pay"
- At the bottom of the list click on "Liquor Licence Annual Fee"
- Complete your details on screen

Should you wish to pay by telephone then please contact [licapps@aberdeenshire.gov.uk](mailto:licapps@aberdeenshire.gov.uk) providing a number they can contact you on.

Please give this your immediate attention; if payment is not received within 7 days, then we have no choice but to follow the formal procedures for issuing a letter of non-compliance, in terms of a breach in mandatory conditions - Schedule 3 paragraph 10 of the Licensing (Scotland) Act 2005.

Thanks in advance,  
Sarah  
Sarah Ward  
Civic Licensing Standards Officer



Contactable by:  
Guidance / Application forms:

 [Licensing - Aberdeenshire Council](#)  [Environmental Health - Aberdeenshire Council](#)

To Lodge Licensing Applications Liquor or Civic, please email [licapps@aberdeenshire.gov.uk](mailto:licapps@aberdeenshire.gov.uk) or for the following applications, please use our online system:

**Occasional Licence** [Occasional licence to sell alcohol - Aberdeenshire Council](#)

**Personal Licence Grant and Renewal** [Personal licence to sell alcohol - Aberdeenshire Council](#)

[C]

**From:** Sarah Ward  
**Sent:** 02 November 2022 09:44  
**To:** Masons Arms [REDACTED]  
**Subject:** ACTION - Masons Arms, Rosehearty - Annual Fees - Non Compliant  
**Importance:** High

Good Morning Sirs DD & DS Limited,

To date we've been unable to trace payment for Annual Fees; previous email correspondence has been sent with no response. The non compliant letter and copy of Annual Fee Reminder has been sent by post today to the licence holder directly to the premises.

Please Read the letter carefully and confirm your intentions for the premises.

Any queries, regarding said matter please do not hesitate to contact either myself or [licapps@aberdeenshire.gov.uk](mailto:licapps@aberdeenshire.gov.uk)

Regards,  
Sarah

Sarah Ward  
Civic Licensing Standards Officer  
[REDACTED]

Contactable by: [REDACTED]  
Guidance / Application forms.

 [Licensing - Aberdeenshire Council](#)  [Environmental Health - Aberdeenshire Council](#)

To Lodge Licensing Applications Liquor or Civic, please email [licapps@aberdeenshire.gov.uk](mailto:licapps@aberdeenshire.gov.uk) or for the following applications, please use our online system:

**Occasional Licence** [Occasional licence to sell alcohol - Aberdeenshire Council](#)

**Personal Licence Grant and Renewal** [Personal licence to sell alcohol - Aberdeenshire Council](#)



Our Ref SMW / LAPREM/419/08

Licence Holder  
Sirs DD & DS Limited  
The Masons Arms Hotel  
1 Castle Street  
Rosehearty  
Aberdeenshire  
AB43 7JJ

Environment and Infrastructure  
**Environmental Health**  
St Leonards  
Sandyhill Road  
Banff  
AB45 1SD  
Telephone: [REDACTED]

[www.aberdeenshire.gov.uk](http://www.aberdeenshire.gov.uk)

Please ask for Sarah Ward  
Direct [REDACTED]  
Email [REDACTED]

02.11.2022

Dear Licence Holder,

**Licensing (Scotland) Act 2005, Annual Fee Payment  
The Masons Arms, Rosehearty AB-N-P006**

I refer to the above premises and write to advise that in terms of paragraph 7(2) of the Licensing (Fees) (Scotland) Regulations 2007 the annual fee in respect of the premises has not been paid by **01/Oct/2022**. The outstanding fee due is £220.00, you are now required to pay the fee within 7 days of the date of this letter.

Paragraph 10 of the Mandatory Conditions to which the premises licence is subject require payment of the annual fee by 01 October. Failure to make this payment will result in a review of the licence for failure to comply with a mandatory condition which may result in an immediate revocation of the licence.

If the above contravention remains un-resolved, I shall issue the premises with a Section 14(2) (a) compliance Notice.

I note the premises have been closed for some time and it may not be your intentions to keep the premises licence live; therefore, you will not need to pay your Annual Fee.

However, if it's your intentions to pay your annual fee, then you must request an extension of closure: you must communicate this with us; To date Licensing nor I, have had any form of communication from yourselves and I have emailed several times.

In /

In terms of the premises licence held for the premises, the licensing boards policy states the following:

6.13 *"Where any premises ceases to be used for the sale of alcohol for a period of more than three months, the relevant Board will conclude that the licence has ceased to have effect in terms of Section 28 of the Act. A new premises licence will be required before alcohol can then be sold from the premises. The relevant Board will consider each case on its own merits. This period may be extended if circumstances arise that merit this. Licence Holders should request extensions in writing to the relevant Board and should outline the reasons the extension is sought. All requests will be considered by the licensing Board."*

Alternatively, you may surrender the premises licence, if this is your intentions, then please confirm this by email to [licapps@aberdeenshire.gov.uk](mailto:licapps@aberdeenshire.gov.uk) and return the premises licence to Stonehaven.

I will be happy to offer advice or guidance on remedying the matters but would also recommend that you consider taking legal advice if you have any concerns about the matters being raised.

PLEASE SEE PAYMENT OPTIONS IN ATTACHED LETTER, SENT BY THE LICENSING DEPARTMENT ON THE 1/09/2022 by email.

Should you wish to make representation to my line manager (Keith Simpson, Senior Licensing Standards Officer, Viewmount, Arduthie Road, Stonehaven, AB39 2DQ. [REDACTED] you should do so within two weeks from receipt of this letter.

If you require any further information or advice, please do not hesitate to contact me at the above address.

Yours sincerely,

[REDACTED]

Sarah Ward  
Civic Licensing Standards Officer

cc: email copy sent 2.11.2022

Enc. Copy of letter reminder letter.

Licence Holder  
Sirs DD & DS Limited  
The Masons Arms Hotel  
1 Castle Street  
Rosehearty  
Aberdeenshire  
AB43 7JJ



[D]



Our Ref: SMW/ LAPREM/419/08  
Ask for: Sarah Ward  
Direct Dial: [REDACTED]  
Email: [REDACTED]

Environment and Infrastructure  
**Environmental Health**

St Leonards  
Sandyhill Road  
Banff  
AB45 1SD

Telephone: [REDACTED]

[www.aberdeenshire.gov.uk](http://www.aberdeenshire.gov.uk)

Licence Holder  
Sirs DD & DS Limited  
The Masons Arms Hotel  
1 Castle Street  
Rosehearty  
Aberdeenshire  
AB43 7JJ

16 November 2022

Dear Licence Holder,

**NOTICE IN TERMS OF SEC 14 LICENSING (SCOTLAND) ACT 2005  
LICENSING (SCOTLAND) ACT 2005 - ANNUAL FEE PAYMENT**

**The Masons Arms, Rosehearty AB-N-P006**

Further to our letters dated 2nd September and reminders by emails, our records show the payment of £220.00 remains outstanding. It may be your intentions to surrender the premises licence, however you must communicate this with the licensing board; or request a extension to closure with explanation, which the board will consider, ref previous correspondence.

As a result of non-payment of Annual Fees, you have continued to fail to comply with Schedule 3, paragraph 10 of the Licensing (Scotland Act 2005), which contains details of the mandatory conditions attached to your premises licence. As such, I am now issuing you, as premises licence holder, with a Section 14(2)(a) compliance notice. Details of the breach are contained within the notice along with action required to remedy the situation.

**How to Pay**

**Online payment using a debit or credit card is the quickest and most convenient method.** If using this method, please go the following web address:-

- [www.aberdeenshire.gov.uk](http://www.aberdeenshire.gov.uk)
- Click on the word "Pay"
- At the bottom of the list click on "Liquor licence annual fee"
- Complete your details on screen

**If you are unable to pay online, please contact [licapps@aberdeenshire.gov.uk](mailto:licapps@aberdeenshire.gov.uk) and we will arrange a telephone payment or provide you with the details for a BACS transfer. If you wish to pay via bank transfer, please ensure that you advise us when the payment has been made, and let us know the reference used, so we can track your payment.**

**Please be aware that Aberdeenshire Council no longer accept cash or cheque payments.**



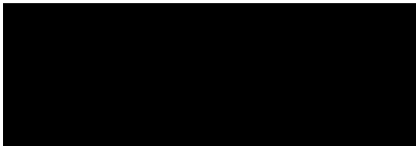


Further failure to comply with this notice will result in the premises licence being subject to a review hearing at the next meeting held by Aberdeenshire Licensing Board, in December. At the hearing the Licensing Board may consider one of the following steps:

1. issue a written warning
2. make a variation
3. suspend the licence for a period
4. to revoke the licence

You may also wish to take legal advice as, potentially your premises licence could be at risk

Yours faithfully,



Sarah Ward  
Civic Licensing Standards Officer

**If you have difficulty reading this document, please contact  
Sarah Ward [redacted]**



**LICENSING (SCOTLAND) ACT 2005  
COMPLIANCE NOTICE UNDER SECTION 14**

Notice is hereby given in terms of Section 14 (2)(a)(i) of the above Act and is issued by Lisa Godini being a Licensing Standards Officer for Aberdeenshire Central Licensing Board.

This notice requires action to be taken by the Licence Holder to remedy the breaches of the licensing conditions outlined below to which the Premises Licence is subject. Failure to do so to the satisfaction of the Licensing Standards Officer within the time allowed for compliance (if any) will result in an application to Aberdeenshire Central Licensing Board for a review of the Premises Licence.

<b>Premises Licence Holder &amp; Licence No:</b>	Sirs DD & DS Limited AB-N-P006
<b>Premises Subject to Notice:</b>	Masons Arms Hotel, 1 Castle Street, Rosehearty, AB43 7JJ
<b>Date &amp; Time Issued:</b>	16/11/2022 (AM)
<b>Premises Manager Details:</b>	Deborah White
<b>Manner of service:</b>	By Post (Recorded)
<b>Details to Whom Issued:</b>	Sirs DD & DS Limited

**Details of Breach of Condition and Remedy**  
*Licensing Standards Officer should detail the condition(s) breached and describe the remedial action required to be taken in order to comply with this notice. \**

Mandatory Conditions.

**Schedule 3 paragraph 10 of the Licensing (Scotland) Act 2005**


Remedy

Make payment of the outstanding annual fee - £220.00 within 7 days from date of this notice.

Payment can be made in any of the following methods:  
Online, telephone or at one of the Aberdeenshire Council Service Points.

Where possible, we would encourage you to pay online at the undernoted website address.  
<http://www.aberdeenshire.gov.uk>

**REQUIREMENT TO COMPLY**

<b>With Immediate Effect:</b>	<b>NO</b>
<b>(or) Comply By:</b>	<b>Date: 7 days from date of the attached letter</b>
<b>Licensing Standards Officer (Print Name &amp; Signature)</b>	<b>Notice Received by (Print Name &amp; Signature)</b>
Sarah Ward, 	

Licence Holder  
Sirs DD & DS Limited  
The Masons Arms Hotel  
1 Castle Street  
Rosehearty  
Aberdeenshire  
AB43 7JJ



**APPENDIX 2**

**Copy Premises Licence**

## PREMISES LICENCE

Issued by – North Aberdeenshire Divisional Licensing Board – under the terms and conditions of the Licensing (Scotland) Act 2005.

<b>Premises Licence Number</b>	<b>AB-N-P006</b>
--------------------------------	------------------

<b>Date of Commencement of Licence</b>	<b>1 September 2009</b>
--	-------------------------

<b>Postal Address of Premises</b>	<b>Masons Arms Hotel</b> <b>1 Castle Street</b> <b>Rosehearty</b>	
<b>Postcode AB43 7JJ</b>	<b>Telephone Number</b>	

**Description of Premises:**

The premises are a rural hHotel with a function room, situated on the outskirts of a village

**Licensed Hours**

	CORE LICENSED HOURS APPLIED FOR	
	On Sale	Off Sale
<b>Monday</b>	11.00 a.m. - 11.00 p.m.	N/A - N/A
<b>Tuesday</b>	11.00 a.m. - 11.00 p.m.	N/A - N/A
<b>Wednesday</b>	11.00 a.m. - 11.00 p.m.	N/A - N/A
<b>Thursday</b>	11.00 a.m. - 12.30 a.m.	N/A - N/A
<b>Friday</b>	11.00 a.m. - 1.00 a.m.	N/A - N/A
<b>Saturday</b>	11.00 a.m. - 1.00 a.m.	N/A - N/A
<b>Sunday</b>	11.00 a.m. - 12 midnight	N/A - N/A

**Notes:**

**Name and postal address (or registered address if a company), telephone number and email (where relevant) of holder of premises licence**

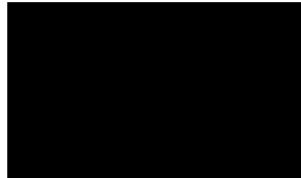
**DD & DS Limited  
The Masons Arms Hotel  
1 Castle Street  
Rosehearty  
Aberdeenshire  
AB43 7JJ**

**Registered number of premises licence holder, e.g. company number, charity number (where applicable)**

**SC337893**

**Name, postal address and telephone number of premises manager named in the operating plan**

**David Dougal Whyte**



**Number of the personal licence held by the premises manager named in the operating plan and the name of the issuing Licensing Board**

**AB-N-385**

**Aberdeenshire North Licensing Board**

## Licence Conditions

The Mandatory Conditions set out in Schedule 3 of the Licensing (Scotland) Act 2005 (as amended) apply to this licence.

The following sections of the Board's local conditions apply to this licence:-

- General Management
- Noise
- Children

The Mandatory Conditions are attached as Appendix 1 to this Licence.  
Any Local Conditions are attached as Appendix 2 to this Licence.

This premises licence was granted on the undernoted date:-

Date: 26<sup>th</sup> June, 2008

Fiona M. Stewart

Depute Clerk to the Board

## Appendix 1

### **Mandatory Conditions for Premises Licences – Schedule 3 of the Licensing (Scotland) Act 2005 (as amended) – with effect from 1st October 2011**

#### **Interpretation**

1. In these conditions, “the premises” means, in relation to any premises licence, the premises specified in the licence.

#### **Compliance with the Operating Plan**

2.
  - (1) Alcohol is to be sold on the premises only in accordance with the operating plan contained in the licence.
  - (2) Nothing in sub-paragraph (1) is to be read as preventing or restricting the doing of anything referred to in section 63(2) of the Licensing (Scotland) Act 2005.
3. Any other activity to be carried on in the premises is to be carried on only in accordance with the operating plan contained in the licence.

#### **The Premises Manager**

4.
  - (1) Alcohol is not to be sold on the premises at any time when –
    - (a) There is no premises manager in respect of the premises,
    - (b) The premises manager does not hold a personal licence,
    - (c) The Personal licence held by the premises manager is suspended, or
    - (d) The licensing qualification held by the premises manager is not the appropriate licensing qualification in relation to the premises.
  - (2) In sub-paragraph (1) “appropriate licensing qualification” in relation to any licensed premises means any licensing qualification prescribes as such in relation to licensed premises of that description under Section 91(2)(d) of the Licensing (Scotland) Act 2005.
  - (3) Nothing in sub-paragraph (1) or paragraph 5 is to be read as requiring the premises manager to be present on the premises at the time any sale of alcohol is made.



**Authorisation of Sales of Alcohol**

5. Every sale of alcohol made on the premises must be authorised (whether generally or specifically) by –
- (a) The premises manager, or
  - (b) Another person who holds a personal licence.

**Training of Staff** <sup>1</sup>

- (6) (1) No person (other than a person who holds a personal licence) is to work in the premises in the capacity mentioned in sub-paragraph (2) unless that person has complied with such requirements as to the training of staff as may be prescribed for the purposes of this paragraph.
- (2) That is a capacity (whether paid or unpaid) which involves the person –
- (a) Making sales of alcohol, or
  - (b) Where alcohol is sold on the premises for consumption on the premises, serving such alcohol to any person
- (2A) At any time when a person (other than a person who holds a personal licence) is working in the premises in a capacity mentioned in sub-paragraph (2), there must be kept on the premises a training record which relates to that person and is in the form set out in the Schedule to the Licensing (Mandatory Conditions No 2)(Scotland) Regulations 2007.
- (2B) A record kept on the premises under sub-paragraph (2A) must be produced to a Licensing Standards Officer on request.
- (3) Regulations under sub-paragraph (1) prescribing training requirements may, in particular –
- (a) Provide for the accreditation by the Scottish Ministers of –
    - (i) Courses of training, and
    - (ii) Persons providing such courses,For the purposes of the Regulations,
  - (b) Prescribe different training requirements in relation to different descriptions of persons,

---

<sup>1</sup> Matters to be covered in training for staff are attached at the end. These are provided for in the Licensing (Training of Staff)(Scotland) Regulations 2007

- (c) Require that any person providing training or any particular description of training in accordance with the regulations hold a personal licence or such other qualifications as may be prescribed in the regulations, and
- (d) Require training to be undergone again at such intervals as may be prescribed in the regulations.

**Minimum Price of Packages Containing More than One Alcoholic Product**

6B

- (1) A package containing two or more alcoholic products (whether of the same or different kinds) may only be sold on the premises at a price equal to or greater than the sum of the prices at which each alcoholic product is for sale on the premises.
- (2) Sub-paragraph (1) applies –
  - (a) Only where each of the alcoholic products is for sale on the premises separately, and
  - (b) Regardless of whether or not the package also contains any item which is not an alcoholic product.
- (3) In this paragraph “alcoholic product” means a product containing alcohol and includes the container in which alcohol is for sale.

**Pricing of Alcohol**

- 7. Where the price at which any alcohol sold on the premises for consumption on the premises is varied –
  - (a) The variation (referred to in this paragraph as “the earlier price variation”) may be brought into effect only at the beginning of a period of licensed hours, and
  - (b) No further variation of the price at which that or any other alcohol is sold on the premises for consumption on the premises may be brought into effect before the expiry of the period of 72 hours beginning with the coming into effect of the earlier price variation.
- 7A Where the price at which any alcohol sold on the premises for consumption off the premises is varied –
  - (a) the variation (referred to in this paragraph as “the earlier price variation”) may be brought into effect only at the beginning of a period of licensed hours, and
  - (b) no further variation in the price at which that alcohol is sold on the premises may be brought into effect before the expiry of the

period of 72 hours beginning with the coming into effect of the earlier price variation.

**Irresponsible Drinks Promotions**

- 8.
- (1) An irresponsible drinks promotion must not be carried on in or in connection with the premises.
  - (2) Subject to sub-paragraph (3), a drinks promotion is irresponsible if it –
    - (a) Relates specifically to an alcoholic drink likely to appeal largely to persons under the age of 18
    - (b) Involves the supply of an alcoholic drink free of charge or at a reduced price on the purchase of one or more drinks (whether or not alcoholic drinks),
    - (c) Involved the supply free of charge or at a reduced price of one or more extra measures of an alcoholic drink on the purchase of one or more measures of the drink,
    - (d) Involves the supply of unlimited amounts of alcohol for a fixed charge (including any charge for entry to the premises),
    - (e) Encourages, or seeks to encourage, a person to buy or consume a large measure of alcohol than the person had otherwise intended to buy or consume,
    - (f) Is based on the strength of any alcohol,
    - (g) Rewards or encourages, or seeks to reward or encourage, drinking alcohol quickly, or
    - (h) Offers alcohol as a reward or prize, unless the alcohol is in a sealed container and consumed off the premises.
  - (3) Paragraphs (c) to (e) of sub-paragraph (2) apply only to a drinks promotion carried on in relation to alcohol sold for consumption on the premises.
  - (4) The Scottish Ministers may by regulations modify sub-paragraph (2) or (3) so as to –
    - (a) Add further descriptions of drinks promotions,
    - (b) Modify any of the descriptions of drinks promotions for the time being listed in it, or
    - (c) Extend or restrict the application of any of those descriptions of drinks promotions.
  - (5) In this paragraph “drinks promotion” means, in relation to any premises, any activity which promotes, or seeks to promote, the buying or consumption of any alcohol on the premises.

**Provision of non-alcoholic drinks**

- 9.
- (1) The conditions specified in this paragraph apply only to the extent that the premises licence authorises the sale of alcohol for consumption on the premises.
  - (2) Tap water fit for drinking must be provided free of charge on request.
  - (3) Other non-alcoholic drinks must be available for purchase at a reasonable price.

**Requirement for Age Verification Policy**

9A

- (1) There must be an age verification policy in relation to the sale of alcohol on the premises.
- (2) An "age verification policy" is a policy that steps are to be taken to establish the age of a person attempting to buy alcohol on the premises ("the customer") if it appears to the person selling the alcohol that the customer may be less than 25 years of age (or such older age as may be specified in the policy).
- (3) The condition specified in this paragraph does not apply in relation to any sale of alcohol which takes place on the premises merely by virtue of being treated, by Section 139 of the Licensing (Scotland) Act 2005, as taking place on the premises.

**Payment of annual or recurring Fees**

- 10.
- (1) The condition specified in sub-paragraph (2) applies only in relation to a premises licence in respect of which an annual or other recurring fee is to be paid by virtue of regulations under Section 136(1) of the Licensing (Scotland) Act 2005.
  - (2) The fee must be paid as required by the Regulations.

**Notices – Admission of Persons under 18**

- 11.
- (1) The condition specified in this paragraph applies only in the case of premises on which alcohol is sold for consumption on the premises.
  - (2) There is to be displayed so that it is reasonably visible to customers entering the premises a sign of at least A4 size which  
–

- (a) States that person under the age of 18 are not permitted on the premises; or
- (b) States that such persons are permitted on the premises or on such parts of the premises as are specified on the sign.

**Baby Changing Facilities**

- 12.
- (1) The condition specified in this paragraph applies only in the case of premises –
    - (a) Which are not –
      - (i) A vehicle;
      - (ii) A vessel;
      - (iii) A moveable structure; or
      - (iv) Used wholly or mainly for the purposes referred to in Section 125(1) of the Licensing (Scotland) Act 2005;
    - (b) On which alcohol is sold for consumption on the premises; and
    - (c) To which children under the age of 5 are to be admitted.
  - (2) There are to be on the premises facilities for baby changing which are to be accessible to persons of either gender.

**Display, or Promotion of the sale, of Alcohol for Consumption off the Premises**

- 13.
- (1) Alcohol which is for sale only for consumption off the premises may be displayed only in one or both of the following –
    - (a) A single area of the premises agreed between the Licensing Board and the holder of the licence; or
    - (b) A single are of the premises which is inaccessible to the public.
  - (1A) Sub-paragraphs (1B) to (1D) apply where the premises, in so far as they are used for the sale of alcohol, are so used only or primarily for the sale of alcohol for consumption off the premises.
  - (1B) Any drinks promotion on the premises may take place only in any one or more of the following –
    - (a) an area referred to in sub-paragraph (1)(a) and (b),
    - (b) a room on the premises which is used for offering the tasting of any alcohol sold on the premises (for consumption off the

premises) and the resulting tasting and is separate from those areas.

(1C) A drinks promotion in connection with the premises may not take place in the vicinity of the premises.

(1D) For the purposes of sub-paragraph (1C), the “vicinity” means the area extending 200 metres from the boundary of the premises (as shown on the layout plan)

(2) In an area agreed in terms of sub-paragraph (1)(a), a product other than alcohol may be displayed only if it is –

- (a) A non-alcoholic drink; or
- (b) Packaged with, and may be purchased only along with, alcohol.
- (c) A branded non-alcoholic products, or
- (d) A newspaper, magazine or other publication.

(2A) Sub-paragraph (2) is without prejudice to sub-paragraph (1B).

(3) This paragraph does not apply in respect of premises –

- (a) whose main function is to provide a visitor attraction, and
- (b) where -
  - (i) the premises form part of a larger site which is used principally for the production of alcoholic drinks, or
  - (ii) the visitor attraction is used principally to provide information about and promote the history and attributes of a particular alcoholic drink or a particular category of alcoholic drink.

(4) In this paragraph –

“branded non-alcoholic product” means a product which does not consist of or contain alcohol and which –

- (a) bears a name or image of, or
- (b) is an image of,

an alcoholic product (namely, a product consisting of, or containing alcohol)

“drinks promotion” means any activity which promotes, or seeks to promote, the buying of any alcohol sold on the premises for consumption off the premises but does not include the display of any product which is –

- (a) a branded non-alcoholic product for sale on the premises, or

- (b) a newspaper, magazine or other publication –
  - (i) for the sale on the premises, or
  - (ii) if not for sale on the premises, which does not relate only or primarily to alcohol.

### **Late Opening Conditions**

#### **NOTES**

1. Paragraph 1. below **applies to all premises** open for a continuous period beginning on one day and ending after 1.00a.m on the following day.
2. Paragraphs 2 – 6 below **apply to premises** with a capacity of which is at least 250 people and which –
  - (a) Will regularly provide at any time in the period between 1.00a.m. and 5.00a.m.
    - (i) Live or recorded music with a decibel level exceeding 85dB;
    - (ii) Facilities for dancing; or
    - (iii) Adult entertainment; or
  - (b) When fully occupied, are likely to have more customers standing than seated.
3. Paragraphs 2-6 below **do not apply to premises** –
  - (a) The primary function of which is the service of food;
  - (b) Which include, or are part of large premises which include, at least 6 letting bedrooms;
  - (c) In respect of which a licence under section 12 of the Theatres Act 1968 or section 1 of the Cinemas Act 1985 is in force; or
  - (d) Which are, or are part of, an art gallery.

#### **CONDITIONS**

1. A person trained to the satisfaction of the Licensing Board in administering first aid must be present on the premises from 1.00a.m. (on any day when the premises are open at that time) until whichever is the earlier of
  - (a) The time at which the premises next close; and
  - (b) 5.00a.m.

2. A designated person who is the holder of a personal licence must be present on the premises from 1.00a.m. (on any day when the premises are open at that time) until whichever is the earlier of –
  - (a) The time at which the premises next close; and
  - (b) 5.00a.m. or such other time as the Licensing Board may specify.
3. There must be written policies in existence concerning
  - (a) The evacuation of the premises; and
  - (b) The prevent of the misuse of drugs on the premises.
4. A CCTV system must be installed on the premises to the satisfaction of the appropriate Chief Constable and must be kept in good working order.
5. There must be persons responsible for checking on the safety and wellbeing of persons using any toilet facilities on the premises.
6. A person who holds a licence granted under Section 8 of the Private Security Industry Act 2001 must be positioned at every entrance to the premises from 1.00a.m. (on any day when the premises are open at that time) until whichever is the earlier of –
  - (a) The time at which the premises next close; and
  - (b) 5.00a.m. or such other time as the Licensing Board may specify.



### **Matters to be Covered in Staff Training**

“Relevant training” means training of at least 2 hours’ duration which covers each of the matters listed below.

1. The legal basis of the requirement for training of staff under paragraph 6 of Schedule 3 to the Act.
2. The Licensing Objectives
3. The definition of “alcohol” in the Act.
4. What constitutes an unlicensed sale.
5. The functions of Licensing Standards Officers, including their powers of entry.
6. The nature of an operating plan and its place in the licensing system.
7. The different types of premises licence conditions under Section 27 of the Act.
8. Special provisions for clubs under Section 125 of the Act.
9. Licensed hours under Part 5 of the Act.
10. Offences under the Act, particularly those involving persons under the age of 18/
11. Proof of age under Sections 102 and 108 of the Act and the Sale of Alcohol to Children and Young Persons (Scotland) Regulations 2007.
12. Test Purchasing of alcohol under Section 105(2) of the Act.
13. Best practice as regards standards of service and refusing service.
14. Units of alcohol and the relationship between units and the strength of different alcoholic drinks.
15. The sensible drinking limits for males and females recommended by the British Medical Association.
16. Good practice in managing conflict situations.

**Training to staff can only be delivered by a person who holds a personal licence or a qualification accredited for the purpose by the Scottish Qualifications Authority.**

Appendix 2

**Local Conditions**

**General Management for All Premises**

1. **The provisions relating to management of licensed premises contained within the Board's current policy statement, particularly Appendix 9 and Schedule 1 of Appendix 10 to that document, shall be complied with.**

Noise – All Premises

1. **No noise from amplified and non-amplified music, singing and speech sourced from licensed premises shall be audible in adjoining properties after 11.00p.m.**

Children and Young Persons

1. **Children shall not have direct access to pool tables, darts boards or gaming machines in any part of the premises to which they have access or are allowed entry.**
2. **The Licence holder shall provide safe high chairs for the use of young children**
3. **The Licence holder shall provide heating facilities for baby/young person's food at no cost to the customer.**
4. **The Licence holder shall provide containers for the disposal of soiled nappies**
5. **The Licence holder shall ensure that heating sources are adequately protected.**
6. **The Licence holder shall ensure that electrical sockets are covered.**

Premises Providing Late Night Entertainment

1. **Alcohol shall be provided for the sale of alcohol for consumption on the premises only.**
2. **Alcohol shall be provided ancillary to the entertainment provided on the premises only.**
3. **The entertainment to be provided shall be:....**
4. **The entertainment provided shall be on a continuous basis with breaks of not more than 15 minutes in any one hour.**

**5. All public notices or advertisements shall contain the following information:-**

- The name and address of the premises
- The entertainment to be provided on the premises
- The commencement time of the entertainment
- The price of entry
- The terminal hour for the premises.
- The time of the curfew, where operated, must be advertised.

The premises shall have a policy to ensure patrons are not put in vulnerable situations after leaving the premises. The policy must be in writing. All members of staff shall be informed of the policy. The policy shall be made available to customers, and for inspection. The policy shall be reviewed regularly and a detailed record of reviews kept.

## **Door Supervisors**

1. XXX number of door supervisors, holding the appropriate licence issued by the Security Industry Authority shall be employed at the premises.
2. Door Stewards shall be on duty on the following occasions:
3. Door Stewards' duties shall include..... This list is not exhaustive.

### **Members Clubs**

1. Members Clubs are expected to comply with the provisions of Appendix 11 to the Board's current policy statement.
2. Members Clubs shall adhere to the terms of the Club's constitution or rules attached to their premises licence.
3. Where the Club has submitted draft constitution or rules with their application for a premises licence, they shall submit a copy of the approved constitution or rules to the Clerk to the Board.
4. Where the Club revises its constitution or rules in the future, the Club must submit a copy of the proposed revisions to the Board for approval and thereafter submit a copy of the approved revised constitution or rules to the Clerk to the Board.
5. Where there are any changes to the list of connected persons in relation to the Club, the Club must submit details of the names, addresses, postcodes, dates and places of birth of the new connected persons and an updated list of all connected persons, to the Clerk to the Board.

## **Petrol Stations**

1. All payments for fuel will be made separately from payments of alcohol either (i) through the use of a different building; or (ii) by payment of fuel from outside the premises or part of the premises through a payment window, without fuel customers entering the premises.

**The Licence holder shall have signage advising customers of the payment arrangements at the premises**

**OPERATING PLAN** *Licensing (Scotland) Act 2005, section 20(2)(b)(i)*

**Question 1**

STATEMENT REGARDING ALCOHOL BEING SOLD ON PREMISES/OFF PREMISES OR BOTH

1(a) Will alcohol be sold for consumption solely ON the premises	<b>YES</b>
1(b) Will alcohol be sold for consumption solely OFF the premises	<b>NO</b>
1(c) Will alcohol be sold for consumption both ON and OFF the premises	<b>NO</b>
*Delete as appropriate	

**Question 2**

STATEMENT OF **CORE** TIMES WHEN ALCOHOL WILL BE SOLD FOR CONSUMPTION **ON** PREMISES

<b>Day</b>	<b>ON Consumption</b>	
	<b>Opening time</b>	<b>Terminal hour</b>
Monday	11.00 a.m.	11.00 p.m.
Tuesday	11.00 a.m.	11.00 p.m.
Wednesday	11.00 a.m.	11.00 p.m.
Thursday	11.00 a.m.	12.30 a.m.
Friday	11.00 a.m.	1.00 a.m.
Saturday	11.00 a.m.	1.00 a.m.
Sunday	11.00 a.m.	12 midnight

**Question 3**

STATEMENT OF **CORE** TIMES WHEN ALCOHOL WILL BE SOLD FOR CONSUMPTION **OFF** PREMISES

<i>Day</i>	<i>OFF Consumption</i>	
	<i>Opening time</i>	<i>Terminal hour</i>
Monday	N/A	N/A
Tuesday	N/A	N/A
Wednesday	N/A	N/A
Thursday	N/A	N/A
Friday	N/A	N/A
Saturday	N/A	N/A
Sunday	N/A	N/A

NOTES:

**Question 4**

SEASONAL VARIATIONS

Does the applicant intend to operate according to seasonal demand	<b>NO</b>
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\*If YES – provide details

N/A
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**Question 5**

PLEASE INDICATE THE OTHER ACTIVITIES OR SERVICES THAT WILL BE PROVIDED ON THE PREMISES IN ADDITION TO SUPPLY OF ALCOHOL

<b>5(a) Activity</b>	<i>Please confirm YES/NO</i>	To be provided during core licensed hours – please confirm <i>YES/NO</i>	Where activities are also to be provided <u>outwith</u> core licensed hours please confirm <i>YES/NO</i>
Accommodation	Y	N/A	N/A
Conference facilities	N	N	N
Restaurant facilities	N	N	N
Bar meals	Y	Y	Y
<b>5(b) Activity Social functions including:</b>	<i>Please confirm YES/NO</i>	To be provided during core licensed hours – please confirm <i>YES/NO</i>	Where activities are also to be provided <u>outwith</u> core licensed hours please confirm <i>YES/NO</i>
Receptions including (Weddings funerals,, birthdays, retirements etc)	Y	Y	Y
Club or other group meetings etc	Y	Y	N
<b>5(c) Activity Entertainment</b>	<i>Please confirm YES/NO</i>	To be provided during core licensed hours – please confirm	Where activities are also to be provided <u>outwith</u> core

<b>including:</b>		<b>YES/NO</b>	<b>licensed hours please confirm YES/NO</b>
Recorded Music – see 5(g)	Y	Y	Y
Live performances – see 5(g)	Y	Y	Y
Dance facilities – see 5(g)	Y	Y	Y
Theatre	N	N	N
Films	N	N	N
Gaming	Y	Y	N
Indoor/outdoor sports	Y	Y	N
Televised sport	Y	Y	N
<b>5(d) Activity</b>	<b>Please confirm YES/NO</b>	<b>To be provided during core licensed hours – please confirm YES/NO</b>	<b>Where activities are also to be provided outwith core licensed hours please confirm YES/NO</b>
Outdoor drinking facilities	N	N	N
<b>5(e) Activity</b>	<b>Please confirm YES/NO</b>	<b>To be provided during core licensed hours – please confirm YES/NO</b>	<b>Where activities are also to be provided outwith core licensed hours please confirm YES/NO</b>
Adult entertainment – see 5(g)	N	N	N



Where you have answered YES in respect of any entry in column 4 above, please provide further details below.

<p><b>ACCOMMODATION - SERVING OF ALCOHOL TO RESIDENTS ONLY</b></p> <p><b>BAR MEALS</b></p> <p><b>SERVING OF BREAKFASTS TO RESIDENTS - NO ALCOHOL WILL BE SERVED</b></p> <p><b>5(B) - RECEPTION - FUNERAL TEAS PRIOR TO 11.00 A.M. NO ALCOHOL WILL BE SERVED</b></p> <p><b>5(C) - ENTERTAINMENT - PROVIDED DURING FRIDAY AND SATURDAY PRIVATE FUNCTIONS WHEN CORE HOURS EXTENDED TO 1.30 A.M.</b></p>
--

5(f) any other activities

If you propose to provide any activities other than those listed in 5(a) – (e) please provide details or further information in the box below.

<p><b>PRIVATE FUNCTIONS ON FRIDAYS AND SATURDAYS WHEN CORE HOURS EXTENDED TO 1.30 A.M.</b></p>
--

5(g) Late night premises opening after 1.00am

Where you have confirmed that you are providing either live or recorded music, dancing or adult entertainment, any combination of these or all please provide the following details

Will the music level exceed 85dB?	N/A
When fully occupied, are there likely to be more customers standing than seated?	N/A
*Delete as appropriate	

**Question 6 (On-sales only)**

CHILDREN AND YOUNG PERSONS

6(a)	When alcohol is being sold for consumption on the premises will children or young persons be allowed entry	<b>Y</b>
	*Delete as appropriate	

6(b) Where the answer to 6(a) is YES provide statement of the **TERMS** under which they will be allowed entry

**CHILDREN PERMITTED TO LUNCH BAR, FUNCTION ROOM AND ACCESS AND TOILET AREAS IF ACCOMPANIED BY A RESPONSIBLE ADULT.  
YOUNG PERSONS UNRESTRICTED ACCESS.**

6(c) Provide statement regarding the **AGES** of children or young persons to be allowed entry

**NO RESTRICTION - BABY CHANGING FACILITIES WILL BE IN PLACE PRIOR TO 1ST SEPTEMBER, 2009.**

6(d) Provide statement regarding the **TIMES** during which children and young persons will be allowed entry

**CHILDREN - UNTIL 11.00 P.M. UNLESS ATTENDING PRIVATE FUNCTIONS WHEN PERMITTED UNTIL THE TERMINAL HOUR.  
YOUNG PERSONS - DURING CORE HOURS.**

6(e) Provide statement regarding the **PARTS** of the premises to which children and young persons will be allowed entry

**CHILDREN - ALL PUBLIC ACCESSIBLE AREAS EXCEPT PUBLIC BAR.  
YOUNG PERSONS - ALL PUBLIC ACCESSIBLE AREAS.**

**Question 7**

CAPACITY OF PREMISES

**What is the proposed capacity of the premises to which this application relates?**

**ON SALES - 260  
FUNCTION HALL/LOUNGE BAR 162  
PUBLIC BAR 98**

**Question 8**

PREMISES MANAGER (**NOTE: not required where application is for grant of provisional premises licence**)

Personal details

8(a) Name

**DAVID DOUGAL WHYTE**

8(b) Date of birth

**[REDACTED]**

8(c) Contact address


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8(d) Email address

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8(e) Personal licence

<i>Date of issue</i>	<i>Name of Licensing Board issuing</i>	<i>Reference no. of personal licence</i>
1 SEPTEMBER 2009	ABERDEENSHIRE NORTH LICENSING BOARD	AB-N-385

**APPENDIX 3**

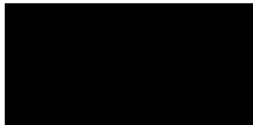
**Copy Personal Licence for Designated Premises Manager**

## PERSONAL LICENCE

The holder of this licence is qualified and permitted to sell alcohol under the terms of  
the Licensing (Scotland) Act 2005

Licence Number: AB-N-385

Name and Address of Licence  
Holder: Mr David Dougal Whyte



Name of Issuing Licensing Authority: Central Aberdeenshire Divisional  
Licensing Board

Expiry Date: 31 August 2029

Date: 1 September 2019

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Depute Clerk to The Board

**ANNEX A**

**TRAINING RECORD**

**Personal Licence Number:** AB-N-385

<b>Dates of Training</b>	<b>Title of Course Completed</b>	<b>Awarding/ Accrediting Body</b>	<b>Level Attained</b>
18 March 2019	Scottish Certificate for Personal Licence Holders (Refresher) at SCQF Level 6	City & Guilds	Pass

**ANNEX B**

**Convictions for Relevant and Foreign Offences**

**Personal Licence Number:** AB-N-385

<b>Offence</b>	<b>Court</b>	<b>Date</b>	<b>Penalty</b>
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**ANNEX C**

**Endorsements**

**Personal Licence Number: AB-N-385**

<b>Reason for Endorsement</b>	<b>Name of Licensing Board</b>	<b>Date of Commencement</b>	<b>Expiry Dates</b>
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APPENDIX 4

Licensing (Scotland) Act 2005  
Section 36 - 40  
Review of Premises Licences

**LEGAL TEST**

The grounds for review are set out at Section 36(3) and (4) of the Act.

- (3) The **grounds for review** referred to in subsection (1) are –
- (za) **that, having regard to the licensing objectives, the licence holder is not a fit and proper person to be the holder of a premises licence**
  - (a) **that one or more of the conditions to which the premises licence is subject has been breached, or**
  - (b) **any other ground relevant to one or more of the licensing objectives.**
- (4) A Licensing Standards Officer may make a premises licence review application on the ground specified in subsection (3)(a) **only if –**
- (a) in relation to the alleged ground for review, the Officer or any other Licensing Standards Officer has issued to the licence holder a notice under Section 14(2)(a)(i)<sup>1</sup>, AND
  - (b) the licence holder has failed to take the action specified in the notice to the satisfaction of the Officer.

The legal test is set out in Section 39 of the Act.

- (1) At a review hearing in relation to any premises licence, the Licensing Board **MAY**, if **SATISFIED** that a ground for review is established (whether or not on the basis of any circumstances alleged in the premises licence review proposal or application considered at the hearing) take such of the **STEPS** mentioned in subsection (2) as the Board considers **necessary or appropriate for the purposes of any of the licensing objectives.**
- (1A) Subsection (1) is subject to subsection (2A).
- (2) Those steps are –
- (a) **to issue a written warning to the licence holder**
  - (b) **to make a variation of the licence.**
  - (c) **to suspend the licence for such period as the Board may determine,**
  - (d) **to revoke the licence.**
- (2A) Where, at a review hearing in relation to any premises licence, the Licensing Board are satisfied that the ground for review specified in Section 36(3)(za)<sup>2</sup> is established, the Board **MUST revoke** the licence.

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<sup>1</sup> An enforcement notice

<sup>2</sup> That, having regard to the licensing objectives, the licence holder is not a fit and proper person to be the holder of a premises licence.

- (2B) Subject to Section 39B<sup>3</sup>, a revocation under subsection (2A) takes effect at the end of the period of 28 days beginning with the day on which the Board makes the decision
- (3) On making a variation under subsection (2)(b), the Board may provide for the variation to apply only for such period as they may determine.

There are five licensing objectives which underpin the 2005 Act. These are:

- **Preventing crime and disorder**
- **Securing public safety**
- **Preventing public nuisance**
- **Protecting and improving public health, and**
- **Protecting children and young persons from harm.**

The Licensing Board's policy statement must promote these licensing objectives and sets out how the Board expects applicants to comply with and promote the objectives. The following parts of the policy are relevant to the consideration of applications for premises licences and provisional premises licences:

- Appendices 1 and 2 to the Main Policy Statement (Appendix 2 applies in North only)
- Supplementary Policy 3 – overprovision
- Supplementary Policy 4 – Operating Hours
- Supplementary Policy 6 – Licence Types and Board Procedures
- Supplementary Policy 7 - private members clubs
- Supplementary Policy 8 - petrol stations.

### **Premises Licence**

1. In terms of Section 17 of the 2005 Act, a premises licence is required to authorise the sale of alcohol on premises.

There are two methods by which the Board can review a premises licence set out in terms of the Act.

### **Section 36 – Application for Review of a Premises licence**

2. Any person may apply to the appropriate Licensing Board in respect of any licensed premises in relation to which a premises licence has effect for a review of the licence on any of the grounds for review. Such an application is referred to as a “premises licence review application”.
3. A premises licence review application must specify the alleged ground for review, including in particular –

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<sup>3</sup> Where a Licensing Board decides to recall a revocation of a premises licence imposed under S39(2A)

- (za) where the ground is that specified in Section 36(3)(za), a summary of the information on which the applicant's view that the alleged ground applies is based
  - (a) Where the ground is that specified in Section 36(3)(a), the condition or conditions alleged to have been breached
  - (b) Where the ground is that specified in Section 36(3)(b), the licensing objective or objectives to which the alleged ground of review relates.
4. A person making a premises licence review application may include in the application any information that the applicant considers may be relevant to consideration by the Licensing Board of the alleged ground for review including, in particular, information in relation to –
- (a) the licence holder
  - (b) where the licence holder is neither an individual nor a council, a connected person in relation to the licence holder, or
  - (c) any person who is an interested party in relation to the licensed premises.
5. A Licensing Board may reject a premises licence review application if the Board considers the application –
- (a) is vexatious or frivolous, or
  - (b) does not disclose any matter relevant to any ground for review and MAY recover any expenses incurred by the Board in considering the application.

### **Section 37 – Review of a Premises Licence on the Licensing Board's Initiative**

6. The appropriate Licensing Board in respect of any licensed premises in relation to which a premises licence has effect may, on their own initiative, propose to review the licence on any of the grounds for review. Such a proposal is referred to as a "premises licence review proposal".
7. The grounds for review set out in Section 36(3) apply to a premises licence review proposal as they do to a premises licence review application.
8. The review proposal must specify the alleged grounds for review, including in particular
- (za) where the ground is that specified in Section 36(3)(za), a summary of the information on which the Board's view that the alleged ground applies is based
  - (a) Where the ground is that specified in Section 36(3)(a), the condition or conditions alleged to have been breached
  - (b) Where the ground is that specified in Section 36(3)(b), the licensing objective or objectives to which the alleged ground of review relates.
9. A licensing Board making a premises licence review proposal may include in the proposal any information that the Board considers may be relevant to their consideration of the alleged ground for review including, in particular, information in relation to –

- (a) the licence holder
- (b) where the licence holder is neither an individual nor a council, a connected person in relation to the licence holder, or
- (c) any person who is an interested party in relation to the licensed premises.

### **Review Hearing**

10. Where a Licensing Board –

- (a) makes a premises licence review proposal, or
- (b) receives a premises licence review application

The Board MUST hold a hearing for the purposes of considering and determining the proposal or application unless, in the case of a premises licence review application, the Board has rejected the application under Section 36(6). Such a hearing is referred to as a “review Hearing”

11. Where a review hearing is to be held, the Board MUST –

- (a) in the case of a premises licence review application, give notice of the hearing to the applicant, and
- (b) give notice of the hearing and a copy of the premises licence review proposal or application to –
  - (i) the licence holder, and
  - (ii) Any Licensing Standards Officer for the area in which the premises concerned are situated, unless, in the case of a premises licence review application, the applicant is such an Officer.

12. The Licensing Board MAY, for the purposes of the review hearing –

- (a) obtain further information from such persons, and in such manner, as the Board thinks fit. And
- (b) take the information into account.

13. In particular, the Board may –

- (a) request –
  - (i) the attendance at the review hearing of any person for the purpose of providing information, and
  - (ii) the production at the review hearing by any person of any documents in that person’s possession or under that person’s control, and
- (b) take into account any information relevant to any ground for review event though it is not relevant to any circumstances alleged in the review proposal or application under consideration.

### **Conduct Inconsistent with the Licensing Objectives**

14. Section 84 of the Act Applies where, in the course of a review hearing in respect of any premises licence, a Licensing Board makes a finding such as is mentioned in the following paragraph, in relation to any personal licence holder who is, or was, working in the licensed premises in respect of which the premises licence was issued.
15. The Board should hold a separate hearing in respect of personal licence holders as the finding and a hearing should take place can only be made after holding a hearing to review the premises licence. Any persons licence holders that may be affected by the premises licence review that are known to the Board, should be invited to attend the premises licence review hearing so that they are fully aware of the circumstances that they may be asked to address in respect of their conduct as personal licence holders.
16. The Board can make a finding that the personal licence holder concerned, while working as mentioned in the above paragraph, acted in a manner which was inconsistent with any of the licensing objectives.
17. The Licensing Board making the finding MUST –
  - (a) If the persons licence holder concerned is, at the time of the finding, working in licensed premises (whether the licensed premises concerned or other licensing premises) in that Board’s area, hold a hearing.
  - (b) In any other case, give notice to the relevant Licensing Board of their finding together with a recommendation as to whether the personal licence held by the Licence Holder concerned should be revoked, suspended or endorsed.
18. The Board should refer to the Legal Test Document on reviewing personal licences for further information.
19. The Boards’ current Scheme of Delegation make the following provisions for determination of review of premises licences:-

Section 1.11	Conducting a hearing under the Act including take any of the following steps: <ol style="list-style-type: none"> <li>(a) At a review hearing in respect of a premises licence where necessary in terms of the licensing objectives flowing from the sale of alcohol:             <ol style="list-style-type: none"> <li>(i) Issuing a written warning to the premises licence holder</li> <li>(ii) Revoking or suspending the premises licence, or</li> <li>(iii) Making a variation of</li> </ol> </li> </ol>	Reserved to the Board
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	<p>the premises licence.</p> <p>(b) Such hearings will be conducted by means of written submissions in the first instance, where it is appropriate to do so.</p>	
Section 3.6	Determining whether to make a premises licence review proposal	Delegated to the Clerk to the Board or any person appointed to assist them
Section 3.7	For the purposes of a review hearing, to obtain further information, request any person to attend to provide information and/or request production of any document at a review hearing	Delegated to the Clerk to the Board or any person appointed to assist them

### Statutory Guidance

20. Chapter 8 of the Scottish Government's Statutory Guidance to Licensing Authorities relates to premises licences. The Board should note that in terms of Section 142(4) of the Act, a Board deciding not to follow this guidance must give Ministers notice of that decision together with a statement of the reasons for it.

## **EXTRACT FROM SCOTTISH GOVERNMENT GUIDANCE TO LICENSING BOARDS RELATING TO PREMISES LICENCES**

### **Review of a premises licence.**

8.85. Sections 36 to 40 of the 2005 Act make provision for the review of a premises licence. A number of amendments have been made to the 2005 Act as enacted by the Criminal Justice and Licensing (Scotland) Act 2010 and (the majority) by the Air Weapons and Licensing (Scotland) Act 2015.

#### *Application for a review*

8.86. Any person can submit a “premises licence review application” to the relevant Board regarding a licensed premises on any of the grounds for review. The Air Weapons and Licensing (Scotland) Act 2015 amended Section 36 of the 2005 Act by adding a third ground for review. The grounds of review are:

- (1) are that one or more of the conditions to which the premises licence is subject has been breached, or
- (2) any other ground relevant to one or more of the licensing objectives or
- (3) not a “fit and proper person”

8.87. Depending on which ground for review is noted on the application, certain information must also be provided:

- (1) the condition or conditions alleged to have been breached
- (2) the licensing objective or objectives to which the alleged ground of review relates
- (3) a summary of the information on which the applicant’s view that the alleged ground applies is based.

8.88. A Licensing Standards Officer (LSO) is only able to apply for a review on the ground that there has been a breach of licence conditions if the LSO has issued a written warning about the breach and the LSO is not satisfied with the action taken by the licensing premises holder in response to the written warning.,

8.89. The Air Weapons and Licensing (Scotland) Act 20`5 further amended section 36 to clarify that any person who makes a premises licence review application may include any information in that application that the person considers relevant to the Licensing Board’s consideration of the alleged ground of review. This could include information relating to the licence holder, connected persons in relation to the licence holder or an interested party in relation to the licensed premises.

8.90. A Licensing Board may reject a premises licence review application if the Board considers the application:

- Is vexatious or frivolous, or
- Does not disclose any matter relevant to any ground for review.

If a Licensing Board rejects an application on one of the grounds mentioned above then it must give notice of the decision, and the reason for it to the applicant. Provision is also made for a Board to recover, from the applicant, any expenses incurred by the Board in considering a vexatious or frivolous application.



*Review of premises Licence on Licensing Board's initiative*

8.91. Section 37 allows for Licensing Boards to initiate reviews of premises licences themselves. The grounds for review are the same as those for applications under section 36 (discussed above). Where a Licensing Board proposes to initiate a review of a premises licence, the Board must provide a written report – known as a review proposal – setting out the grounds that it considers merits such a review of the premises licence. An Air Weapons and Licensing (Scotland) Act 2015 amendment provides that a Board's proposal may include information that the Board considers relevant to its consideration of the alleged ground of review, in relation to the licence holder, connected persons in relation to the licence holder or interested parties in relation to the licensed premises.

*Review Hearing*

8.92. Section 38 of the 2005 Act requires a Licensing Board to hold a review hearing and determine an application for a review of a premises licence made under section 36 (or a review proposal under section 37). As discussed above, the Board does not need to hold a review hearing if it considers the application is frivolous or vexatious or if it is not relevant to the grounds for review.

8.93 In terms of notification of a review, the Licensing Board is required:

- In the case of a premises licence review application to give notice of the hearing to the applicant, and
- Give notice of the hearing and a copy of the premises licence review proposal or application to the licence holder and any LSO for the area in which the licensed premises are located (unless in the case of a premises licence review the LSO is the applicant)

8.94 As discussed earlier in the guidance, where an LSO received a copy of a premises licence review proposal or application, the LSO must prepare and submit a report on the proposal or application to the Board before any hearing takes place. The Licensing Board must take account of this report at the hearing. Additionally, a Licensing Board is empowered to request information, the attendance at a hearing of any persons and the production of documents.

8.95 A Licensing Board has a range of sanctions that it may elect to impose on reviewing a premises licence. These are set out at Section 39 of the 2005 Act as amended by the Air Weapons and Licensing (Scotland) Act 2015. These steps are to:

- Issue a written warning to the licence holder
- Make a variation of the licence; may only apply for a period decided by the Board
- Suspend the licence for whatever period the Board may decide,
- Revoke the licence.

Section 39 also provides that where a Licensing Board is satisfied at a hearing that the licence holder fails the "fit and proper" test then the Licensing Board must revoke the premises licence. Subject to the revocation of a licence being recalled, a revocation takes effect at the end of the period of 28 days beginning with the day the Board made the decision to revoke the premises licence.

8.96 The 2005 Act as enacted has been amended by the Criminal Justice and Licensing (Scotland) Act 2010 and the Air Weapons and Licensing (Scotland) Act 2015 in relation to a Licensing Board giving notice of a decision made at a premises licence review hearing,. The 2010 Act inserted a new provision (Section 39A Notification of Determinations) into the 2004 Act and this provision was subsequently amended by the 2015 Act.

8.97 The rationale for the 2010 Act amendment was to seek to improve the transparency of the premises licence review process provided for in the 2005 Act. It ensures that

- Adequate notification of a Licensing Board's decision following a review hearing is given to the Licensing holder and the person who applied for a review
- When a Licensing Board takes action against a Licence Holder following a review hearing, the Licence Holder is able to request a statement of reasons from the Board – as already happened in the case of a premises licence application.
- A statement of reasons can be requested by a person who applies for a review of the licence, whether or not any action is taken by the Board following the review hearing.

The 2015 Act textual amendments were a result of the introduction of the fit and proper person test as a ground for refusal.

8.98 The 2005 Act provides (Section 40) a mechanism by which a Licence Holder can apply to the Licensing Board to have any variation of their premises licence or the suspension of the premises licence removed. If the Board feels that the sanction in question is no longer necessary then, in the case of these two sanctions only, it may remove the relevant sanction.

### **Recall of revocation of licence**

8.99 The 2015 Act inserted Section 39B which provides for the recall of a revocation of a licence under section 39(2A). This amendment and the amendment which inserted 28 days are linked to the “fit and proper person”, also introduced by the 2015 Act. As noted during the parliamentary passage of the then Air Weapons and Licensing (Scotland) Bill, the Bill, on introduction, had provided for the immediate revocation of a premises licence on the grounds that, having regard to the Licensing objectives, the Licence Holder is not a fit and proper person to be the holder of a premises licence.

8.100 Concerns had been raised that without alternative disposal available to it, the Board might be reluctant to find that a person is not fit and proper to hold a premises licence. To address these concerns, one amendment provided that a revocation under the Licensing Board's powers of review would take effect at the end of a period of 28 days beginning on the day on which the Board makes the decision. The rationale being that this provided a short period of grace in which the Licence Holder may take action to address the problems that led to the Board making the findings.

8.101 The second and related amendment inserted a new section (Section 39B) into the 2005 Act. This section provides that when a Licensing Board has taken steps to revoke a premises licence on the ground that the licence holder is not a fit and proper person, the Board must recall the revocation if the relevant application is made within that 28 day period and the Board ultimately grants the relevant application. These provisions enable Boards to take robust action when a Licence Holder is found not to be a fit and proper person and they offer reasonable traders the opportunity to take prompt action to address the Board's concerns and retain their licence.

## APPENDIX 5

### Procedure for remote Licensing Hearings – APPLICATIONS FOR A REVIEW OF LICENCE

- (a) Identify whether the Complainer or person requesting the review of licence and his/her advisors are present.
- (b) Identify whether Licence Holder and his/her advisors are present.
- (c) Identify whether any person with an objection or representation(s) and his/her advisors are present. [in turn]
- (d) Invite the Complainer to speak to his complaint or request to review the licence (outline to the Board why the complaint or request has been made)
- (e) Ask the Objector(s) to speak to their Objection(s) or Representation(s) [in turn]
- (f) Ask the Licence Holder to respond to the Complaint and any objections or representations made
- (g) Give the Complainer an opportunity to address any issues raised by the Licence Holder.

#### NOTE TO PARTIES

- **Presentation of a case may be through the use of documents (which must be provided to all parties prior to the start of the Hearing), oral submissions made at the hearing, written submissions lodged no later than 7 days in advance of the hearing, or a combination thereof;**
- **Cross Examination by the parties is not generally permitted**
- **Hearsay evidence is admissible.**

- (h) Members MAY then question all parties present.
- (i) Convenor should invite concluding remarks (Licence Holder then Complainer), but no new evidence, before considering the application.

#### NOTE TO PARTIES

**Once you have been asked to make concluding remarks you are not entitled to speak again, unless to answer a question from a Board Member.**

- (j) Members may then deliberate the application and/or ask for legal advice if required. Members can choose to deliberate the application in private, however, no decisions will be made during any adjournment to deliberate in this way.

#### NOTE TO PARTIES

**If the Board opts to adjourn the meeting to deliberate in private, the Board Members will leave the meeting and remove to an adjournment room. The recording of the meeting will be paused. The parties should remain in the main meeting until the Board Members return. On confirming all parties/attendees are again present, the recording of the meeting will be restarted.**

- (k) Thereafter, the Convenor should confirm with Members that they have sufficient evidence upon which to make a decision.
- If the Board determines that there is not sufficient evidence upon which to make a decision, the matter will be deferred to a future meeting of the Board for further evidence to be obtained.
  - If the Board determines that there is sufficient evidence upon which to make a decision, the Convenor will then:
    - (i) Call for a motion
    - (ii) Call for a seconder to the motion
    - (iii) Call for any amendment to the motion
    - (iv) Call for a seconder to any amendment proposed
    - (v) If there is no amendment, the Convenor should confirm with the Committee that the decision is unanimous. [This will be done by roll call vote for transparency purposes]
    - (vi) If there is an amendment, then there MUST be a vote. The Convenor has the casting vote.
- (l) The Depute Clerk will confirm the decision taken by the Board

**NOTE TO PARTIES The parties will then be asked to leave the meeting, failing which the Depute Clerk will remove the parties from the meeting.**

**APPENDIX 6**

**WRITTEN SUBMISSIONS (IF RECEIVED)**

# **THE ABERDEENSHIRE LICENSING BOARD**

## **REPORT TO THE ABERDEENSHIRE LICENSING BOARD – 22nd February 2023**

### **LICENSING (SCOTLAND) ACT 2005 FEES REVIEW**

#### **1 Executive Summary/Recommendations**

- 1.1 This report sets out the responses to the public consultation on the proposals to increase fees to ensure that the costs of providing the licensing service is met by licensing income and asks the Board to agree to increase the fees as set out in Appendix 1.
- 1.2 **The Licensing Board is recommended to:**
- 1.2.1 **Consider and comment on the responses to the consultation contained in Appendix 2 to this report.**
- 1.2.2 **Agree to increase the fees as proposed fees from 1<sup>st</sup> April 2023 with inflationary increases, as determined by the Head of Finance, from 1<sup>st</sup> April 2024.**
- 1.2.3 **Consider writing to the Scottish Government to express concern at the impact of the continued low fee for an occasional licence.**

#### **2. Background / Discussion**

- 2.1 The Licensing (Scotland) Act 2005, as amended, provides for a mixed approach to licensing fees. Most of the fees are set by legislation, particularly the Licensing (Fees) (Scotland) Regulations 2007 (“the Regulations”). The Aberdeenshire Licensing Board currently charges the maximum fee, as do all Boards across Scotland, permitted under the regulations for those fees which are set.
- 2.2 However, there are some types of application where there is more discretion afforded to local licensing boards. Under the Regulations, licensing boards are empowered to set their own fees for: -
- **Transfer on Application of the Licence Holder under s. 33(1) which includes an application for variation under s.35 (1)**
  - **Transfer on Application of the Licence holder under s. 33(1) without an application for variation**
  - **Transfer on Application of a person other than the licence holder under s. 34(1) which includes an application for variation under s.35(1)**
  - **Transfer on Application of a person other than the licence holder under s. 34(1) without an application for variation**
  - Major Variations
  - Replacement Personal Licences
- 2.3 The existing fees were set by the Licensing Boards prior to the implementation of the 2005 Act and were reviewed in 2019 with changes coming into effect in early 2020. It was agreed in 2019 to apply inflationary increases yearly. However, due to the prolonged closure of premises due to restrictions and the tough trading times, it was inappropriate at that time

to increase fees. It is now appropriate to review the fees again in line with the corporate charging policy and to consider applying inflationary increases from April 2024.

- 2.4 Regulation 13 states that “in determining any fee, a board is to have regard to the desirability of ensuring that the total fees payable under these Regulations to that Board in respect of any period are likely to be broadly equivalent to the expenses incurred by that Board, and the council for the area of that Board, in administering the Act generally during that period”. However, the Provision of Services Regulations 2009 which implements the European Services Directive from 2006 restricts the discretion afforded to the Boards slightly in this regard as charges should not exceed the cost of procedures and formalities. This focusses the attention to how much does it cost to process, hear, and grant applications but does not permit the costs of enforcement action against unlicensed operators to be included in the costs.

### **Responses to the Consultation**

- 2.5 The consultation took place from the 15th of December 2022 to 23<sup>rd</sup> January 2023 and only 8 responses were received. 5 responses were made by members of the public, and 3 responses were received from the licensed trade. All responses indicated that they feel that the proposed increases are too high and that it could lead to businesses closing as business is dwindling due to the cost-of-living crisis. Applying for a major variation is not something that a business requires to do unless they are changing how they operate therefore the cost of applying for a major variation should be considered along with their business planning and cost benefit analysis. These proposed changes do not impact on the annual fee that premises are due to pay.
- 2.6 Comments were made suggesting that the Council looks to cut costs rather than pass on higher fees to applicants. The Council has in the last few years looked at how costs can be reduced and indeed have reduced reliance on printing, travel and have introduced an online application system for occasional and personal licences all in the interest of reducing cost and increasing benefit to the licensed trade. The online meetings have contributed to keeping costs lower however the time spent by the legal team on applications is increasing, in the main due to inadequate applications which need a considerable amount of time and resource to get to a position where applications can be competently processed, avoiding the need and additional cost of a hearing. There is also a balance to be struck in terms of being able to meet the expectations of the licensed trade in terms of how quickly applications are processed and issued with the cost of ensuring we have enough staff to process all applications received in a timeous fashion. The licensing team is a busy team and there is a high demand for the service.
- 2.7 The highest demand focusses on occasional licences and there are comments in the consultation that occasional licences are too cheap and that we should increase those fees. Officers agree that occasional licences are too cheap at £10 however the fee for these are controlled by the Scottish Government. There was a consultation on increasing the fees for these pre Covid. However, indications now are that the fee will not increase in a bid to support communities recover from Covid. The Board may wish to consider writing to the Scottish Government to explain the implications of not increasing that fee and the juxtaposition there in terms of encouraging easier availability of alcohol, with less strict controls than in premises, for a lower fee and how that contradicts with the Licensing Objective of Improving and Promoting Public Health. An online system to improve efficiency of processing occasional licences has been a success in reducing touch time per application however still not to the level where £10 is sufficient and not all applicants use the system although are encouraged to do so.



- 2.8 Plans are in place for additional application types to be included in the online offering however major variations and new premises applications are complex in nature and the developer resources for developing the online forms must be prioritised with other priorities across the Council. This is a longer-term aim of the licensing team for this reason.
- 2.9 There is also a comment suggesting that the Council should absorb some of the additional costs, and specifically mentions catering for meetings and fuel reimbursement. The Aberdeenshire Licensing Board has not met in person since 2020 and so there are no costs for catering nor fuel reimbursement. The regulations provide that the costs should be paid for by the fees for the service. These are commercial costs for businesses to consider in their decision-making on whether proposed variations are advantageous or necessary.
- 2.10 Fee comparisons with other Licensing Boards across the country have been completed and were included in the December report on fees.
- 2.11 It is proposed that to ensure that the income keeps up with expenditure that any fee over which the Boards have discretion to set should rise with inflation as set out by the Council's Head of Finance annually from the 1<sup>st</sup> of April 2024.
- 2.12 Other fees charged by the Council for liquor licensing are set by the Scottish Government.
- 2.13 The Monitoring Officer within Business Services was consulted in the preparation of this report and had no comments to make and is satisfied that the report complies with the Scheme of Governance and relevant legislation.

### **3 Implications and Risk**

- 3.1 An integrated impact assessment has been carried out as part of the development of the proposals set out above. It is included as Appendix 4 to the December report and a potential negative impact on premises located in Town Centre First locations has been identified however is mitigated due to the statutory duty to ensure that the licensing fees cover the costs of delivering the licensing system and this ensures that the service is sustainable. No additional issues were reported during the public consultation stage.
- 3.2 There are financial implications in that increased fees will increase income which aims to ensure that the costs of alcohol licensing are covered.
- 3.3 The following Risks have been identified as relevant to this matter on a Corporate Level; ACORP001 – Budget Pressures and the following Risks have been identified as relevant to this matter on a Strategic Level BSSR001 – Balancing The Books, Directorate Risk Registers].

**Ritchie Johnson**

**Director of Business Services**

Report prepared by Lauren Cowie, Principal Solicitor (Governance)

Date January 2023



APPENDIX 1

CURRENT FEES, PROPOSED FEES, and NATIONAL AVERAGE COMPARATOR

Type of Application	Current Fee	National Average Comparator	Proposed Fee	Comment
S.33 and s.34 – Transfer	£180.00 (included variation element)	£90.04.	<b>£200.00</b>	The costs have increased and so the proposed fee is £200.
S.33 and s.34 – Transfer – With Minor Variation	Transfer with Minor Variations - <b>£200.00</b>  Transfer with Change to Premises Manager Minor Variation - <b>£211.00</b>	£233.46	Transfer with Minor Variations - <b>£220.00</b>  Transfer with Change to Premises Manager Minor Variation - <b>£231.00</b>	The fee structure previously agreed is that the fees are paid for the required service.  The proposal is that the transfer fee is agreed at £200 and then the appropriate minor fee is added. This is £20 for layout changes or restrictions to children and young persons access or £31 for a change to the premises manager. Both the £20 and £31 fees are set by the Scottish Government.
S.33 and s.34 – Transfer – With Major Variation	£180 plus £350 - <b>£530.00</b>		<b>£625.00</b>	The costs need to reflect not just the processing of the transfer part of the application but the increased costs in the processing of the variation part of the application.
Major Variation Fee	£350.00	£302.74	<b>£425.00</b>	This is an increase according to analysis of the average time spent on processing major variation applications which has increased per application as detailed in the report.
Replacement Personal Licence Fee	£20.00	£22.15	<b>£20.00</b>	This covers the costs of processing.



# Licensing Fees (Alcohol)

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## **SURVEY RESPONSE REPORT**

04 February 2021 - 13 February 2023

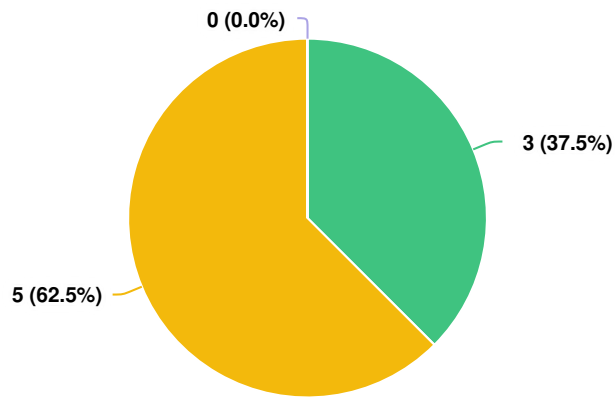
### **PROJECT NAME:**

Review of Alcohol Licensing Fees



SURVEY QUESTIONS

**Q1** | **Aberdeenshire Council is consulting on proposed amendments to the fees chargeable for applications for alcohol licences un...**



**Question options**

- Member of the Licensed Trade
- Member of the public
- Statutory Consultee

*Optional question (8 response(s), 0 skipped)*  
*Question type: Dropdown Question*

**Q2 Please provide any comments on the proposed fees for the Alcohol Licences?**

Anonymous

12/19/2022 05:36 PM

Increases of 25% & 20% are ridiculous. You have staff "in line with inflation. I imagine the cost of transfer and variation of licensing cost is staff doing this work? I don't imagine your staff cost for transfer and variation are 25% or 20% more?

Anonymous

12/20/2022 08:23 PM

Too excessive.

Anonymous

12/20/2022 09:50 PM

How do these compare with Aberdeen, Inverness, Perth, Dundee

Anonymous

12/20/2022 10:45 PM

Some of these increases are excessively large. What is Aberdeenshire Council doing to cut the administrative cost of managing these processes?

Anonymous

12/20/2022 10:47 PM

I think the proposed increases are too high. This could lead to many businesses closing as they do not have spare money to support the extra fees when people are less likely to go out due to the cost of living crisis.

Anonymous

12/21/2022 09:17 AM

The increase in major variation fee seems excessive.

Anonymous

12/21/2022 08:48 PM

Too steep for major variations, for a struggling trade. Why not make occasional licences more expensive

**Optional question** (7 response(s), 1 skipped)

**Question type:** Essay Question



**Q3** All fees will be subject to an annual increase in line with inflation from the 1st of April each year starting from 2024. Do you have any comments on this? Please provide them below.

Anonymous

12/19/2022 05:36 PM

're Qs 1 and 2 - they're not inflation matching increases. Surely the increases should match the staff cost increase unless of course there are fuel of food costs involved in the calculations?

Anonymous

12/20/2022 08:23 PM

Well funny how only rises in line with Inflation are the ones that pay the council. Hypocrisy

Anonymous

12/20/2022 10:45 PM

Cut the cost instead of increasing the charge.

Anonymous

12/20/2022 10:47 PM

Why can't the council absorb some of this? There is money wasted elsewhere. Look carefully at the real priorities, helping people to survive and make a living, rather than what councillors deem essential i.e. catering for meetings/fuel reimbursement etc for those already on a good wage!

Anonymous

12/21/2022 08:48 PM

No mention on a rise for occassional. They are far too cheap.

**Optional question** (5 response(s), 3 skipped)

**Question type:** Essay Question



## **THE ABERDEENSHIRE LICENSING BOARD**

### **REPORT TO THE ABERDEENSHIRE LICENSING BOARD – 22nd February 2023**

#### **LICENSING (SCOTLAND) ACT 2005 REVIEW OF LICENSING POLICY STATEMENT UPDATE**

##### **1 Executive Summary/Recommendations**

- 1.1 This report sets out the next steps in reviewing the Licensing Policy Statement and provides an update on the recent engagement on the Main Issues as previously identified and discussed with the Board. Appendix 1 sets out the updated timeline for the review.
- 1.2 **The Licensing Board is recommended to:**
- 1.2.1 **Consider and comment on the responses to the engagement on the Main issues contained in Appendices 2 and 3 to this report and note that an analysis will be presented to them at an informal development session in March 2023 and thereafter will be published with the Board agenda in April.**
- 1.2.2 **Note that the Scottish Government have published new Statutory Guidance in terms of s.142(1) of the Licensing (Scotland) Act 2005 which must be considered during the review of the Licensing Policy Statement. The Guidance can be found online at [Licensing \(Scotland\) Act 2005 Section 142 Guidance for Licensing Boards \(www.gov.scot\)](https://www.gov.scot/publications/licensing-scotland-act-2005-section-142-guidance-for-licensing-boards/pages/1-introduction.aspx) and a copy of the guidance is included for ease of reference at Appendix 5 to this report.**

##### **2. Background / Discussion**

###### **Format of engagement**

- 2.1 The Licensing Board began an informal engagement period with statutory partners, the licensed trade and the public which ran from the 31<sup>st</sup> October until the 6<sup>th</sup> January 2023. Some respondents requested extra time to put together their response which was granted.
- 2.2 The main method for engagement was via an survey available online through the Engage platform which was shared with both licence holders directly, and with the public through social media platforms. This was also shared with the lived experience forum. 23 responses were submitted to the survey, a summary of which is provided in Appendix 2. Of the 23 responses, 47.8%(11) were licence holders, 34.8%(8) were members of the public, 8.7%(2) were from a council service, 4.3%(1) from a public sector organisation and 4.3%(1) from a community council. 11 respondents indicated that they had a connection to North Aberdeenshire, 2 to Central Aberdeenshire, 4 to South Aberdeenshire and 6 to all of Aberdeenshire.
- 2.3 For those who didn't want to complete the survey, they were invited to send across comments and feedback to [licensingpolicyreview@aberdeenshire.gov.uk](mailto:licensingpolicyreview@aberdeenshire.gov.uk). These have been included as Appendix 3.
- 2.4 In addition, officers from the licensing team attended Community Council Forums across Aberdeenshire to promote the engagement and to encourage community councils to

complete the online survey to give the views of their communities. The only area that we were unable to attend was in Kincardine and Mearns and this was due to the community council forum meeting being cancelled due to adverse weather. All community councils were however contacted and had the opportunity to feed back. Efforts will be made to engage with community councils in that area, as well as in the others, during the formal consultation period later in 2023. Most representatives of community councils did not want to give comment at the time of the meeting as they wished to discuss with their community councils before submitting a response. However, the comments that were received varied from a belief that the Licensing Board should not interfere with commercial operations and leave the decision on hours to licensed premises individually to seeing an alignment of the hours across Aberdeenshire but with no preference as to what the hours should be. Some commented that there has been a sharp decline in the number of people going to licensed premises and that they were at risk of closing. Some commented that one of the issues is that there is a lack of taxis in rural Aberdeenshire to facilitate visits to licensed premises.

- 2.5 There was an also a round table discussion with the Board, Police Scotland, NHS Grampian's public health directorate, the licensing standards officers and members of the licensing team. A note of the discussion from that meeting is included as Appendix 4.
- 2.6 The raw data received during the engagement session has been anonymised and presented to the Board as a matter of transparency and to ensure that all information is in the public domain. Licensing Officers are preparing an analysis of the information and how this relates to the main issues identified with the licensing policy. The analysis will also consider the impact of the new statutory guidance, published on the 13<sup>th</sup> January and linked above and included as appendix 6 to this report, on the review process. A policy development session has been arranged for Board members to discuss the analysis of the responses, which will be shared with members in advance, and the statutory guidance to develop the proposals for the new policy on the 15<sup>th</sup> March 2023. The analysis document will be published along with the proposed new policy in April 2023.
- 2.7 Due to pressures of work, some of our partners were unable to submit their responses at the start of January as anticipated. This has an impact on the projected timeline in that more time is required for analysis. The other factor which necessitates changes to the timeline is the new statutory guidance for Licensing Boards. It is a statutory requirement that this guidance is taken into account in preparing the policy and so further time is required to consider the impact of the new guidance on the policy. It is therefore proposed that an update paper is taken to the Board in April on proposals for change in the policy, and that following both the development session with members and the discussion in April, that the policy is drafted in May for presentation to the Board in June. This change will not impact on the consultation period, nor on the timeline for approval following consultation. The engagement with the trade has also been moved to the summer so that there are firm proposals to discuss with them.
- 2.8 The Monitoring Officer within Business Services have been consulted in the preparation of this report and had no comments to make and are satisfied that the report complies with the Scheme of Governance and relevant legislation.

### **3 Implications and Risk**

- 3.1 An integrated impact assessment will be carried out in light of the evidence and will be presented to the Board in April.

**Ritchie Johnson**

**Director of Business Services**

Report prepared by Lauren Cowie, Principal Solicitor (Governance)

Date January 2023

Appendix 1 – Updated timeline for review

Appendix 2 – Summary of engagement responses submitted via Engage

Appendix 3 – Other responses received

A – Health and Social Care Partnership

B – Police Scotland

C – Alcohol and Drug Partnership

D – Ellon and District Pubwatch

E – Mr A Grant, on behalf of a premises licence holder

Appendix 4 – Note from Informal Meeting with statutory consultees

Appendix 5 – New Statutory Guidance

## Appendix 1

### Timeline - Review of Licensing Policy Statement including Overprovision Policy Statement

Supervising Officer: Lauren Cowie

Lead Officer: Fiona Stewart and Jill Joss

KEY – Tracking Column	Target deadline met	Ongoing	Target deadline missed
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Officers will use Aberdeenshire Council's Policy Development and Review Framework as the foundation for the review of the Licensing Board's Policy Statement. This can be found at Part 4B of Aberdeenshire Council's Scheme of Governance [\[Link\]](#).

STEP 1 – Agree the timeline					
Item	Officer	Activity	Deadline	Tracking	Comments
1A	Fiona Stewart	Aberdeenshire Licensing Board to agree indicative timetable for the review of the Policy Statement.	Aug Board 2022		The Timeline was approved by the Board at their meeting on 31 <sup>st</sup> August 2022

STEP 2 – Review existing Policy Statement and identify focus issues for the review					
Item	Officer	Activity	Deadline	Tracking	Comments
2A	Lauren, Lynsey, Jill, Amanda, Clark, and Cian Gullan	Officer review existing Policy Statement.	Aug/Sept 2022		Meeting in Woodhill to review policy Thursday 25 <sup>th</sup> August 2022
2B	Cian Gullan	Examine other Policy Statement's from across Scotland.	Sept 2022		
2C	Fiona and Jill	Engage with Aberdeenshire Licensing Board to identify the main issues to be addressed within the review.	Oct Board 2022		
2D	Fiona	Progress report to Aberdeenshire Licensing Board.	Oct Board 2022		This was the main issues report as set out at the October Board.

STEP 3 - Draft required Impact Assessments					
Item	Officer	Activity	Deadline	Tracking	Comments
3A	Fiona Stewart	Start Drafting Integrated Impact Assessment.	Sept 2022		Initial IIA drafted and set up
3B	Fiona Stewart	Start Drafting Privacy Impact Assessment.	Sept 2022		

STEP 4 - Engagement on identified issues (in conjunction with the Overprovision Policy review)					
Item	Officer	Activity	Deadline	Tracking	Comments
4A	Lauren Cowie	Consult with Aberdeenshire Licensing Board on early engagement	Oct Board 2022		This formed part of the main issues report.
4B	Lauren Cowie/Clark Simpson	Prepare Engage HQ page to include survey covering issues.	Oct 2022		The online survey has been launched and the consultation is underway.

4C	Clark Simpson	Issue link to the Engage HQ questionnaire to partners and the public.	Nov & Dec 2022		The link has been sent to all premises licence holders, community councils and all those named in the engagement plan presented to the October Board..
4D	Fiona Stewart, Jill Joss, Lynsey Kimmit and Lauren Cowie	Direct engagement with Area Committees	Nov & Dec 2022		The link to the Survey will be sent directly to all members to share amongst their networks as well as encouraging them to complete themselves. The formal consultation with Area Committees will follow during the formal consultation following this engagement period.
4E	Fiona Stewart, Jill Joss, Lynsey Kimmit and Lauren Cowie	Direct engagement with Council Services.	Nov & Dec 2022		The link to the survey has been shared with statutory consultees within the Council and arrangements are being made for it to be shared on the Council's intranet for staff to access.
4F	Fiona Stewart, Jill Joss, Lynsey Kimmit and Lauren Cowie	Direct engagement with Community Council Forums.	Nov & Dec 2022		Officers have attended 5/6 community council forums directly engaging and signposting community councils to the survey and taking initial thoughts. The Kincardine and Mearns forum had to be rescheduled due to bad weather and so officers will attempt to attend if the rescheduled meeting is within the engagement period.
4G	Fiona Stewart, Jill Joss, Lynsey Kimmit and Lauren Cowie	Direct engagement with Community Planning, Community Safety, Transport Authorities and Tourism Representatives.	Nov & Dec 2022		The link has been shared with these bodies.
4H	Fiona Stewart, Jill Joss, Lynsey Kimmit and Lauren Cowie	Aberdeenshire Licensing Board engages with Police Scotland, Licensing Standards Officers and Public Health, trade – potential online meeting.	Nov & Dec 2022		The meeting is due to take place following the Board.
4I	Fiona Stewart, Jill Joss, Lynsey Kimmit and Lauren Cowie	Engagement with young people, the lived experience forum and network, the alcohol, and drugs partnership	Nov & Dec 2022		Links are being made with the MSYPs, pupil voice forums and the lived experience forum too as well as contact with the ADP.
4J	Fiona and Jill	Progress report to Aberdeenshire Licensing Board.	Dec Board 2022		

**STEP 5 – Review of engagement (in conjunction with overprovision policy review)**

Item	Officer	Activity	Deadline	Tracking	Comments
5A	Fiona Stewart, Jill Joss, Lynsey Kimmit	Officer review information from engagement.	Jan & Feb 2023		

	and Lauren Cowie				
5B	Fiona Stewart, Jill Joss, Lynsey Kimmit and Lauren Cowie	Review of engagement with Aberdeenshire Licensing Board.	Feb Board 2023		Some respondents have asked for more time before submitting their responses and new statutory guidance has just been published. Officers will arrange for an engagement briefing session with the Board in March to obtain views on potential changes to the policy to assist in drafting.
5C	Fiona and Jill	Progress Report to Aberdeenshire Licensing Board.	Feb Board 2023		

**STEP 6 – Draft revised Licensing Policy Statement**

Item	Officer	Activity	Deadline	Tracking	Comments
6A	Licensing Team	Draft revised Licensing Policy Statement.	March 2023		<b>Due to delays in receiving all of the responses to the engagement and the publication of new statutory guidance officers require time to analyse the responses. An analysis document will be discussed with the Board in March and published in April. This work will now be undertaken in April and May.</b>
6B	Fiona and Jill	Arrange Policy Development Session with Board	March 2023		This is to look at the information provided at the engagement stage and to direct the policy changes.

**STEP 7 – Update required Impact Assessments**

Item	Officer	Activity	Deadline	Tracking	Comments
7A	Fiona Stewart	Update Integrated Impact Assessment as required.	March 2023		
7B	Fiona Stewart	Update Draft Privacy Impact Assessment as required.	March 2023		

**STEP 8 – Annual meeting of the licensed trade/Licensing Matters online event**

Item	Officer	Activity	Deadline	Tracking	Comments
8A	TBC	Aberdeenshire Licensing Board engages with the Trade.	March/April 2023		<b>This will be moved to after approval of the draft policy so there are firm proposals on which to engage.</b>
8B	TBC	Progress report to Aberdeenshire Licensing Board.	April 2023		

**STEP 9 – Formal consultation on revised Licensing Policy Statement**

Item	Officer	Activity	Deadline	Tracking	Comments
9A	TBC	Consult with Aberdeenshire Licensing Board on proposals arising from discussion at the development session.	April 2023		



9B	TBC	Prepare Engage HQ page to include survey covering issues.	May 2023		
9C	TBC	Issue link to the Engage HQ questionnaire to partners and the public.	June-July 2023		
9D	Fiona and Jill	Progress report to Aberdeenshire Licensing Board.	August 2023		

**STEP 10 – Finalisation of Licensing Policy Statement**

Item	Officer	Activity	Deadline	Tracking	Comments
10A	TBC	Review with Aberdeenshire Licensing Board.	August 2023		
10B	Licensing Team	Finalise wording of revised Licensing Policy Statement.	September 2023		
10C	Fiona Stewart	Finalise terms of the Integrated Impact Assessment.	September 2023		
10D	Fiona Stewart	Finalise terms of the Privacy Impact Assessment.	September 2023		

**STEP 11 – Approval of Licensing Policy Statement**

Item	Officer	Activity	Deadline	Tracking	Comments
11A	Fiona and Jill	Report to Aberdeenshire Licensing Board for approval of the Licensing Policy Statement.	Oct Board 2023		

**STEP 12 – Publication of Licensing Policy Statement**

Item	Officer	Activity	Deadline	Tracking	Comments
12A	Lauren and Clark	Publication of Approved Policy Statements on the Boards' Website.	Nov 2023		

## Appendix 2 – Summary of Engage Responses

## Appendix 3 – Responses Submitted by Email

3A – Aberdeenshire Health and Social Care Partnership

### **Aberdeenshire Alcohol Licensing Board request for comments/suggestions**

#### **Background**

The law requires that Licensing Boards (LB) review their statement of licensing policy within 18 months of a local government election. Aberdeenshire's LB has invited partners to offer views to inform the development of their draft revised policy before taking this to public consultation next year. It would appear highly appropriate that Aberdeenshire IJB respond as a partner to that request because HSCP services deal with alcohol related issues both directly and indirectly.

#### **Current situation**

Alcohol consumption is a significant determinant of health in Aberdeenshire and has been a recognised public health challenge for decades. Preventing alcohol related harm is one of Scotland's 6 national public health priorities. The most recent Scottish Health Survey found that 23% of adults drink at a hazardous or harmful level and for men aged 35 to 75, this rises to nearly a third. Of particular interest is that 9% of respondents said that they have had problems with their alcohol use.

It is widely accepted that alcohol consumption exceeding safe limits significantly contributes to avoidable mortality rates and a wide range of morbidities, including seven types of cancer and liver disease. Even at moderate levels of consumption there is a body of evidence that demonstrates alcohol consumption can contribute to many other ill-health conditions one example being stroke in young adults.

In 2021, 1,245 people died from alcohol-specific causes in Scotland which was a 5% increase from 2020, and the highest number of deaths since 2008. These deaths were 5.6 times more likely in areas experiencing the greatest deprivation. The Scottish government now classifies alcohol harm and its associated inequalities as a public health emergency alongside drug related deaths. During 2021, there were 30 alcohol-specific deaths registered in Aberdeenshire. Data relating to standardised rates of admission to hospital from alcohol cirrhosis in Aberdeenshire have seen a doubling over the last 10 years period (from 20 in 2011 to 40 in 2021).

If the Aberdeenshire IJB and HSCP is looking to make a significant impact on the health improvement of Aberdeenshire residents by addressing alcohol consumption and availability and sales some challenging measures might be required. Therefore, the following is submitted for consideration.

#### **Recommendations and suggestions for the Aberdeenshire Licensing Board**

The ADP Lead Officer as Executive lead for Aberdeenshire alcohol related matters has produced the following recommendations for policy specific proposals that are presently being taken to the ADP for agreement and ratification.

It would seem appropriate that IJB members review and separately submit an agreed view so that a strengthened and clear message is provided to the Licencing Board as it considers its refreshed draft policy proposals. The focus here has been taken on those changes that would potentially have the greatest positive impact on the health of Aberdeenshire residents: -

The most relevant suggestions/recommendations are listed below and provide several options for the Licencing Board to consider:

- That in moving forward the LB reviews the current regulations regarding the online purchase and delivery of alcohol and regulates to actively minimise harm to children and young people.

- The LB seeks to require licensed premises to actively promote and support health improvement measures as part of the licensing process.
- That the LB reviews public participation and in particular focuses on how the views of the public and health professionals can more strongly influence licensing decisions.
- That the LB considers the total impact of multiple outlets on a community rather than on a license-by-license basis. That recognition is given to the concept of 'cumulative impact' on a community from multiple alcohol outlets as opposed to currently where proof is sought that alcohol harm is attributed to a particular license.
- That the LB considers adopting health, safety and education of communities as its primary concern displacing completely the promotion of economic activity. That the LB promotion of alcohol based economic activity is reduced or omitted as a statutory function of the Licensing Board or as a statutory licensing objective.
- That the LB consider upgrading licensing conditions for off-sales premises. It may be helpful from a health perspective if policy conditions for off-sales premises were as rigorous as those for on-sales premises.
- That the LB ensures off-sales alcohol is displayed furthest from the venue entrance.
- That the LB considers not issuing 24-hour or extended-hour drinking licenses. From a health perspective are there any exceptional circumstances that justify licenses that allow 24 hour or extended-hour drinking?
- That the LB considers there are currently enough off-sales licenses.
- That the LB considers adopting a policy that presumes against the award of off-sales licenses unless an applicant can demonstrate why they should be an exception.
- That the LB considers reducing off-sale periods by at least 1 hour per day.
- That the LB considers reducing off-sales alcohol shelf displays by at least 10% visible space.
- That the LB considers protecting Communities affected by the greatest harm from alcohol with no new licenses being awarded. That the LB conclude and acknowledge that awarding alcohol sales licenses in the areas experiencing or vulnerable to the greatest harm would be inconsistent with the statutory licensing objective to protect and improve public health.
- That the LB considers off-sales hours per day should be less than 10 am to 10 pm. That the LB acknowledges and promotes that off-sales hours of 10 am 10 pm are maximum allowable hours under the law and should not be regarded as a minimum.

The IJB agreement is sought to submit this paper to the Licencing Board as part of its consultation including the list of suggestions / recommendations above for the Licencing Board to consider as options to support the health and wellbeing of Aberdeenshire communities.

**Aberdeenshire Review Data.**

**Violence in Licensed Premises.**

The following charts and data present figures for reported instances of violence directly related to licenced premises and it excludes instances of violence reported elsewhere but where those involved may have been in a licenced premises prior to the incident.

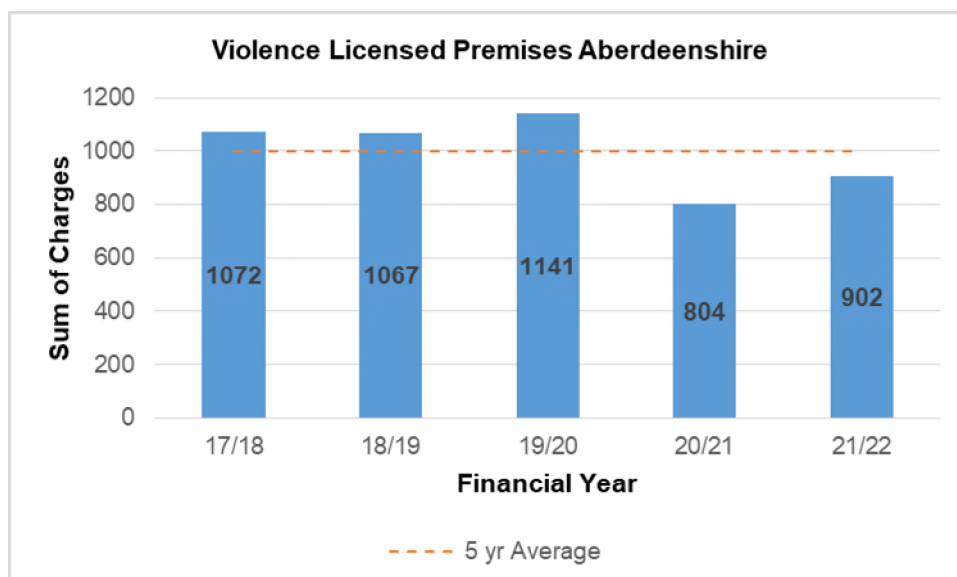
These figures confirm that Licensed Premises still remain a significant factor in violent crime within Aberdeenshire. Although not presented in the figures, the overwhelming majority will also be alcohol related and there is still much work to be done in reducing drunkenness and by association violence within Aberdeenshire.

There appears to be an encouraging trend over the five years which shows a reduction in violence however, cognisance should be taken of the 2020-2021 and 2021-2022 data which shows the effects of the COVID lockdowns and the arrival of the current slowdown in the national economy.

Aberdeenshire Officers are now testing surfaces for the presence of cocaine within licensed premises and there is growing evidence that use of the drug is present in a significant portion of these premises. Cocaine use, particularly when mixed with the consumption of alcohol is a recognised contributor to violent behaviour and it is hoped the new Statement of Policy will continue to insist on strong drugs and duty of care policies in respect of premises licenses. These policies should ensure that staff are trained and fully aware of how to identify drug use, what to do in respect of the police and enforcement and how to ensure the safety of a patron under the effects of substance misuse.

The total sum of charges refers to the number of individual charges relating to violence and not the total number of incidents where violence has occurred. A single incident may result in a person(s) being charged with multiple offences.

Financial Year	Total Sum of Charges
17/18	1072
18/19	1067
19/20	1141
20/21	804
21/22	902
<b>Grand Total</b>	<b>4986</b>
<b>5 yr Average</b>	<b>997.2</b>



Inspector Area/Financial Year (sum of charges)	17/18	18/19	19/20	20/21	21/22	Grand Total	5 yr Average
SH1 Banff & Buchan	205	163	165	119	172	824	164.8
SH2 Buchan	275	256	250	205	184	1170	234
SH3 Formartine	100	105	126	81	101	513	102.6
SH4 Garioch	180	202	267	165	160	974	194.8
SH5 Kincardine & Mearns	112	118	117	74	98	519	103.8
SH6 Marr	103	113	127	91	108	542	108.4
SH7 Banff & Buchan	97	110	89	69	79	444	88.8
<b>Grand Total</b>	<b>1072</b>	<b>1067</b>	<b>1141</b>	<b>804</b>	<b>902</b>	<b>4986</b>	<b>997.2</b>

**Alcohol related Antisocial Behaviour calls**

The following figures relate to instances of alcohol related antisocial behaviour reported to Police Scotland within Aberdeenshire over the last 5 years. It should be noted that there is likely to be an under recording of these calls, as the addition of an ‘alcohol’ tag to an incident on the Police database relies on the quality of information provided to a call handler during the reporting process.

These instances often have detrimental effect on the quality of life within communities. The source of the alcohol is predominately off sales and there should be a strong emphasis on staff training in off sale premises that allow them to identify individuals with alcohol issues, such as addiction and to empower staff to refuse sale.

The excessive consumption of alcohol continues to cause a significant drain on police resources, in particular when seeking a place of safety for those who are heavily intoxicated. Officers can be committed to such incidents for several hours to ensure an individual’s wellbeing and to complete the necessary administrative work.

<b>Aberdeenshire</b>	Alcohol related ASB Youth Calls	Alcohol related ASB Non-Youth Calls	Alcohol related ASB Calls Total
17/18	8	253	261
18/19	6	285	291
19/20	6	252	258
20/21	7	160	167
21/20	10	185	195

**Police Overtime**

The following information relates to the hours of overtime incurred by Police Scotland within Aberdeenshire that is attributable Officers being detained on duty as a direct result of policing the weekend night time economy. It is important to note that these figures exclude overtime indirectly attributable to the weekend night time economy, such as alcohol related incidents out with town centres.

As you will see from the following charts and data, there is a continuing trend that shows a decrease in the amount overtime incurred over the last five years. However, cognisance should be taken of the 2020-2021 and 2021-2022 data which shows the effects of the COVID lockdowns and the arrival of the current slowdown in the national economy.

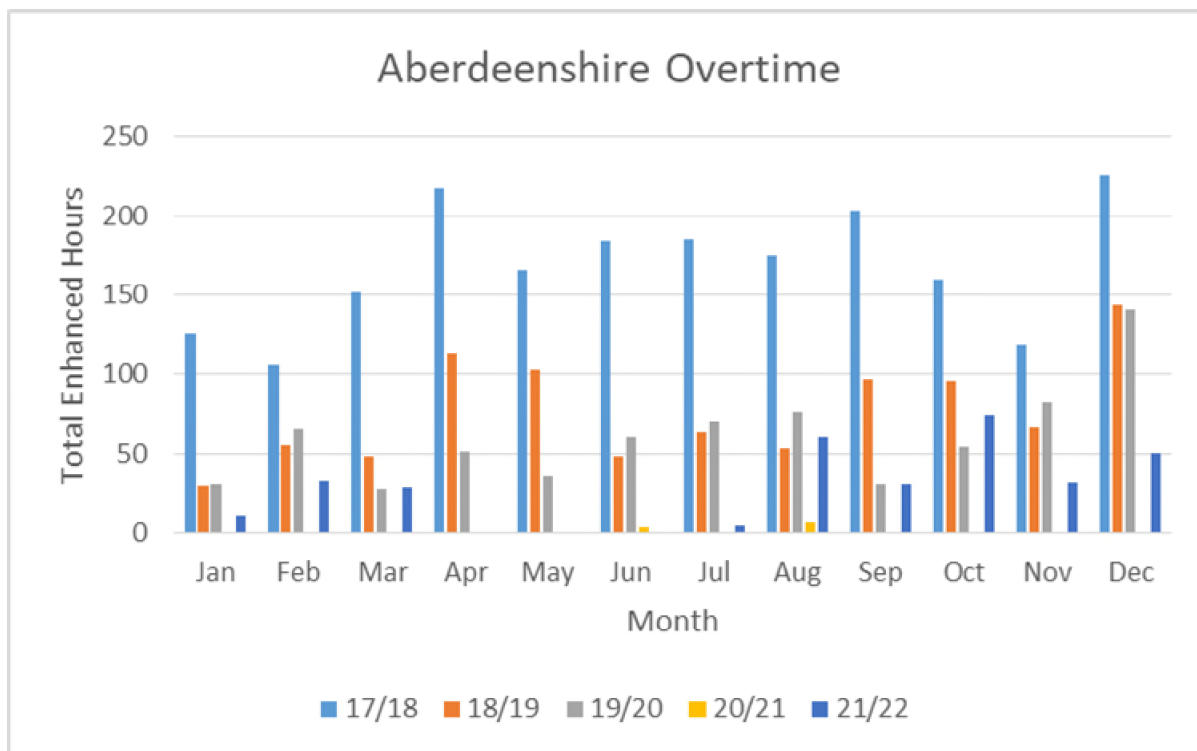
The 2020-2021 data provides an opportunity to compare data from ‘normal’ years such as 2017-18 & 2018-19 with 2020-2021 when there was no weekend night economy. The

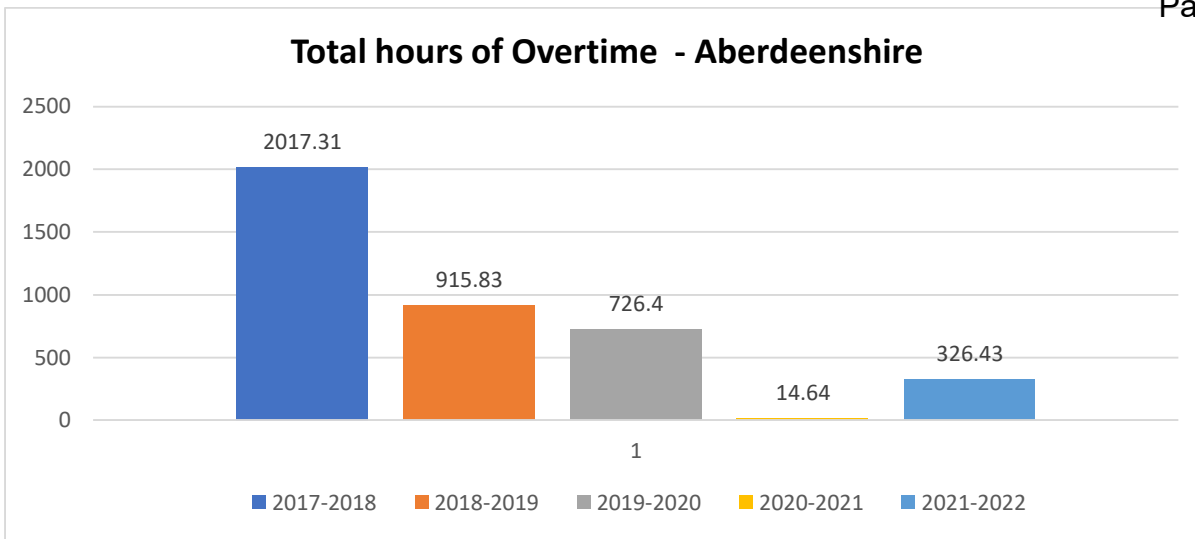
difference highlights the additional 'man hours' that Officers have to work in order to tackle the consequences of late night drinking.

Police Scotland Officers have two shifts which cover the weekend night time economy. Late shift (1700 – 0300) and nightshift (2200-0700). Overtime relating to the night time economy is predominately incurred by officers who are working a late shift duty. As you will note the finish time of a late shift coincides with the 0300 hours closing time. It is common practice for late shift officers to be automatically held on duty until 0400 hours to accommodate the increase in demand that occurs at closing time which cannot be managed nightshift officers alone.

Significant work has been done to balance resources to meet the competing demands throughout the day but the organisation's options are limited. Police Scotland have to ensure there is sufficient staffing on duty to mitigate the risks presented by the weekend night time economy. Having staff available at 0300 hours impacts on the number of Officers available at other times of the day which has an adverse effect on the service we can provide. I propose that any new applications for late licenses be restricted to a 0200 hours finish. I appreciate the Board cannot alter existing licences that have closing times of 0300 but over time the 0200 hours closing time could be reinforced as new premises applications are made.

A 0200 closing time, would reduce staffing pressures not just for Police Scotland but for other public services, such as the NHS and reduce costs to the public purse.





Month	17/18	18/19	19/20	20/21	21/22	Grand Total
Jan	125.43	30.16	30.87	1.33	10.64	198.43
Feb	105.65	54.86	65.19	0	32.99	258.69
Mar	151.86	48.1	28.56	0	29.02	257.54
Apr	217.07	112.41	50.76	1.33	0	381.57
May	165.64	102.85	36.17	0	0	304.66
Jun	183.9	48.34	59.93	4	1.33	297.5
Jul	185.34	63.04	70.48	0	5.33	324.19
Aug	175.18	52.89	75.94	6.65	60.56	371.22
Sep	202.94	96.49	31.19	1.33	30.93	362.88
Oct	160.16	95.83	54.2	0	73.97	384.16
Nov	118.98	66.59	82.13	0	31.6	299.3
Dec	225.16	144.27	140.98	0	50.06	560.47
<b>Grand Total</b>	<b>2017.31</b>	<b>915.83</b>	<b>726.4</b>	<b>14.64</b>	<b>326.43</b>	<b>4000.61</b>

**The NHS submission**

There is no need to repeat what is included in the report written by the NHS, however it was completed in consultation with our Chief Inspector from Partnership and Interventions. Police Scotland fully support the report submitted by the NHS in respect of the Statement of Policy Review.



## **Aberdeenshire ADP response to Alcohol Licensing Board**

### Recommendations

The Aberdeenshire Licensing Board (LB) is recommended by the Aberdeenshire Alcohol and Drug Partnership (ADP) to:

- 1) Recognise the validity of the alcohol-related health and wellbeing concerns raised and act on these by improving the ability of Licensing Policy to reverse the continuing increase of avoidable alcohol harms in our communities.
- 2) Include within the policy consultation the policy interventions below, proposed and endorsed by the ADP.

### Background

Aberdeenshire LB has invited partners to provide evidence-based suggestions for changes to Aberdeenshire's licensing policy that could be considered as part of the LBs licensing policy review and consultation.

Aberdeenshire ADP comprises a wide range of stakeholders with considerable expertise across all aspects of the substance use agenda, including community representatives, specialist third sector providers, representatives of criminal justice, community pharmacy and NHS public health. The ADP also benefits from extensive influence and guidance from the local community via volunteers such as the ADP Vice-chair, the chair and members of the ADP Lived and Living Experience sub-committee, three community-led Community Forums and more than 18 active community peer-support groups.

Aberdeenshire IJB has responsibility for services designed to improve the health and wellbeing of people in Aberdeenshire whilst having regard for National Health and Wellbeing Outcomes including reducing health inequalities. Aberdeenshire IJB has delegated Aberdeenshire ADP to reduce substance use related harms and inequalities, including those arising from alcohol consumption, across all communities in Aberdeenshire.

The LB shares common purpose with the ADP and IJB in having a lead role in reducing harm from the supply and sale of alcohol in line with the five statutory Licensing Objectives designed to secure and improve public health and safety. Local licensing policy guides the LB's licensing decision making. Given the importance of ensuring that the decision-making processes around alcohol licensing meets these objectives, the ADP are keen to help ensure that the current statutory revisions to Aberdeenshire's statement of licensing policy are fit for purpose to respond to changes in the patterns of alcohol consumption behaviours.

## Aim

The purpose of this paper is to offer Aberdeenshire LB suggestions for inclusion in the forthcoming Aberdeenshire licensing policy consultation.

## Introduction

The World Health Organisation advises that there are three gold-standard evidenced strategic responses proven to minimise levels of alcohol related harm in a community and liberate economic gains:

- Price
- Marketing
- Availability

Aberdeenshire only has control of one of these policy instruments.

Regulation of price is a national function via policies such as Westminster's excise duty rates and Holyrood's minimum unit pricing policy. The University of Sheffield has estimated that cuts and freezes to alcohol duty from 2012-2019 have led to over 250 additional deaths and 4,500 hospital admissions in Scotland. Public Health Scotland found that minimum unit pricing has contributed to a 3.6% net reduction in off-trade sales. Nevertheless, alcohol is currently 78% more affordable than it was in 1987 and adults in Scotland consume on average 18.1 units of alcohol per week, 30% higher than the weekly limit currently promoted by the Chief Medical Officer.

Regulation of harmful alcohol marketing is currently undertaken via industry self-regulation by the Portman Group. Some consider such self-regulation to be insufficient. The Scottish Government recently launched a consultation to introduce regulation to restrict alcohol marketing, in response to the significant harms caused by alcohol in Scotland.

Regulation of alcohol availability is exclusively a local function through the policies and decisions of LBs. The opportunity to influence LB policy is therefore a rare once-in-5-years opportunity to fundamentally address the level of alcohol related harm by regulating the availability of alcohol supply in our communities.

In practice LBs have the challenging job of balancing a range of competing interests within a framework of statute, civil precedent, professional lobbying and the risk of their decisions being appealed in court. It is therefore critical that bodies such as ADPs provide LBs with advice, evidence and backing to enable them to formulate policy that is effective and legally defensible in support of the licensing objectives.

## Situation Assessment

Alcohol consumption is a significant driver of ill-health in Aberdeenshire and has been a public health challenge for decades. Preventing alcohol related harm is one of Scotland's 6 national public health priorities and requires an influential Licensing Policy response.

## Inequalities

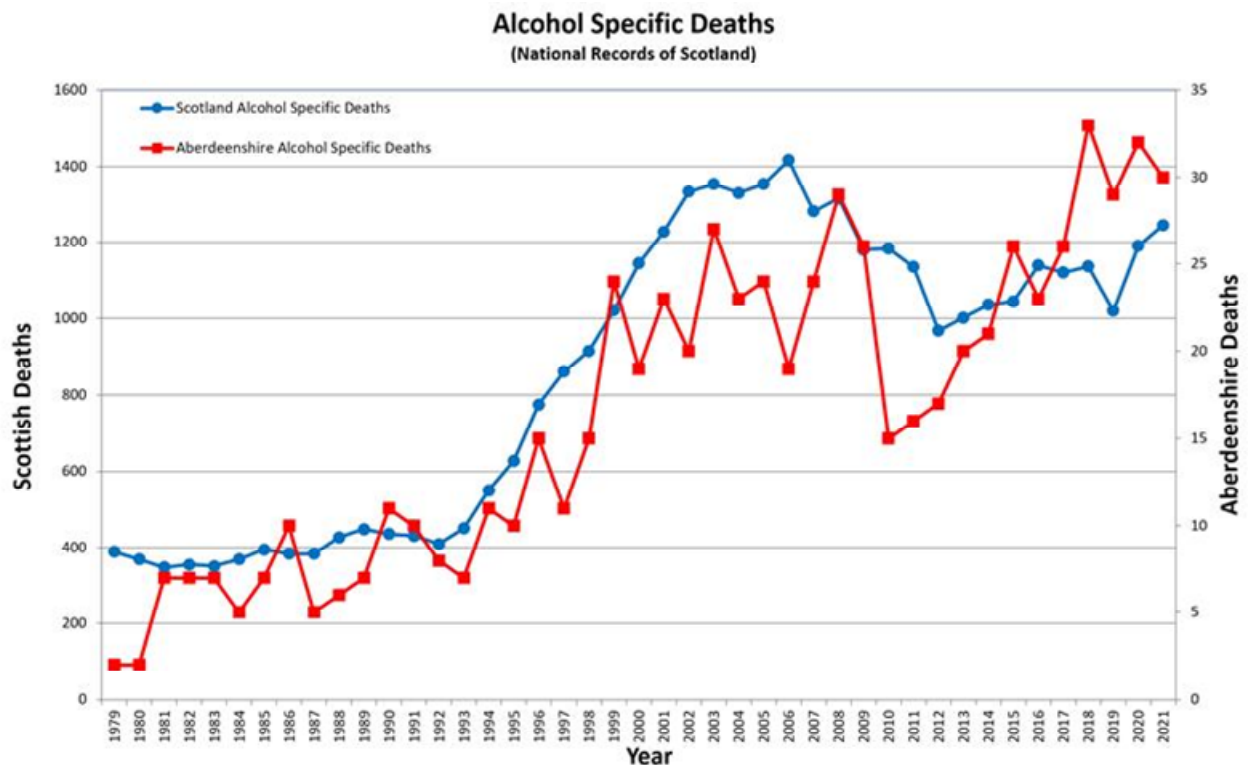
The recent Scottish Health Survey found that 23% of adults drink at a hazardous or harmful level and for men aged 35 to 75, this rises to nearly a third. 9% of respondents said that they have had problems with their alcohol use. Such

consumption significantly contributes to avoidable mortality rates and a wide range of morbidities, such as seven types of cancer and liver disease. These disease groups all exhibit high levels of health inequality. Even moderate levels of consumption can contribute to ill-health conditions like stroke in young adults or life-long Foetal Alcohol Spectrum Disorders (FASD) experienced when alcohol is consumed during pregnancy. It is estimated that 3-5% of people in Scotland could be living with FASD. There are systemic reasons why these officially acknowledged diagnosis rates are likely to be significant underestimates.

### Alcohol Specific Deaths

Alcohol specific deaths (those deaths that are exclusively caused by alcohol consumption), offer a proxy and baseline measure for the wider range of alcohol related mortality, not to mention hospital admissions, morbidity and its consequential impact on family's lives, the economy and health and social care and other public services. At a population level, Alcohol-attributable deaths (where alcohol is a contributory factor), account for 6.5% of all deaths and more than 1 in 4 of these are due to cancer.

In 2021, 1,245 people died from alcohol-specific causes in Scotland which was a 5%



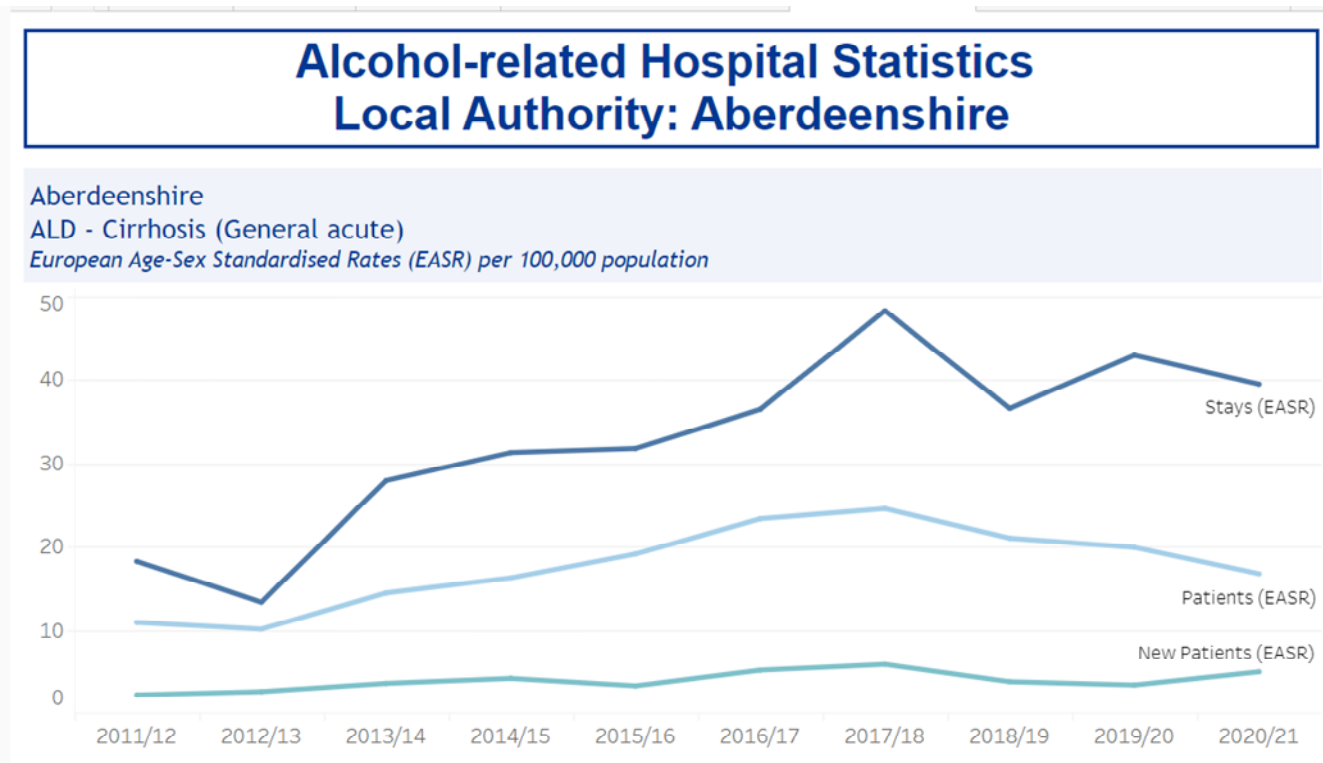
increase from 2020, and the highest number of deaths since 2008. These deaths were 5.6 times more likely in areas experiencing the greatest deprivation. The Scottish government now classifies alcohol harm and its associated inequalities as a public health emergency alongside drug related deaths. Nevertheless, alcohol related deaths have yet to attract the same level of media profile or ministerial attention as drug related deaths. It is only a matter of time before this changes.

During the same period, there were 30 alcohol-specific deaths registered in Aberdeenshire. This was a welcomed decrease of 9% (2 deaths) compared with 2020 but insufficient to turn around the substantial increases from the preceding decade. There were 15 alcohol specific deaths in Aberdeenshire in 2011 meaning the level of alcohol related harm in Aberdeenshire has doubled in 10 years. It is

noteworthy that the affordability of alcohol in real terms (due to the above noted alcohol duty freezes in this period) have closely paralleled the rises in mortality across all of Scotland and the UK.

### Hospital Admissions

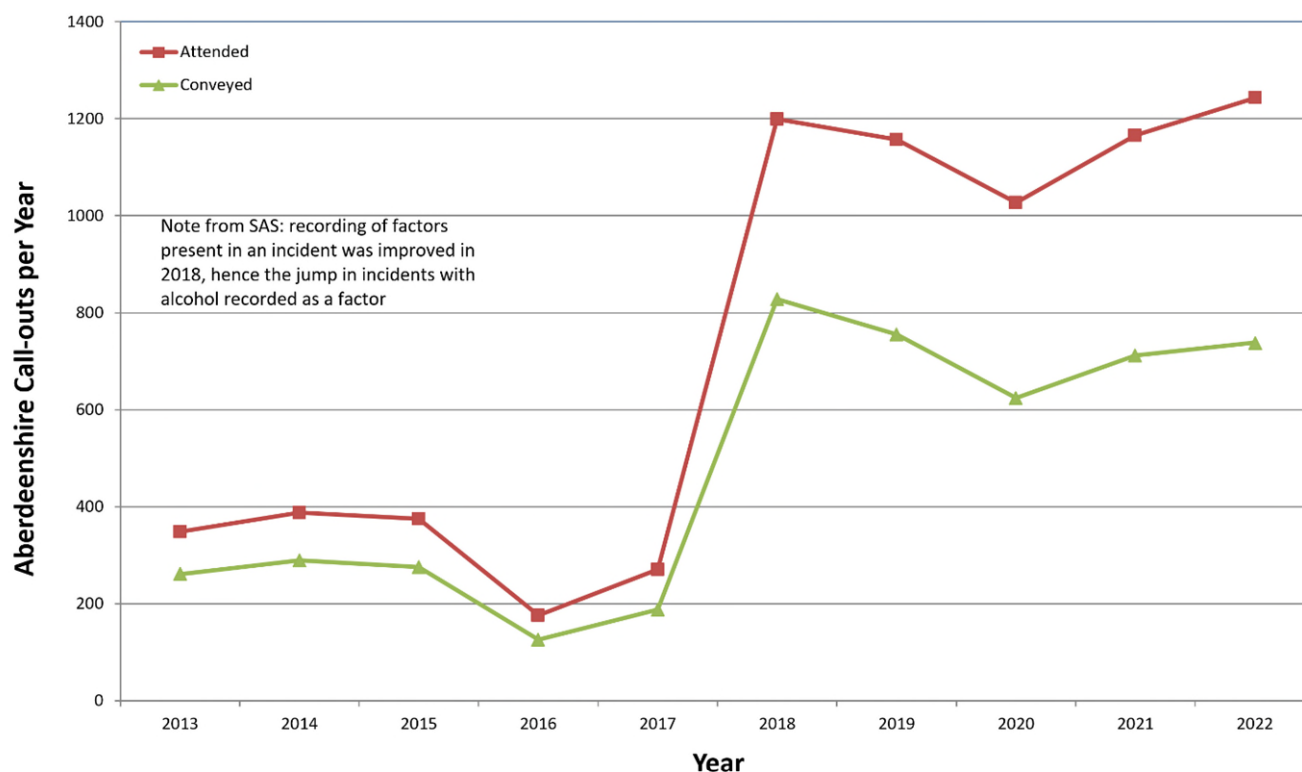
Standardised rates of admission to hospital from alcohol cirrhosis in Aberdeenshire has doubled in 10 years.



### Ambulance Call-outs

The rate of ambulance call-outs in Aberdeenshire where alcohol was a factor reflects a similarly increasing pattern. So far this year, 5.5% of all call-outs record alcohol as a factor.

### Emergency Ambulance Call Outs involving Alcohol (Scottish Ambulance Service)



#### Violence, Disorder and Antisocial Behaviour

Police Scotland data is indicative of a clear connection between consumption of alcohol purchased from on and off-sales licenses, with violence, disorder and antisocial behaviour. Community safety is directly impacted by alcohol consumption within on sales premises. The unseen costs to emergency organisations can often be impacted further by extended opening hours both in terms of incident management and the additional preventative or contingency resourcing put in place.

There is therefore significant scope to modify current LB policy to stem or reverse these documented increases in alcohol related harm.

#### Community Views

LBs have statutory obligations to set policy and make decisions bearing 5 licensing objectives in mind, one of which is '*protecting and improving public health*'. Decisions based on other considerations such as alcohol industry job creation would be *ultra vires*. Nevertheless, LBs have to be sensitive to community views.

In order to gauge these views, the ADP Lead Officer recently surveyed community representatives and GPs about their aspirations for LB policy changes. Questions were asked about whether they thought:

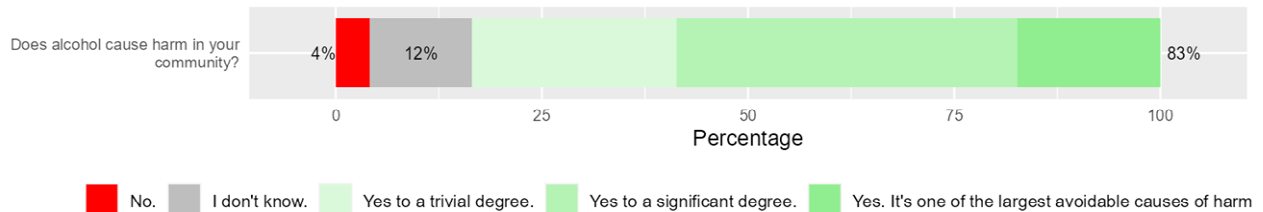
- Alcohol causes harm in our community;
- Whether LB policy should be changed; and
- What changes might be attractive.

These plausible policy interventions were determined and agreed<sup>1</sup> at the 24 June ADP 2022 ADP Committee meeting following discussions with communities and other partners.

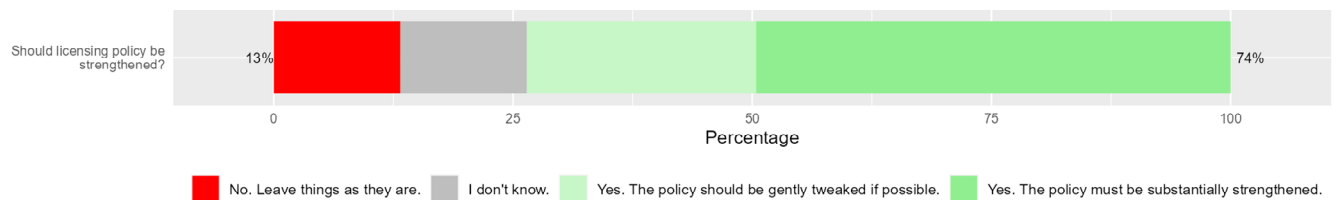
At the time of writing this report, 8 GPs and 113 community members had responded with overall results displayed below. A breakdown of how people responded based on various demographics and backgrounds (including a significant proportion employed in the alcohol sector) is available in Appendix A.

## Results

Only 4% of respondents thought that alcohol did not currently harm our community.

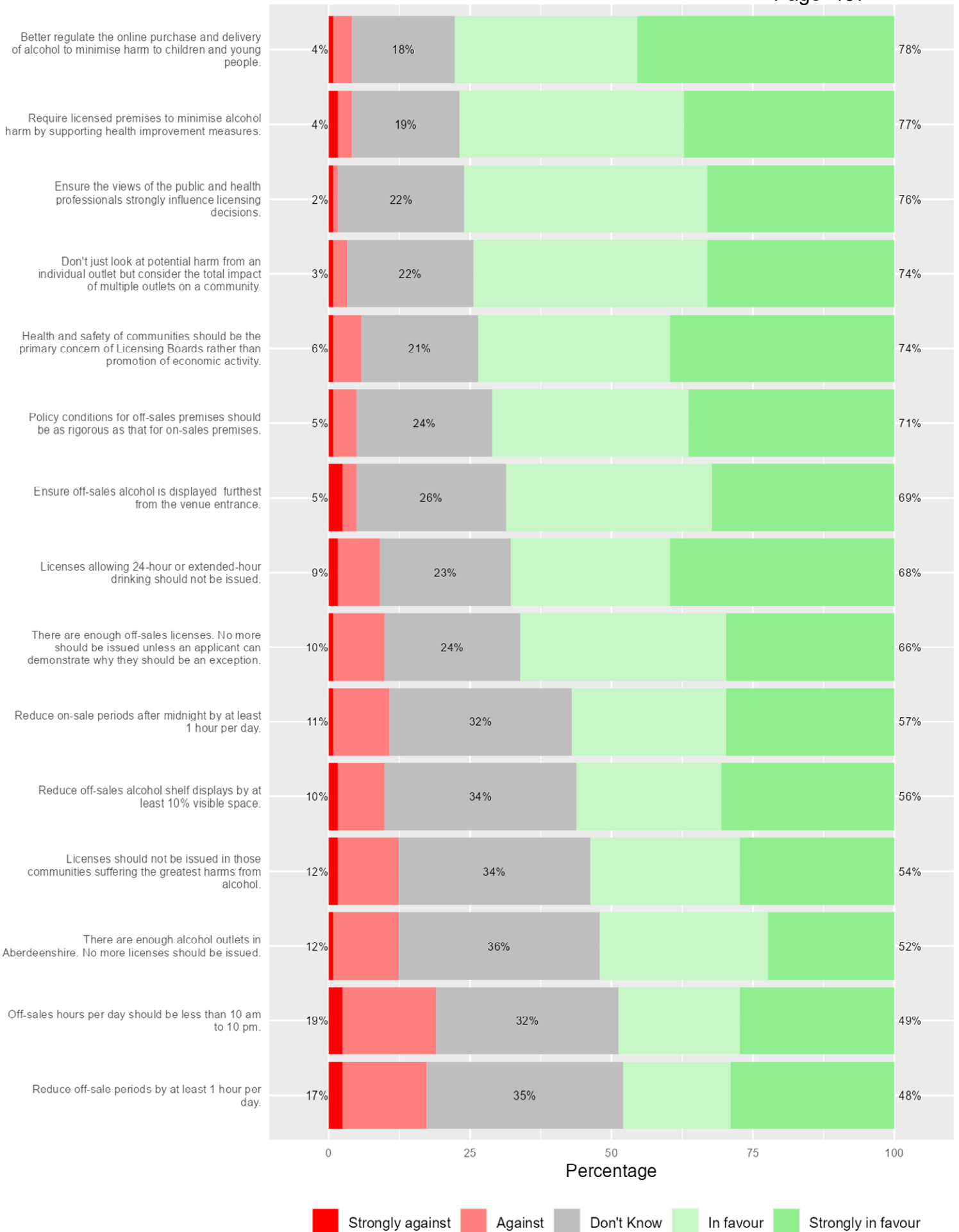


74% of people thought that LB policy should be strengthened, with the majority saying it should be substantially strengthened.



All of the policy proposals offered for consideration had more support for than against. The least well supported proposal had only 17% against and the most supported only 4% against:

<sup>1</sup> Access to the ADP Teams Directory is required. This can be obtained [by clicking here](#).



■ Strongly against
 ■ Against
 ■ Don't Know
 ■ In favour
 ■ Strongly in favour

## Discussion

A relatively large survey of the community and a small snap-shot of GPs has dramatically illustrated the community's concern about the harmful impact of alcohol in Aberdeenshire in line with the documented increases in alcohol related harm witnessed in Aberdeenshire. The results demonstrate the community's expectation that current LB policy be significantly strengthened by implementing a variety of policy interventions to reduce the growth in alcohol specific deaths over the last 10 years.

These views should give the LB confidence to include the following policy proposals in their draft policy to enable stakeholders to consider them during the consultation:

- **Better regulate the online purchase and delivery of alcohol** to minimise harm to children and young people. The role of the LB on such matters should be to work in a collaborative way, using such powers that it may have and lobby appropriate national forums for such change.
- **Require licensed premises to support health improvement measures.** Help on-sales establishments be part of the solution by requiring them to support health improvement interventions. Additionally, the LB should direct Local Authority Licensing Officials to seek health improvement and harm reduction measures as an appropriate component of sanctions relating to any infringement of licence conditions.
- **Ensure the views of the public and health professionals strongly influence licensing decisions.** Give public and professional sentiments from people who live and work in our community's sufficient weight and do not dismiss those views as 'mere anecdote'. Decisions should not be made on the basis of precedence or economic benefit alone, but a holistic assessment moderated by community and health-based impacts should also be taken.
- **Consider the total impact of multiple outlets on a community** rather than on a license-by-license basis. Recognise the concept of 'cumulative impact' on a community from multiple alcohol outlets rather than seeking proof that alcohol harm is attributed to a particular license. A significant part of the rationale here should include the acknowledgement that alcohol harms along with availability are clustered in areas of relative economic disadvantage. As a result, it would be irresponsible not to require a higher standard of scrutiny for any new



licence or increased availability in an already socially disadvantaged area.

- **Health and safety of communities should be the primary concern** of LBs rather than the promotion of alcohol-related economic activity. Recognise that promotion of alcohol based economic activity is not a statutory function of the LB or a statutory licensing objective.
- **Upgrade licensing conditions for off-sales premises.** Policy conditions for off-sales premises should be as rigorous as that for on-sales premises. Recognise that those with addiction predominately purchase alcohol from off-sales premises, often with little responsible intervention or regard given to those clearly presenting with addiction. Additionally, recognise the shifting national culture of pre-loading and greater 'at home' consumption and the wider implications of this shift including domestic violence, which is known to be associated with increased alcohol consumption in the home; most of which can be hidden from view.
- **Ensure off-sales alcohol is displayed furthest from the venue entrance.** A consistent message from community members in sustained recovery from alcohol is how difficult it is to purchase food and items necessary for life when confronted with unavoidable alcohol displays.
- **Don't issue 24-hour or extended-hour drinking licenses.** Conclude that there are no exceptional circumstances that justify licenses that allow 24 hour or extended-hour drinking.
- **There are enough off-sales licenses.** Adopt a policy presuming against the award of off-sales licenses unless the applicant can demonstrate why they should be an exception, for example by demonstrating that community and health impacts would be mitigated or not occur.
- **Reduce on-sale periods after midnight by at least 1 hour per day** for new applicants and for current licenses on renewal.
- **Reduce off-sales alcohol shelf displays by at least 10% visible space.** Retailers could achieve this by reducing shelf-utilisation for alcohol or diverting existing space to low or no-alcohol alternatives.

- **Communities suffering the greatest harms from alcohol should be protected from new licenses being awarded.** Conclude that awarding alcohol sales licenses in the areas experiencing or vulnerable to the greatest harm would be inconsistent with the statutory licensing objective to protect and improve public health.
- **There are enough alcohol outlets in Aberdeenshire.** No more licenses should be issued. Conclude that a state of alcohol-outlet overprovision has been reached in Aberdeenshire.
- **Off-sales hours per day should be less than 10 am to 10 pm.** Accept that off-sales hours of 10 am 10 pm are maximum allowable hours under the law and not a minimum.
- **Reduce off-sale periods by at least 1 hour per day** for new applicants and for current licenses on renewal.

## Conclusions

It is acknowledged that the Aberdeenshire LB has a difficult task in achieving the statutory licensing objectives and consequently a reduction in the alcohol related harms summarised in this report. It is hoped that the support of the ADP provides the LB confidence to incorporate our recommendations into their draft consultation licensing policy.

**Avril Nicol**

**Chair**

**Aberdeenshire ADP**

**Jan 2023**

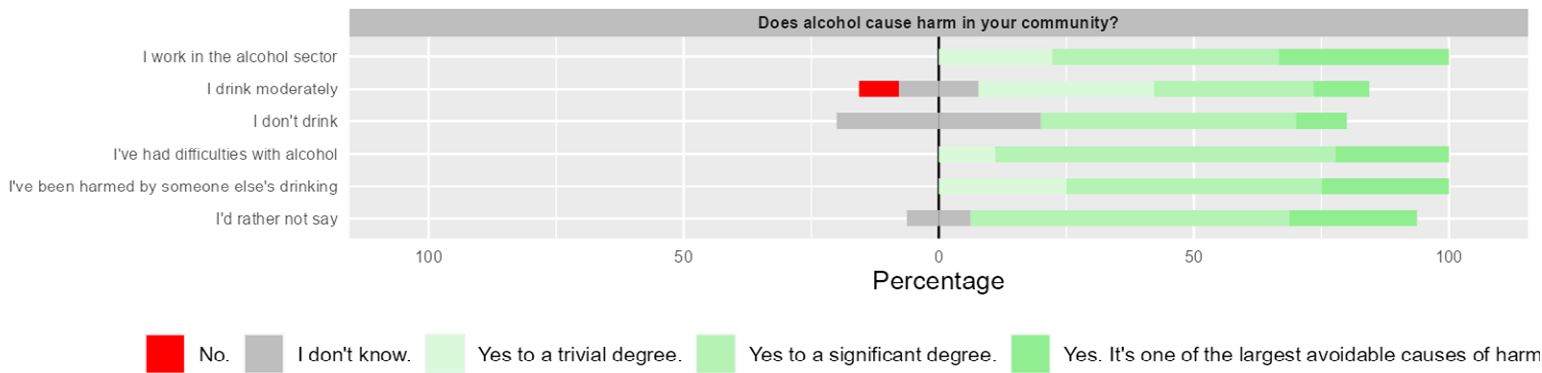
## Appendix A: Results Breakdown

### Respondent demographics:

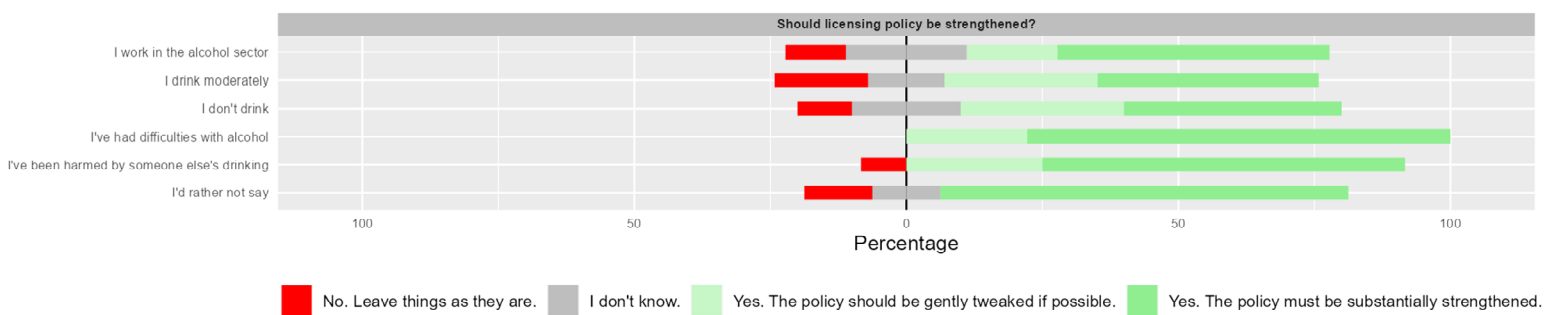
Gender	Count
Unknown	5
Female	87
Male	29

Respondent Characteristic	Count
I've been harmed by someone else's drinking	12
I've had difficulties with alcohol	9
I don't drink	10
I drink moderately	64
I work in the alcohol sector	18
I work in General Practice	8

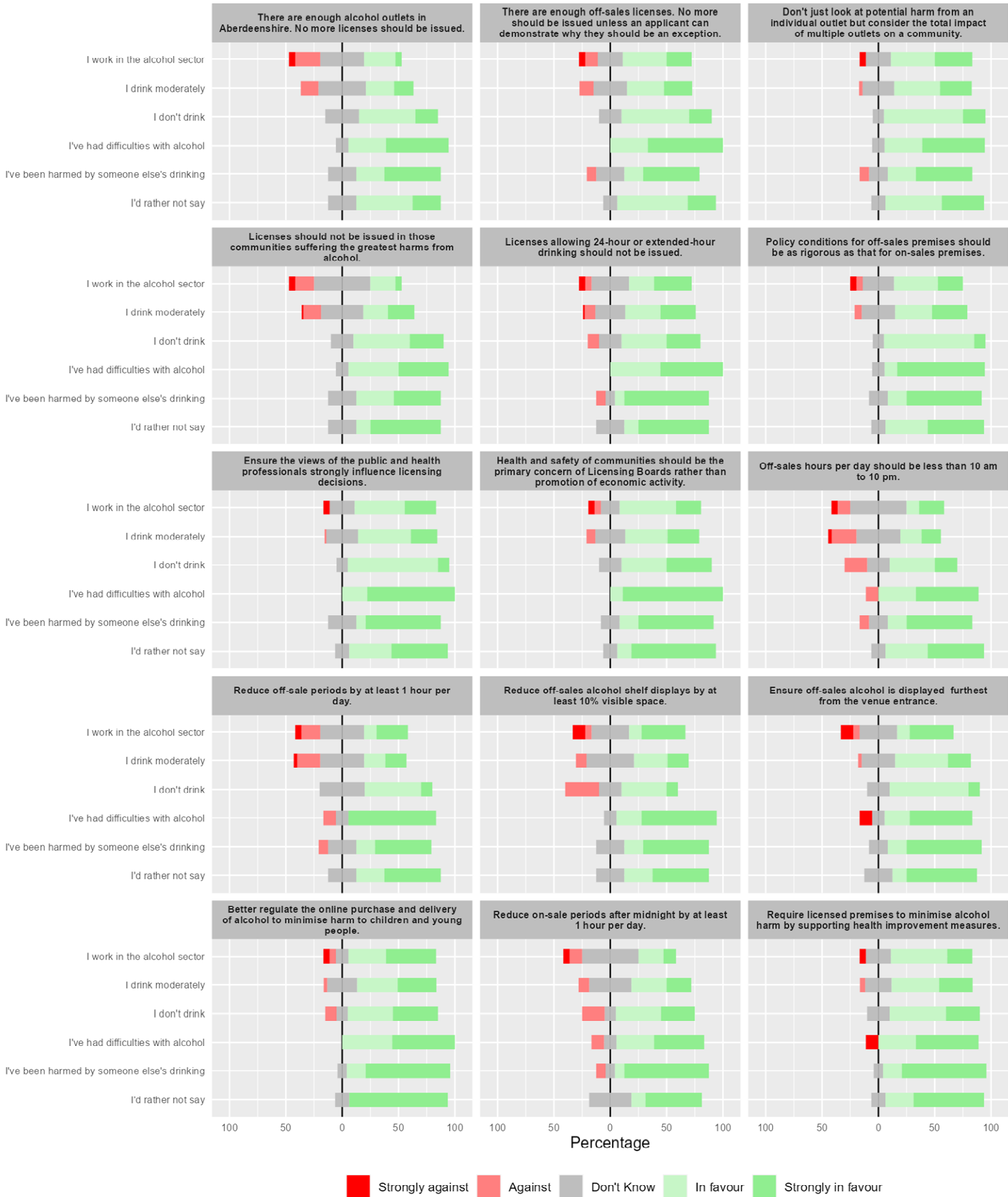
### Views on whether alcohol causes harm to our community.



### Views on whether LB policy should be changed.



Views on policy by respondent category.



Strongly against Against Don't Know In favour Strongly in favour

### Appendix 3D – Ellon and District Pubwatch

At the recent regular meeting of E&DP on 4<sup>th</sup> December it was unanimously proposed that the Secretary respond to the request from Aberdeenshire Licensing Board for engagement regarding the proposed revision of the local alcohol licensing policy.

#### Specifically –

**Concern was expressed regarding the current Appendix 1, Paragraph A, Section 25, which states “that Licence Holders should consider whether a means of communication with other premises and the Police is required. This is likely to be particularly relevant in town centres. In those areas where it is available, Radiolink, Pubwatch and Shopwatch can be of assistance to licence holders and their staff in preventing crime and disorder and undue public nuisance. The Boards support the use of such schemes as examples of good practice and expects all licence holders to actively participate in these where such schemes operate within their area.”**

The wording suggests that it is a **requirement** for licenced premises to be members and actively participate in a local Pubwatch scheme (as exists in Ellon and District which includes Tarves, Pitmedden, Newburgh and Balmedie) however it seems to be the case that certain premises can simply ignore this and not support the scheme.

It is the opinion of all members of E&DP that our very strong scheme would benefit if it included every licensed premises in the area – although currently this seems to be unenforceable.

### Appendix 3E – Mr A Grant, representing a premises licence holder

I represent a Premises Licence Holder.

I wish to make the following observations:

1. The Licensing Board currently consists of 7 males and 3 females.
  - In these days of gender equality, it would be better if there were 5 males and 5 females.
  - I note that people of colour are not represented.
2. Secure alcohol storage areas should not be shown on the layout plans available to the general public in order to prevent illegal access.
3. The official recording of the deliveries of alcohol to a premises is an unnecessary layer of red tape.
4. In the section about the protection of and prevention of harm to children and young people, the consumption of alcohol by pregnant women continues to be a serious concern. There does not seem to be enough publicity by the Licensing Board and the National Health Service in high-lighting the long term damage that the consumption of alcohol by pregnant women does to the foetus and subsequently the child in terms of functional, learning and social disabilities.

Appendix 4 - Note from Informal Meeting with Statutory Partners

Board Members in attendance:-

Marion Ewenson  
Dawn Black  
Geoff Crowson  
Jenny Nicol  
Richard Menard  
Stewart Adams  
Trevor Mason

Apologies Jeff Goodhall

Council Officers in attendance:-

Fiona Stewart  
Cian Gullen  
Harriet Tevendale  
Jill Joss  
Kevin MacDonald  
Lauren Cowie  
Lisa Godini  
Lynsey Kimmitt  
Sarah Ward

Statutory Consultees in attendance:-

Neil Grant  
John Mooney

There was a presentation by officers on the main issues as presented to the Licensing Board as being the main focus of the engagement on the licensing policy statement.

Following the presentation, discussion ensued where it was noted that it is important to emphasise that the licensing objectives are to be promoted as well as complied with.

Hours

There was a general discussion on whether or not all areas should have the same opening hours, and that it could be seen to be common sense to have everywhere using the same rules as a decision can always be made to grant reduced hours if circumstances dictated. Officers also provided guidance that if hours are to be harmonised, this would affect new licence holders and would have no impact on existing licence holders unless they wanted to vary their licence to take account of the new provisions. This would always create an uneven playing field and the new policy would not apply to the majority unless they chose to change to comply and so would have limited impact. It was confirmed that some if not all premises in the North do use the additional 30 minutes for private functions.

## Festive Hours

Police Scotland expressed concern at the length of hours that there are during the festive season as this stretches emergency services. It was mooted that the longer that people drink, the more under the influence they are, the more admittance to A& E, and that whilst they can appreciate that there are economic reasons to open longer, there are adverse economic impacts on police, emergency services and health problems in future and so this could be considered. Other than economic benefit to trade there is no benefit to anyone else.

There was a general discussion on harmonising festive hours and dates and that this should be the same across Aberdeenshire. Consistency would be welcomed, there are many complaints to Licensing Standards Officers over differences between say Peterhead, Ellon and Stonehaven, we now have one Board and so we should have standard approach across all areas. There was some preference given to the North approach on dates and times. Some premises licences state that they will comply with the Board's festive policy, so any restriction, or relaxation would automatically apply to them and so would need to think about a lead in time to give time for any variation to come forward.

Comments from public health concurred with a lot of what has been said and anything that restricts availability in terms of hours would be supported as there is a lot of evidence that if have a later open time people start drinking later. Later open detrimental to staff and during festive season people start drinking earlier in the day therefore in favour of having it just the holiday day itself if at all. People adjust their start times accordingly

Discussed that culture change is required, and that there is an appreciation that existing premises could retain the later opening times but would be a statement of intent from the Board that they are taking the possibility of harm seriously. There were comments that later opening hours also puts a lot of pressure on licence holders in terms of the requirements to have vulnerability policies as they are expected to look after customers and call relevant services where there are issues, closing earlier eases the pressure. There is usually little blame, if any, to attribute to premises themselves - not their fault due to preloading but they are dealing with the issue

There was discussion that at the last review, the North removed the 24 hour drinking approach, but there are still a few that have it as part of their premises. Each application has to be assessed on its own merits but standardised approach would be beneficial

There was debate over the skewed landscape in terms of purchasing in favour of the off licence - covid has exacerbated that and there is a call for evidence just now at national level around the increase of drinking at home linked to increased domestic violence, increased impacts on children and also the impacts where there are more deprived areas which tend to have a much higher density of off

licence premises. Should there be a presumption that should be a higher burden of proof in a more economically disadvantaged area and all the associated impacts of drinking at home. More hidden in more affluent areas as there are more sophisticated ways of dealing with it. This was deemed to be interesting, but not something that would be legally compliant.

## **Localities**

There was then a discussion over determining localities and whether this should be towns, areas, wards etc.

In 2009 there were 650 licensed premises, which is now sitting at 639 so not a huge difference in numbers, however the difference is in the type of premises as there is a shift away from village pub, small hotel and there has been more diversification, running businesses from home addresses - cocktail deliveries and micro breweries which is to the detriment of the on trade.

Deliveries are adding to the issue – there is anecdotal evidence of those under 18 using an adult's bank cards and getting alcohol delivered into safe places. The conditions review can only be applicable to Aberdeenshire based business, but that doesn't stop ordering from outside Aberdeenshire.

## **Vertical drinking establishments**

Are these types of establishment still an issue, cultural changes are having impact and these premises are not as prevalent as they had been in the past and there was discussion that it might have been a historical issue but is something we should retain in the policy so it doesn't reappear again.

Vertical drinking less popular than it was with many premises looking to diversify pub games, arcades etc anything that promotes not drinking in the premises to other activities which would be good as well. There have been cultural changes because of Covid, where it was not permitted to stand at bars and everyone had to be seated. People seem to want to respect space, things have changed, same culture from banning smoking, people want that space around about and to be able to hear each other

One of the negatives of the increase in the use of pavement cafes can be disruptive to others - one planning applications particularly when have a busy street and less capacity to supervise someone outside

## **End of Aisles**

There was discussion on the policy that was introduced at the last policy review and what impact it has had, more limited than hoped and difficult to evidence given that changes to policy are not retrospective. There are many premises who have end of aisle displays which we can't change immediately, though the Scottish Government are consulting on potential changes here, about trying to



prevent impulse buying not necessarily had the evidence to say one way or another but would like to see it remain as it can still be a trigger for those in recovery.

There was general agree we should keep the ban on end of aisle sales possibility of restricting the floor space devoted to the sale of alcohol.

There as discussion on the location of alcohol displays in stores, specifically around why alcohol is located next to pay points, however retailers do not have to provide this information.

## **Local Conditions**

Worked very hard to ensure consistency with the roads service on roads café consents etc conditions. Sarah work done previously need to get permit from roads which are issued with specific conditions to tie in with the major variations can only get permit for 6months and have to reapply. Have had conditions changed to reflect operational changes

Beer gardens would be better at 10pm most objections come from noise and anti social behaviour is a difference between 11pm and 10pm at night.

Alcohol delivery sales is important to review. Street café have no issues as long as are well supervised and pavements are not obstructed though we have to ensure no accessibility issue for people that are sight impaired to make sure they are not a trip hazard

## **General discussion**

Public Health have evidence that they will bring to the Board. There is access to localised information on alcohol hospital admissions and as this debate has alluded to it is always difficult tying the evidence up to individual premises, stats on domestic violence and there will be tags re anti social turn around time Early New Year.

Police Scotland are getting stats around violence, anti social behaviour and concerns. As a whole we are looking to reduce violence and disorder and we have moved departments and are working much more closely with the NHS and emphasis is moving towards harm reduction which is why we are looking to shorter hours limited alcohol displays to push the harm reduction.

The LSO's raised that they have also noticed the change of the use of occasional licences. Occasional Licences takes up a lot of everyone's time. Fee is set by statute. A lot of work goes into occasionals. during Covid diversification seen pop up shops route and branch look at occasional licence conditions as they are set up for one off events and need to be streamlined

LSO - further discussion around Members Clubs a lot of discussion 5 years ago still a little bit of work to be done to remove loopholes - biggest thing is 3rd party hires is the biggest issue. Legislation is about sale of alcohol and it is being able to identify what events can and can't take place such as the situation this morning with the OL for the bowling club by far that is not the only one we have members clubs are trying to diversify as much as anyone else.





# Engagement on Main Issues

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## **SURVEY RESPONSE REPORT**

31 October 2022 - 6 January 2023

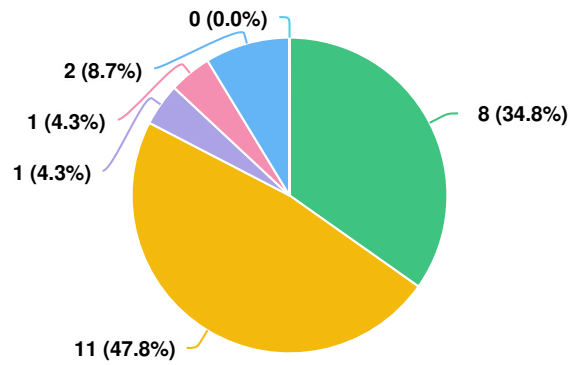
### **PROJECT NAME:**

Review of the Aberdeenshire Licensing Board's Licensing Policy Statement



SURVEY QUESTIONS

Q1 Are you a



**Question options**

- Member of the public
- Licence holder
- Representative of a public sector organisation
- Representative of a council service
- Other
- Representative of a community council

Optional question (23 response(s), 0 skipped)  
Question type: Radio Button Question

**Q2 Please specify what public sector organisation**

██████████ Police Scotland  
11/22/2022 12:10 PM

**Optional question** (1 response(s), 22 skipped)  
**Question type:** Single Line Question

**Q3 Please specify what council service**

██████████ Protective Services  
1/04/2023 05:14 PM

**Optional question** (1 response(s), 22 skipped)  
**Question type:** Single Line Question

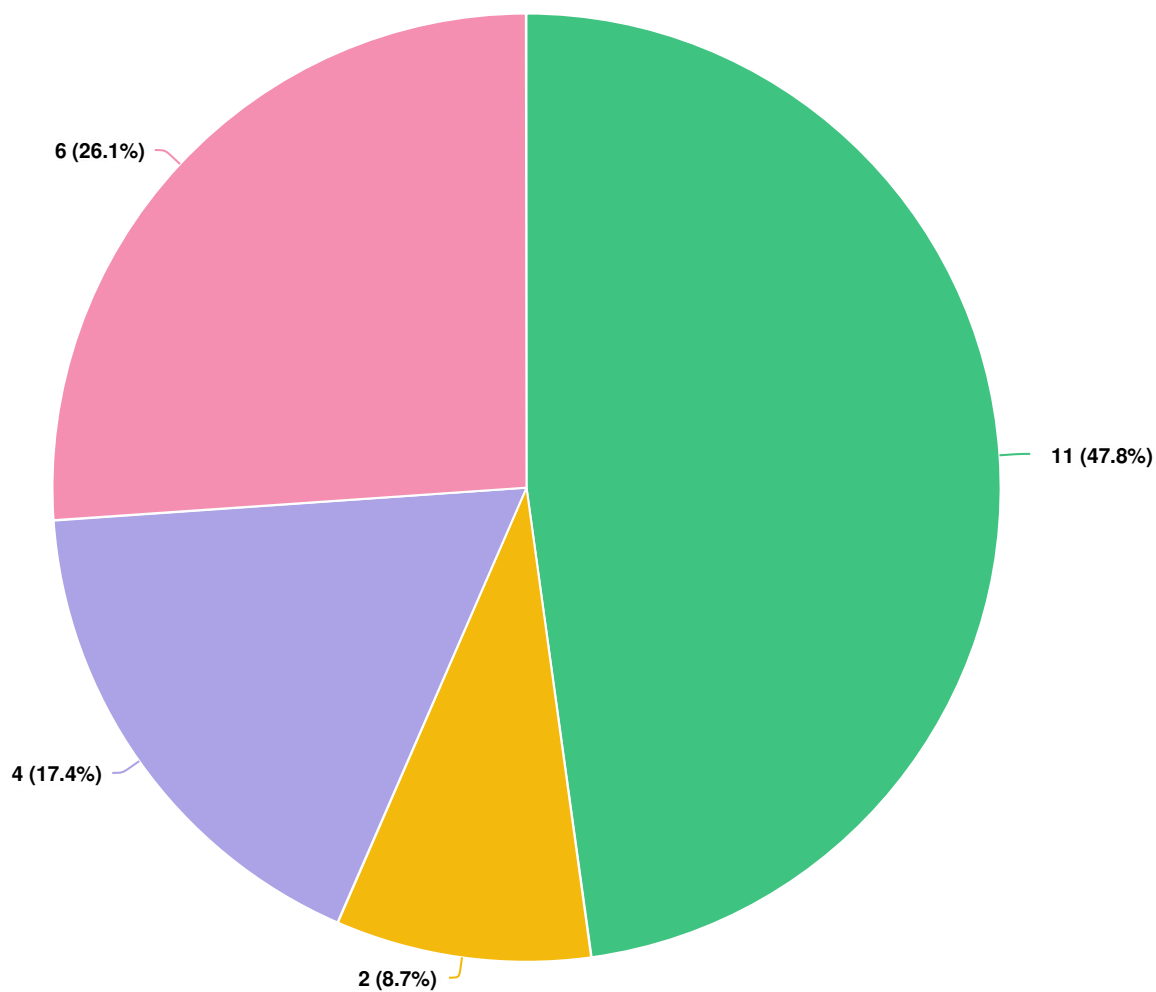
**Q5 Please specify in what capacity you are completing this survey**

Anonymous ██████████ Longside Golf Club  
1/05/2023 03:31 PM

**Optional question** (1 response(s), 22 skipped)  
**Question type:** Single Line Question



**Q6** Do you have a connection to

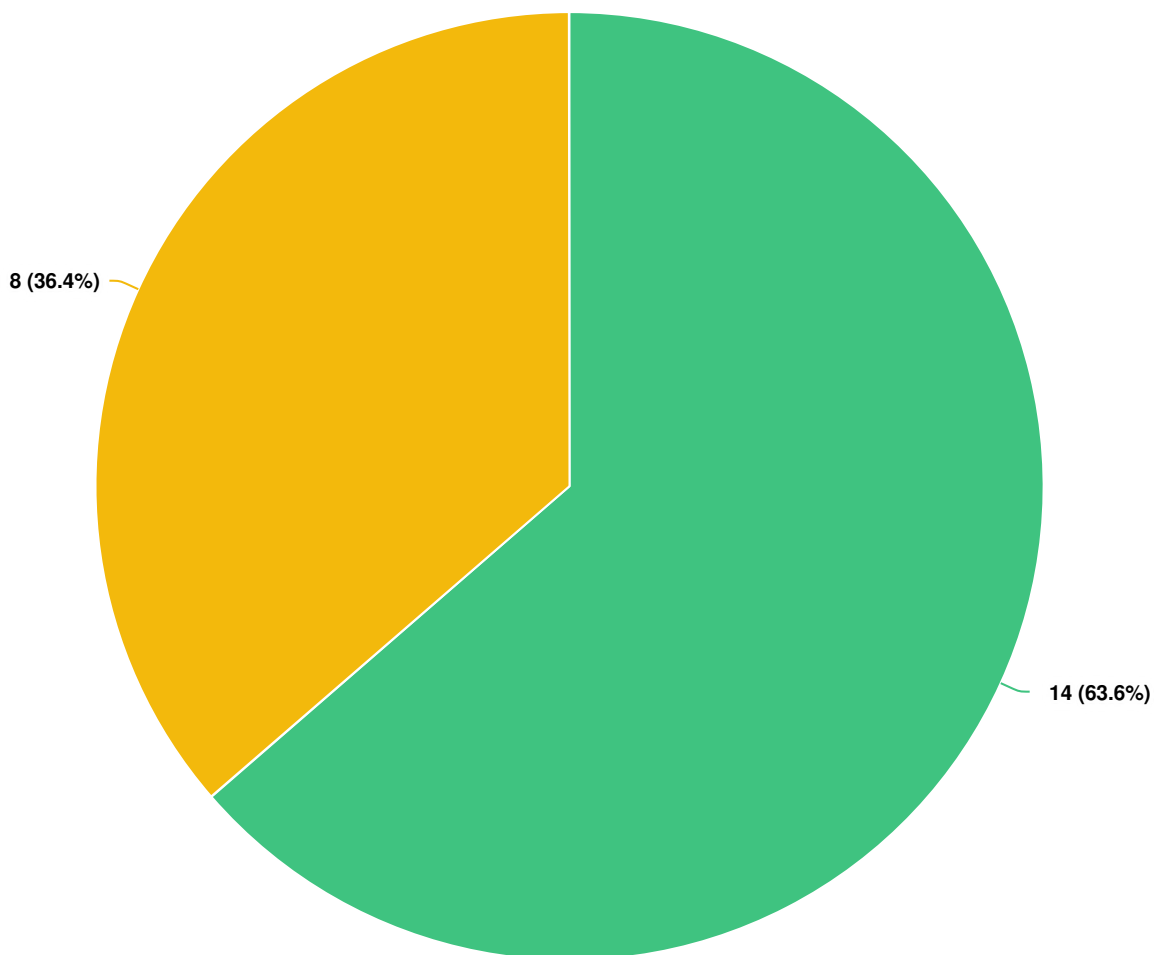


**Question options**

- The North Area of Aberdeenshire
- The Central Area of Aberdeenshire
- The South Area of Aberdeenshire
- All of Aberdeenshire

*Optional question (23 response(s), 0 skipped)*  
*Question type: Radio Button Question*

**Q7** Do you visit vertical drinking establishments?

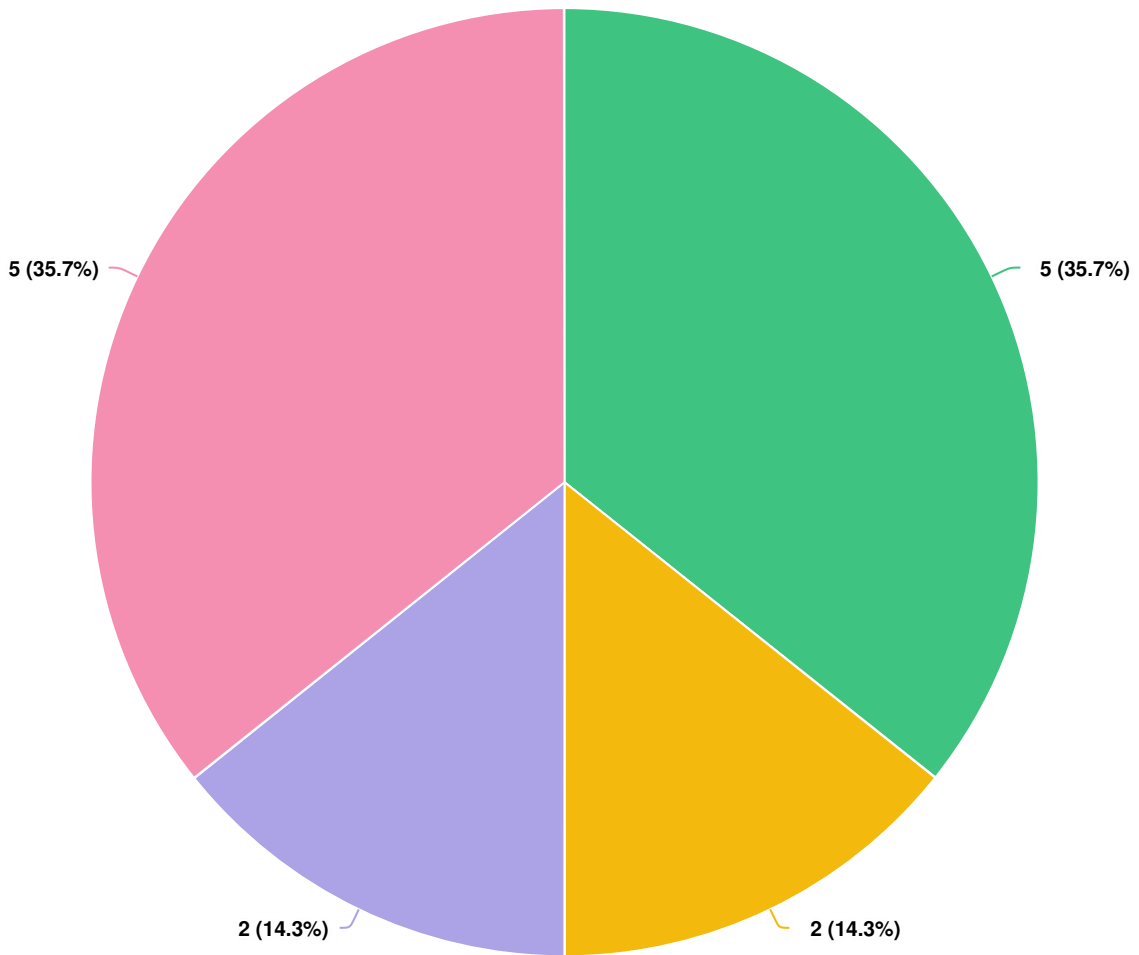


**Question options**

- Yes
- No

*Optional question (22 response(s), 1 skipped)  
Question type: Radio Button Question*

**Q8** How often do you visit vertical drinking establishments?

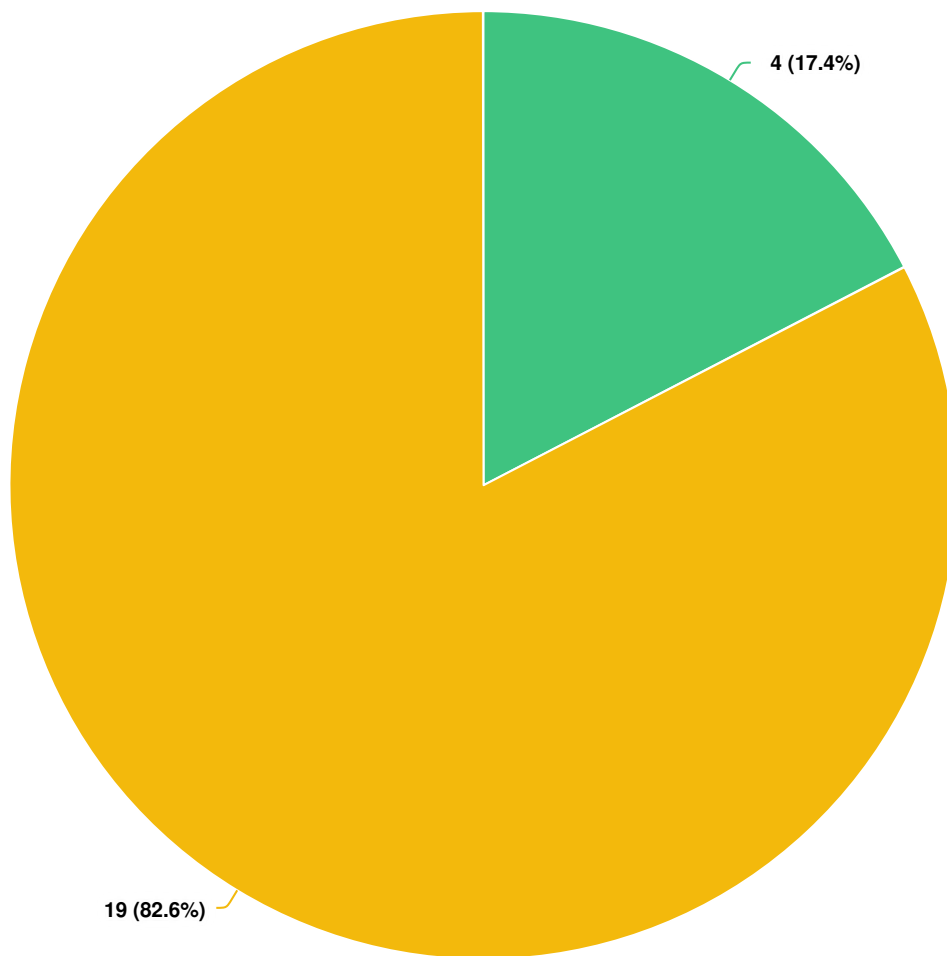


**Question options**

- Weekly
- Monthly
- For a special occasion
- Rarely

*Optional question (14 response(s), 9 skipped)*  
*Question type: Radio Button Question*

**Q9** Do you, or your organisation have any concerns around vertical drinking establishments?



**Question options**

- Yes
- No

*Optional question (23 response(s), 0 skipped)*  
*Question type: Radio Button Question*

**Q10** Please provide us with details of your concerns:

[REDACTED]  
11/02/2022 08:50 PM

Amount sold and to those already drunk!

[REDACTED]  
11/22/2022 12:10 PM

They are a proven source of violence, disorder and antisocial behaviour

[REDACTED]  
11/15/2022 11:41 AM

No seating can only lead to binge drinking.

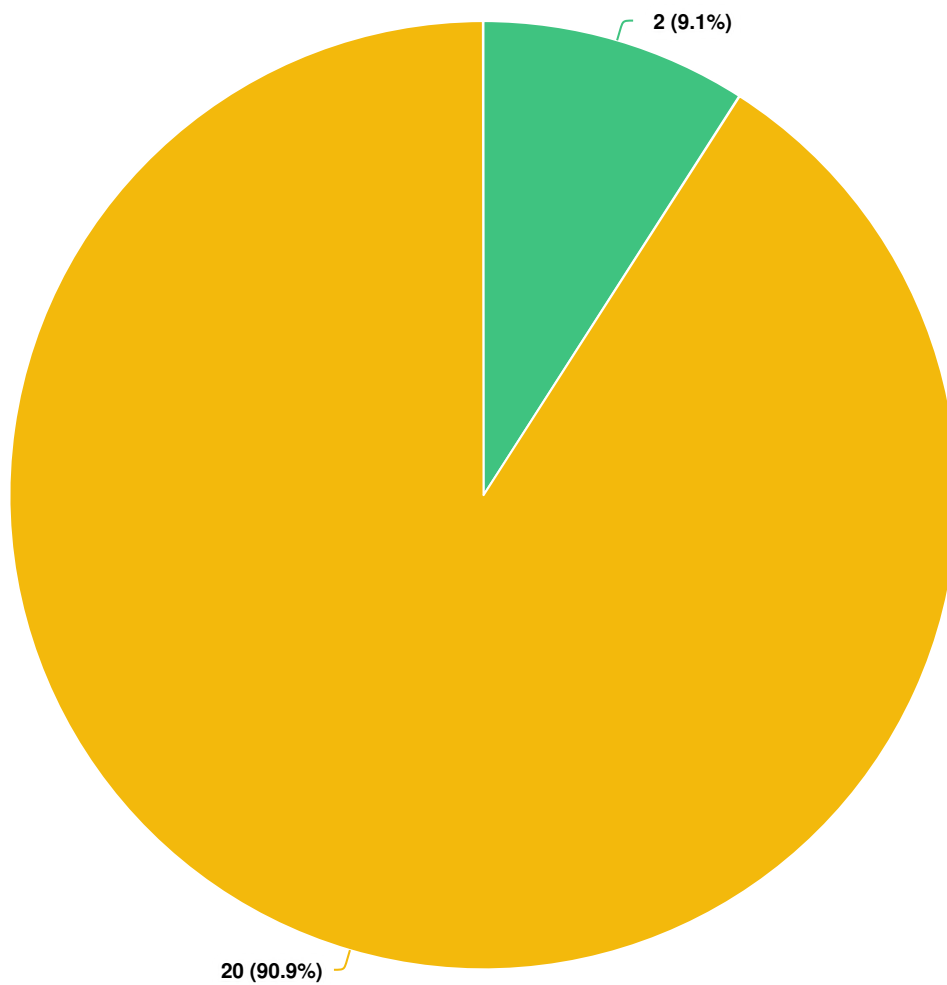
[REDACTED]  
1/04/2023 05:14 PM

Bus runs remain a concern - work previously done and Board agreed to pick up and review. Encourage premises to diversify in their offerings in line with licensing objectives.

**Optional question** (4 response(s), 19 skipped)

**Question type:** Essay Question

**Q11** Are there premises other than vertical drinking establishments that cause you concern?



**Question options**

- Yes
- No

*Optional question (22 response(s), 1 skipped)  
Question type: Radio Button Question*

**Q12** Please provide us with details in terms of the type of premises and your concerns:

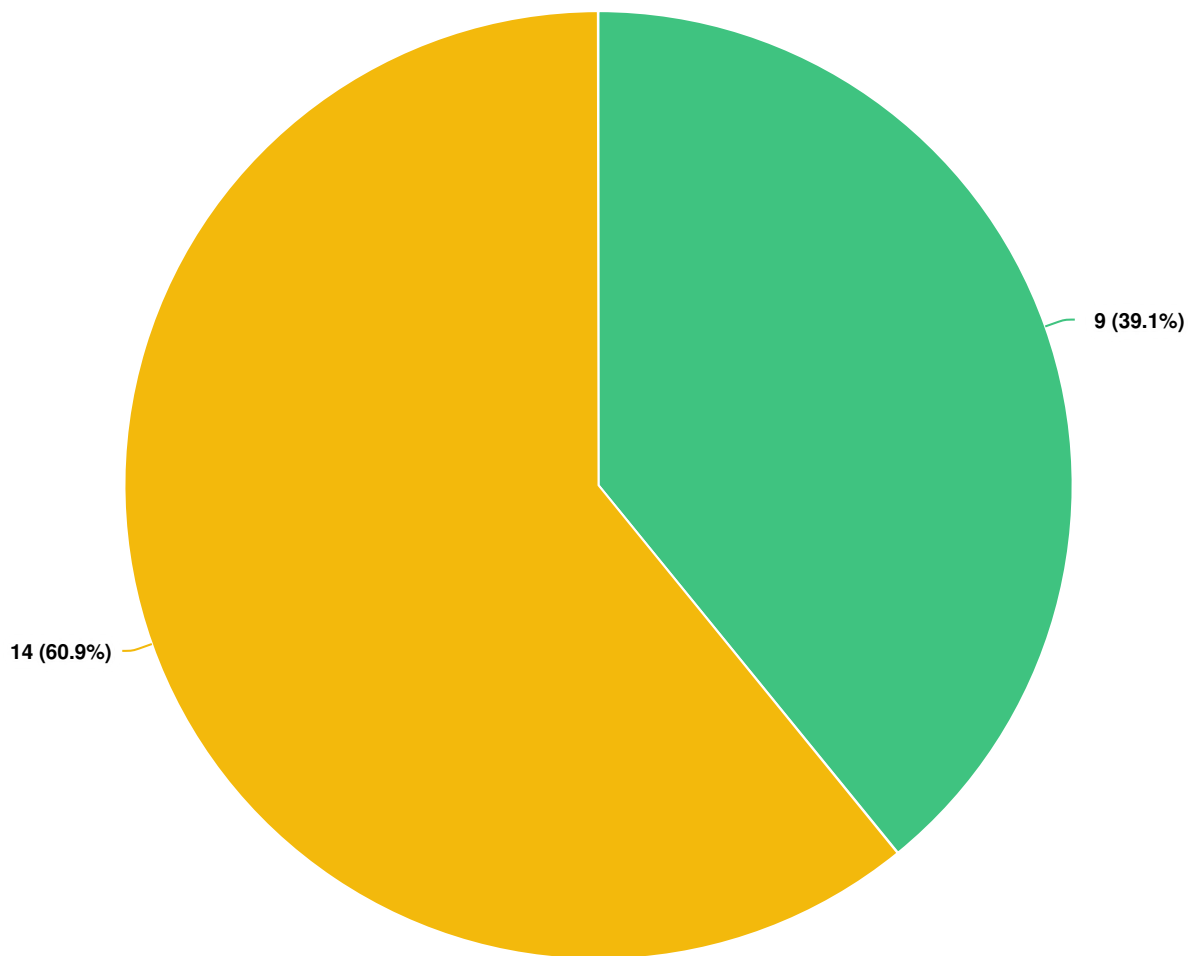
 Shops with off licences  
11/06/2022 07:36 PM

 Nightclubs  
11/09/2022 02:47 PM

**Optional question** (2 response(s), 21 skipped)

**Question type:** Essay Question

**Q13** | Should the local condition relating to beer gardens and outside areas be amended to 10.00 pm rather than 11.00 pm?



**Question options**

- Yes
- No

*Optional question (23 response(s), 0 skipped)*  
*Question type: Radio Button Question*



**Q14** Please explain your reasoning for your answer above.

[REDACTED]  
11/02/2022 02:00 PM

Why not. The time for beer gardens are in the summer not winter around the ne of Scotland.

[REDACTED]  
11/22/2022 12:10 PM

Closing an outdoor area at the earlier time reduces the probability of disturbing neighbouring properties, particularly in residential areas.

[REDACTED]  
11/06/2022 07:36 PM

The local nuisance. People having alcohol generally get noiser.

[REDACTED]  
11/08/2022 09:04 AM

Noise issues with neighbouring properties

[REDACTED]  
11/09/2022 10:58 AM

If the activities finish at 10.00 that reduces noise and other potential anti-social behaviours and allows the licensee time to clear up before it gets too late

[REDACTED]  
11/09/2022 02:26 PM

was 10pm when I was young and don't see why it needs to be later

[REDACTED]  
11/15/2022 11:41 AM

To reduce noise pollution. By 11pm many are drunk and can be roudy.

Anonymous  
12/06/2022 09:24 PM

Noise pollution

[REDACTED]  
1/04/2023 05:14 PM

Reduce impact to the community in line with licensing objectives.

**Optional question** (9 response(s), 14 skipped)  
**Question type:** Essay Question

**Q15** Why should this not be changed to 10.00 pm?

[REDACTED]  
11/02/2022 09:46 PM

The benefits of out door socialising have been highlighted over the last couple of years. The natural beauty of Aberdeenshire can be appreciated in the late evenings whether it's the northern lights or late

Engagement on Main Issues

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night sunsets in the summer. Climatically there may be a natural encouragement for groups not to be outside later, do feel no need for tighter restrictions especially in rural areas.

[REDACTED]  
11/02/2022 08:50 PM

The behaviour of a few affects everyone. Those selling alcohol should be made more aware of consequences for consumer and those selling.

[REDACTED]  
11/03/2022 02:50 PM

It should be put back to 1AM like it was before. I find it very unusual after covid you are restricting peoples movement outside. Has there been any evidence to support this 11PM cut off? Please put it back to normal

[REDACTED]  
11/08/2022 10:39 AM

In the summer when it is light and being used we notify patrons (normally very few left) that the beer garden closes at 11. Never an issue as it is dark by then. We need the Beer Gardens to boost sales in the summer as things are tough enough.

[REDACTED]  
11/08/2022 08:35 AM

I think it really depends on the location and what is around about the premises. As in my own scenario we have no neighbours

[REDACTED]  
11/08/2022 12:26 PM

Not aware of any issues regarding the need to change

[REDACTED]  
11/09/2022 02:47 PM

I cannot see the concern as long as it is being controlled in correct manner

[REDACTED]  
11/11/2022 10:04 AM

Its just yet another restriction, surely if there was anyone causing a nuisance of any kind they would no longer be there anyway, I do not believe an hour would make any difference, all you are doing is restricting the income from establishments that can have an outside provision. Common sense needs to be applied.

[REDACTED]  
11/11/2022 11:39 AM

11.00pm is still a reasonable time for this condition

Anonymous  
12/09/2022 04:18 PM

no difference same privilege for all

Anonymous

If properly operated 11 pm should not cause a problem.

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Engagement on Main Issues

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12/09/2022 04:46 PM

Anonymous

It's backward looking, people like to drink longer, let them

12/09/2022 06:30 PM

Anonymous

not relevant

1/05/2023 03:31 PM

Anonymous

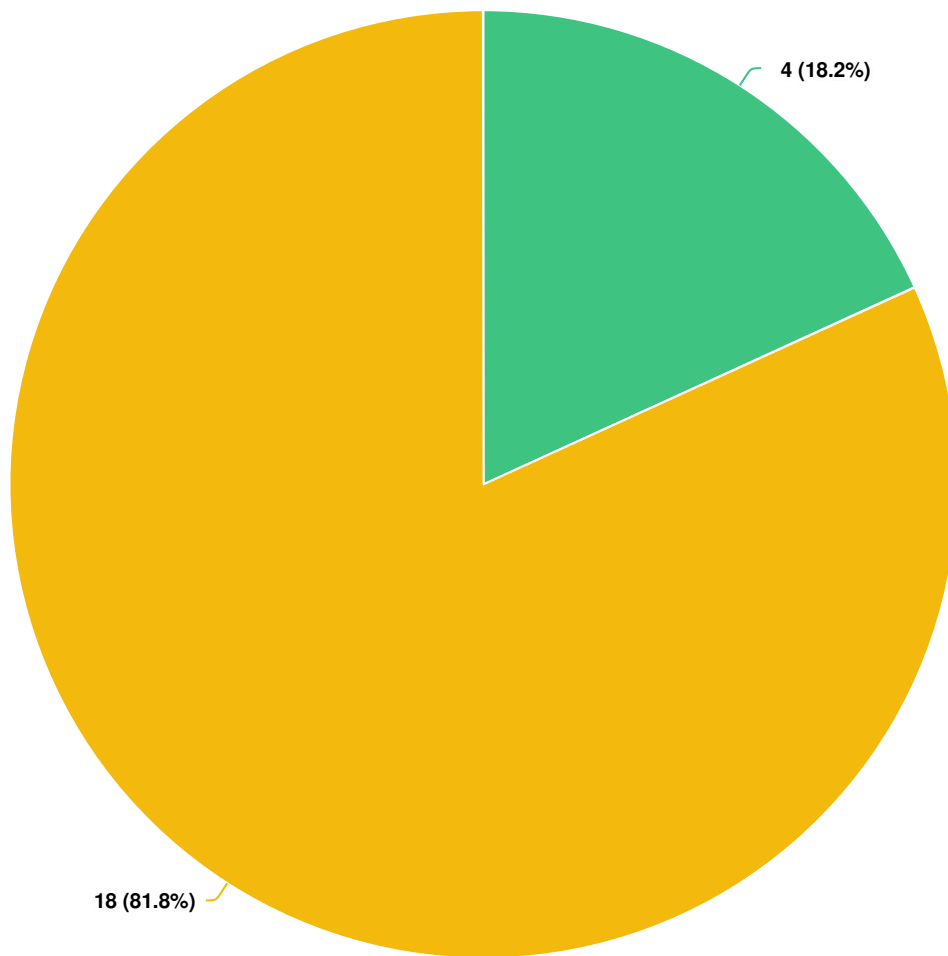
I don't think it should be changed to 10pm for Friday and Saturdays  
but certainly for all other weekdays.

1/08/2023 01:08 PM

**Optional question** (14 response(s), 9 skipped)

**Question type:** Essay Question

**Q16** | Having regard to the 5 Licensing Objectives, the provisions of the Licensing Policy Statement and the provisions of the Legislation, do any of the other Local Conditions require to be updated?



**Question options**

- Yes
- No

*Optional question (22 response(s), 1 skipped)  
Question type: Radio Button Question*

**Q17** Please provide details of the Local Conditions (Premises Licences) which you feel need updated and your reasons why:

██████████  
11/22/2022 12:10 PM

No.5 If considering a change in the terminal time to 2200 hours for outside areas, it might be worth considering limiting the audible noise to 2200 hours as well. No. 21 Should all premises be required to have CCTV? No. 31 Change to 2200 hrs

██████████  
11/09/2022 10:58 AM

If specific conditions are being recommended regularly as described above, then the regulations need changed.

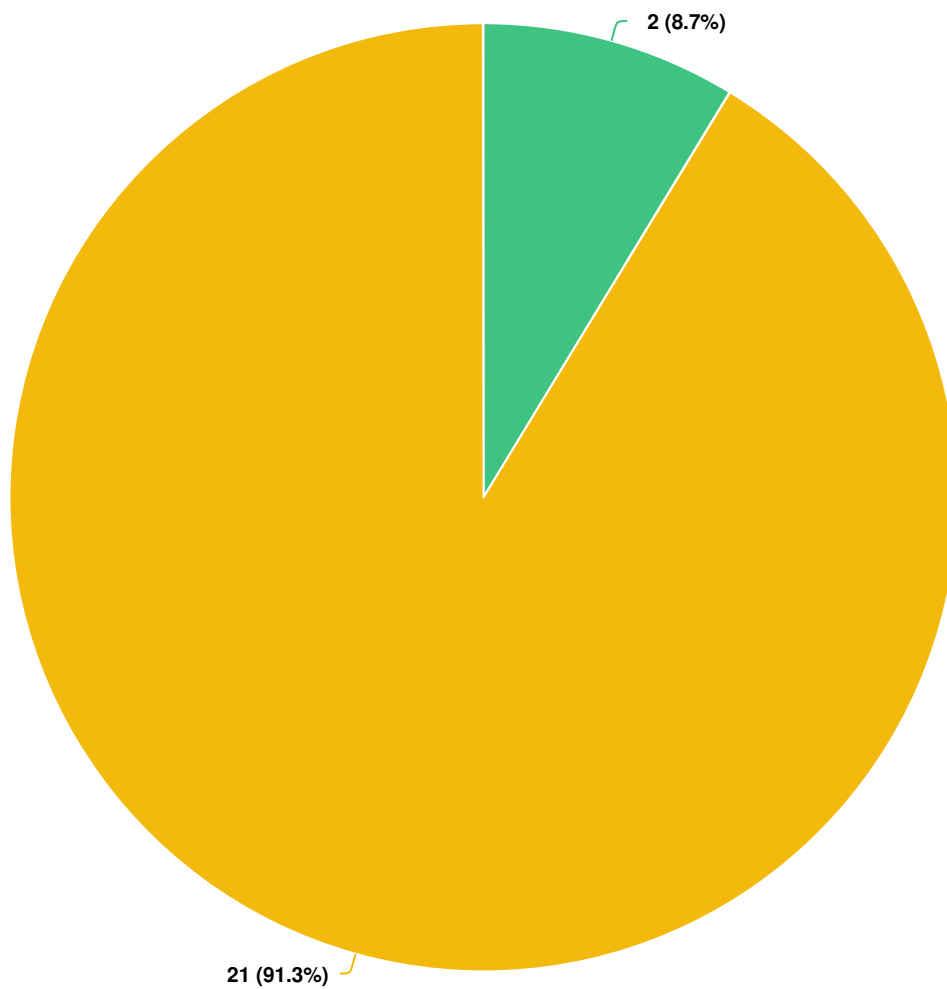
██████████  
1/04/2023 05:14 PM

Admin issues - Central and South premises get conditions cherry picked and therefore the full list of conditions (including headings) not included as appendix to premises licence. For example condition 1 reads differently with/without the heading 'general management for all premises'. North premises currently get full set of local conditions attached to licence regardless, whereas Central and South premises are getting only relevant conditions attached depending on new application/variation. Revisit conditions specific to children and YP - relate to sale of alcohol. Revisit conditions relating to 'premises providing late night entertainment'. Revisit conditions relating to 'members clubs' with reference to supplementary policy 7. Condition 31 - potential additional wording to reference to smoking areas. Condition 34 - further conversation - can be difficult to manage both within/outwith premises. Use of the term 'nightclub' is no longer relevant - late night premises operating but not as nightclub with entertainment etc.

**Optional question** (3 response(s), 20 skipped)

**Question type:** Essay Question

**Q18** Having regard to the 5 Licensing Objectives, the provisions of the Licensing Policy Statement and the provisions of the Legislation, do you think there is a requirement for any further conditions to be added to the pool of Local Conditions or remov...



**Question options**

- Yes
- No

Optional question (23 response(s), 0 skipped)  
Question type: Radio Button Question

**Q19** Please provide details of any Local Conditions (Premises Licences) which you feel should be added or removed and your reasons why:



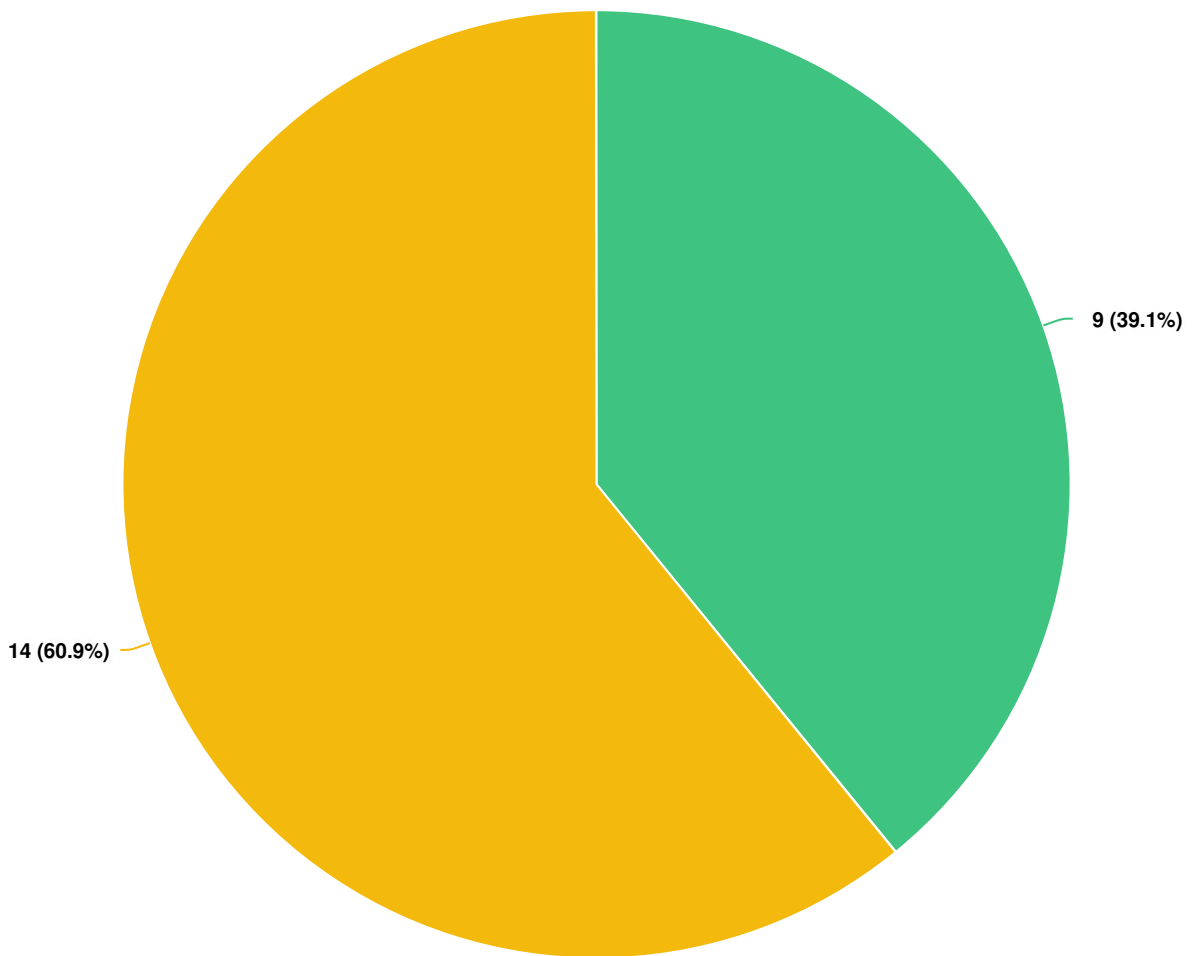
1/04/2023 05:14 PM

Addition of internet sales, off sales deliveries, street cafe consent & conditions. Children and YP conditions which do not relate to the sale of alcohol to be removed.

**Optional question** (1 response(s), 22 skipped)

**Question type:** Essay Question

**Q20** Having regard to the 5 Licensing Objectives, the provisions of the Licensing Policy Statement and the provisions of the Legislation, do you think any of the Local Conditions for Occasional licences require to be updated?



**Question options**

- Yes
- No

Optional question (23 response(s), 0 skipped)  
Question type: Radio Button Question



**Q21 | Please provide details of the Local Conditions (Occasional Licences) which you feel need updated and your reasons why:**

[REDACTED]  
11/02/2022 02:00 PM

Make it easier

[REDACTED]  
11/02/2022 09:46 PM

Heras Fencing (or similar) Can make local events have a harsh appearance, detracting from the natural charm an atmosphere of the area, and potentially encouraging antisocial behaviour by introducing a prohibition atmosphere.

[REDACTED]  
11/02/2022 08:50 PM

More staff should be trained not one for the event

[REDACTED]  
11/22/2022 12:10 PM

Harmonise the times for all three areas - 0900 to 0100 hrs

[REDACTED]  
11/03/2022 02:50 PM

Please allow tickets to be sold at the events.

[REDACTED]  
11/08/2022 12:26 PM

Ability to process occasional licences sooner than 6 weeks

[REDACTED]  
11/11/2022 10:04 AM

I feel the legislation on private members clubs needs to be better applied. There needs to be less restrictions compared to a public licence. The two are completely different. Members in their own club cant hold a private function unless they invite enough members to cover the law or apply for an occasional licence. Which is ridiculous for a members club of 700 and you can only get ten licences a year!

[REDACTED]  
11/15/2022 11:41 AM

Occasional license should be subject to the same restrictions as a licensed premises.

[REDACTED]  
1/04/2023 05:14 PM

Previous exercise done in 2017 - will provide documentation separately to Licensing Board/Depute Clerk to the Board for consideration. Current local conditions relate to events, whereas, occasional licences now being granted for premises/businesses trading short/medium/long term. Conditions not fit for this purpose.

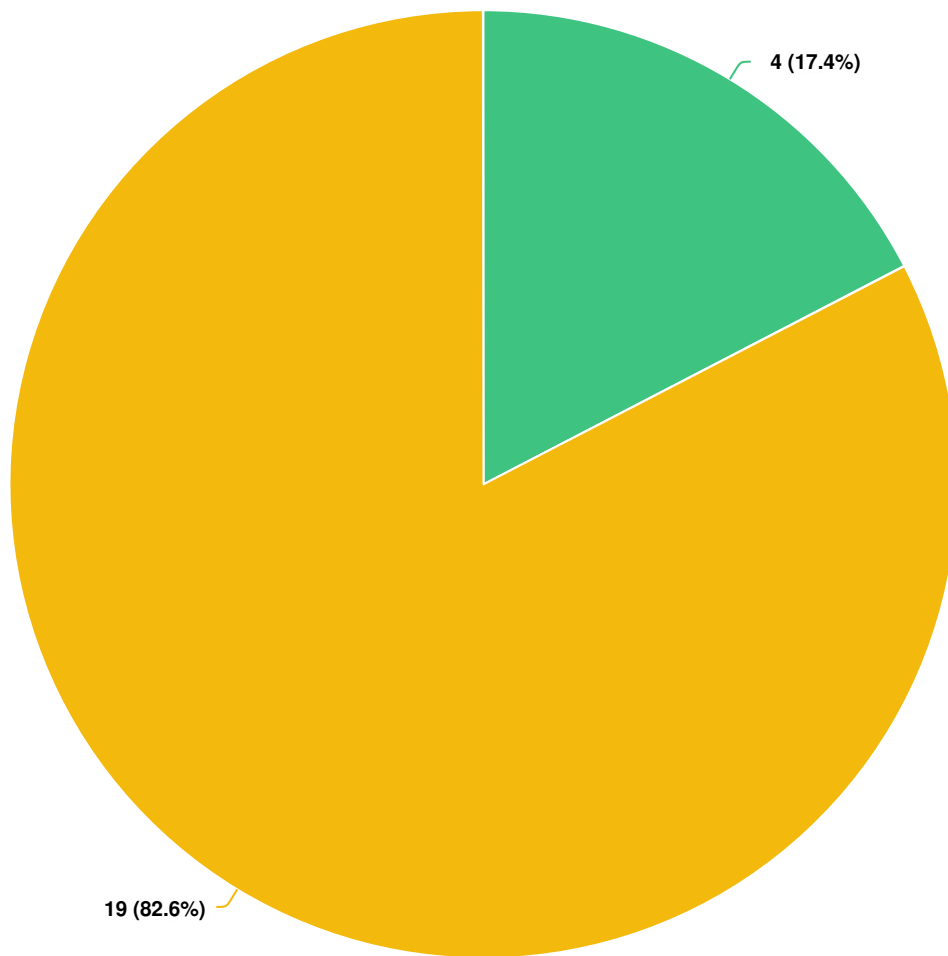
Engagement on Main Issues

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**Optional question** (9 response(s), 14 skipped)

**Question type:** Essay Question

**Q22** | Having regard to the 5 Licensing Objectives, the provisions of the Licensing Policy Statement and the provisions of the Legislation, do you think there is a requirement for any further Occasional Licence Conditions to be added to the pool of Local ...



**Question options**

- Yes
- No

Optional question (23 response(s), 0 skipped)  
Question type: Radio Button Question

**Q23** Please provide details of any Local Conditions (Occasional Licences) which you feel should be added or removed and your reasons why:

[REDACTED]  
11/02/2022 02:00 PM

Better question. Please it's written for both sides

[REDACTED]  
11/02/2022 09:46 PM

The requirement for Heras Fencing (or similar) should be removed. By having such a Visually impactful 'drinking enclosure' can induce antisocial behaviour. If it were a more continental, (or even uk wide) style environment it would encourage clientele at the events that wouldn't necessarily want to go into the caged off bar areas.

[REDACTED]  
11/11/2022 10:04 AM

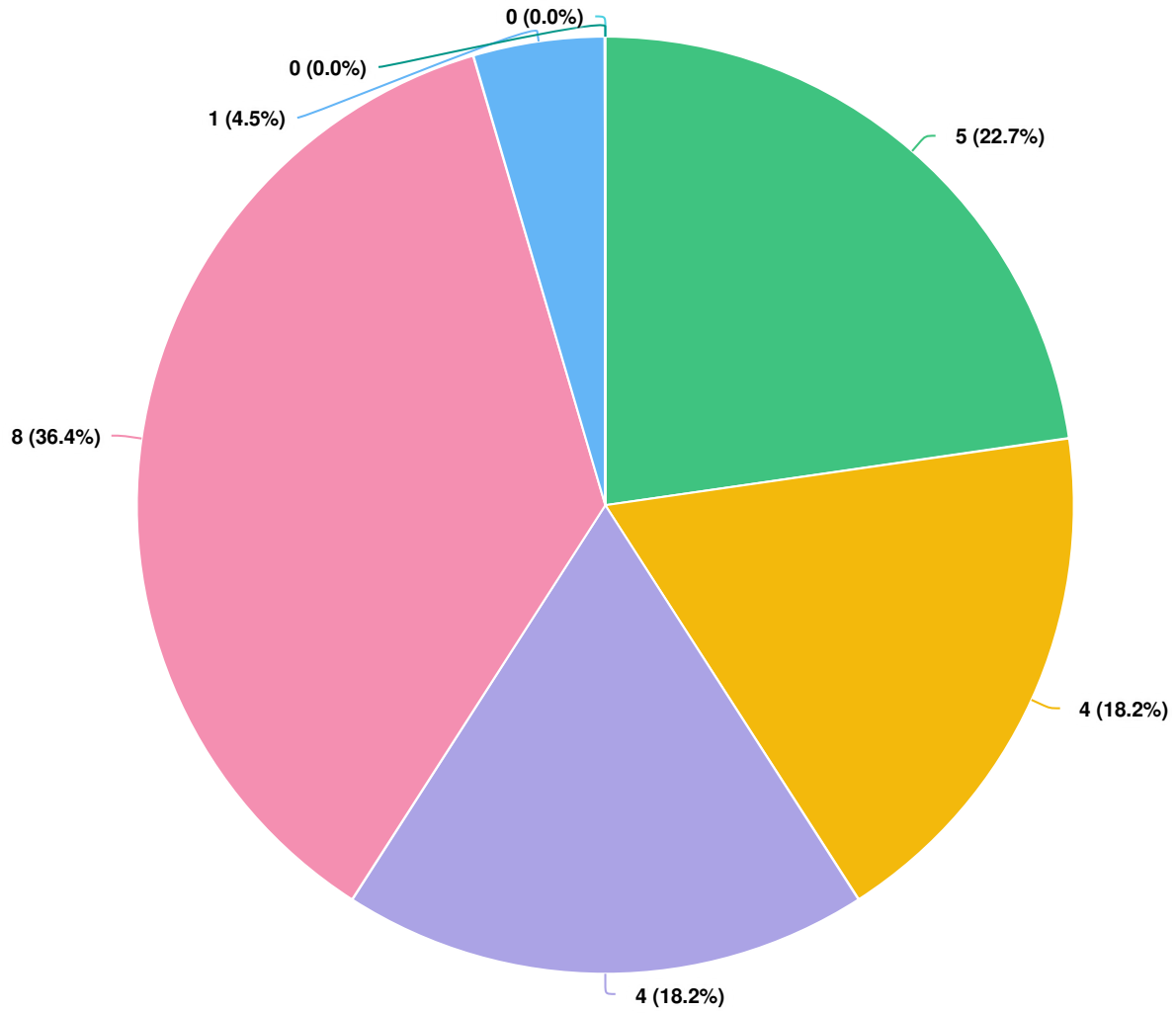
I feel the whole area of occasional licences needs to be addressed for private members clubs.

[REDACTED]  
1/04/2023 05:14 PM

Previous exercise done in 2017 - will provide documentation separately to Licensing Board/Depute Clerk to the Board for consideration. Current local conditions relate to events, whereas, occasional licences now being granted for premises/businesses trading short/medium/long term. Conditions not fit for this purpose.

**Optional question** (4 response(s), 19 skipped)  
**Question type:** Essay Question

**Q24** | Where do you drink alcohol on a regular basis?



**Question options**

- Public house
- Restaurant
- Members Club
- At Home
- Other
- Cafe / Cafe Bar
- Nightclub

Optional question (22 response(s), 1 skipped)  
Question type: Radio Button Question

**Q25** Please specify in what other setting you regularly drink alcohol:

[REDACTED]

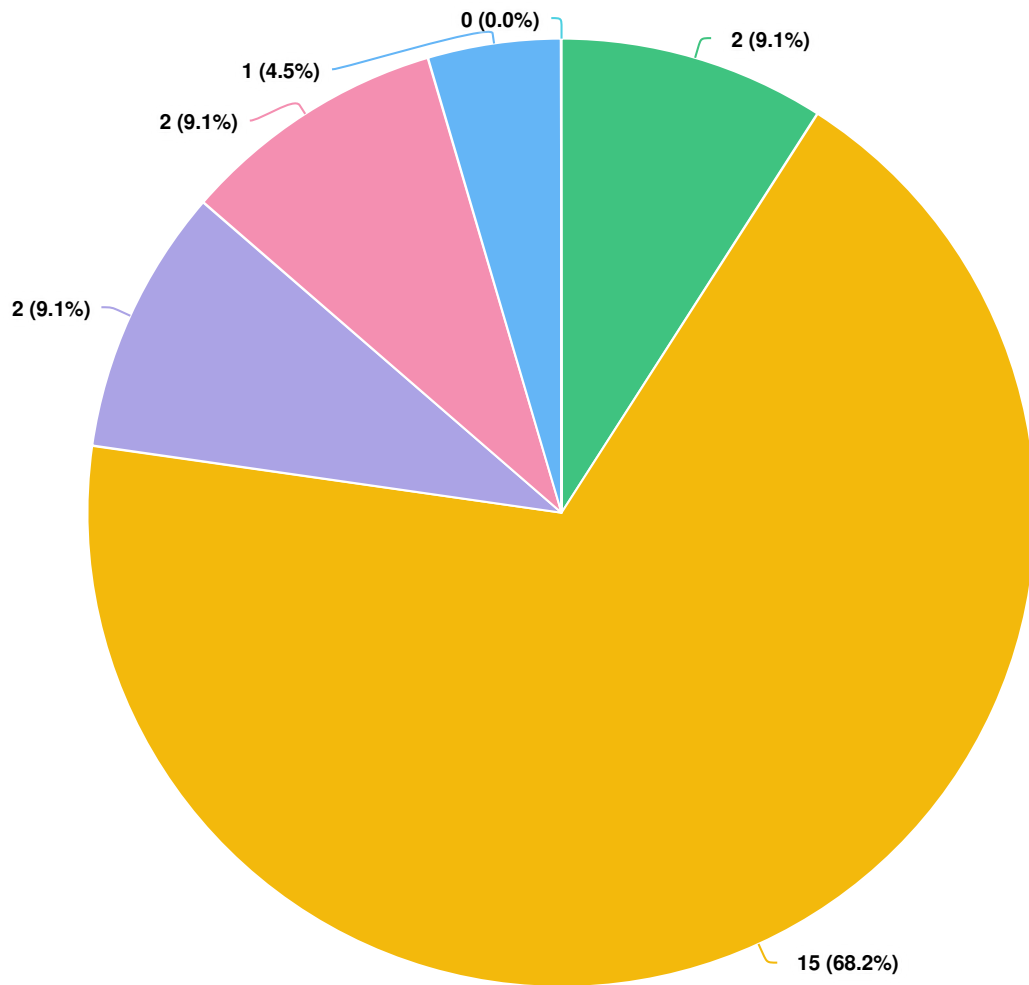
I don't drink alcohol. This survey seems to overlook non-drinkers.

11/15/2022 11:41 AM

**Optional question** (1 response(s), 22 skipped)

**Question type:** Essay Question

**Q26** | If you buy alcohol for consumption at home or out with on sales premises where do you buy it from?



**Question options**

- Dedicated off sales premises
- Supermarket
- Small corner or convenience store
- Online (e.g. Amazon, direct from Micro-brewery or a Distiller etc.)
- Other
- Petrol station

*Optional question (22 response(s), 1 skipped)*  
*Question type: Radio Button Question*

**Q27** Please specify where you buy your alcohol for home consumption:



I don't buy it. Again there is no option for non drinkers.

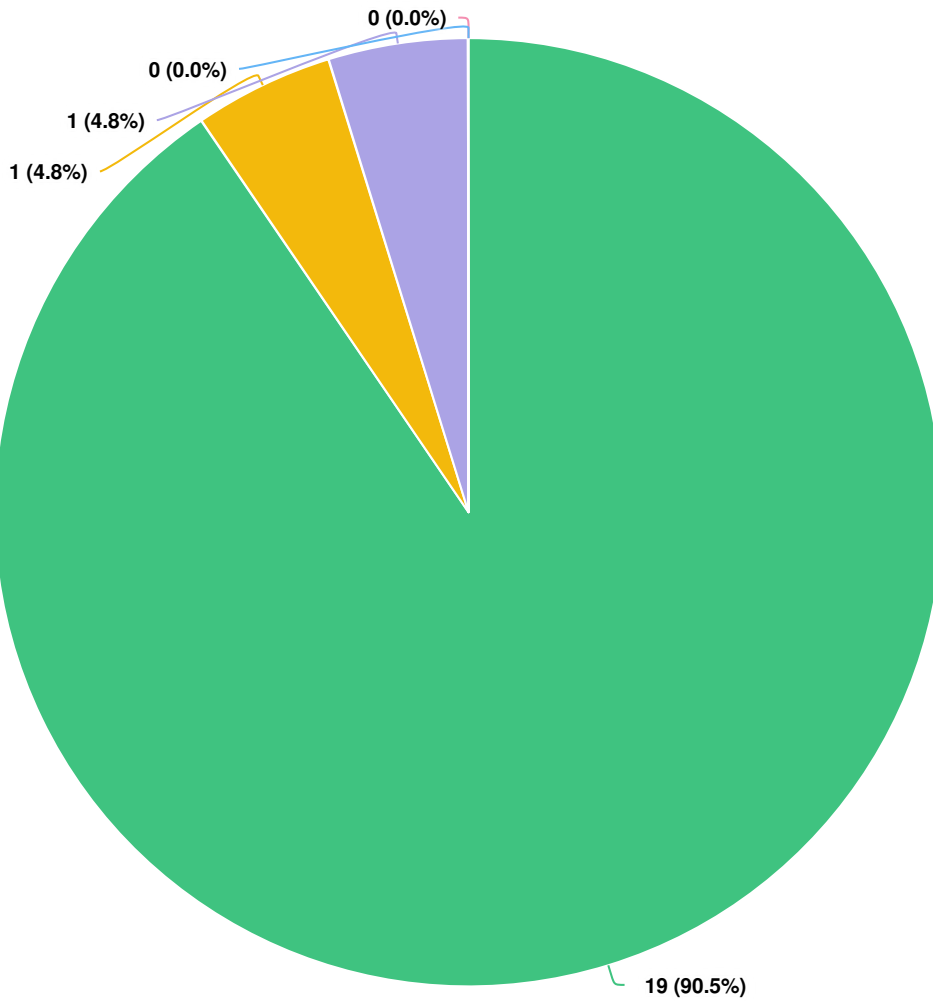
11/15/2022 11:41 AM

**Optional question** (1 response(s), 22 skipped)

**Question type:** Essay Question



**Q28** | If you are an Aberdeenshire resident, do you usually buy your alcohol from off sales premises in



**Question options**

- Aberdeenshire
- Aberdeen City
- Elsewhere
- Angus
- Moray

*Optional question (21 response(s), 2 skipped)*  
*Question type: Radio Button Question*

**Q29** | Please provide details of the location / area of the off sale premises which you usually buy your alcohol from:

[REDACTED]

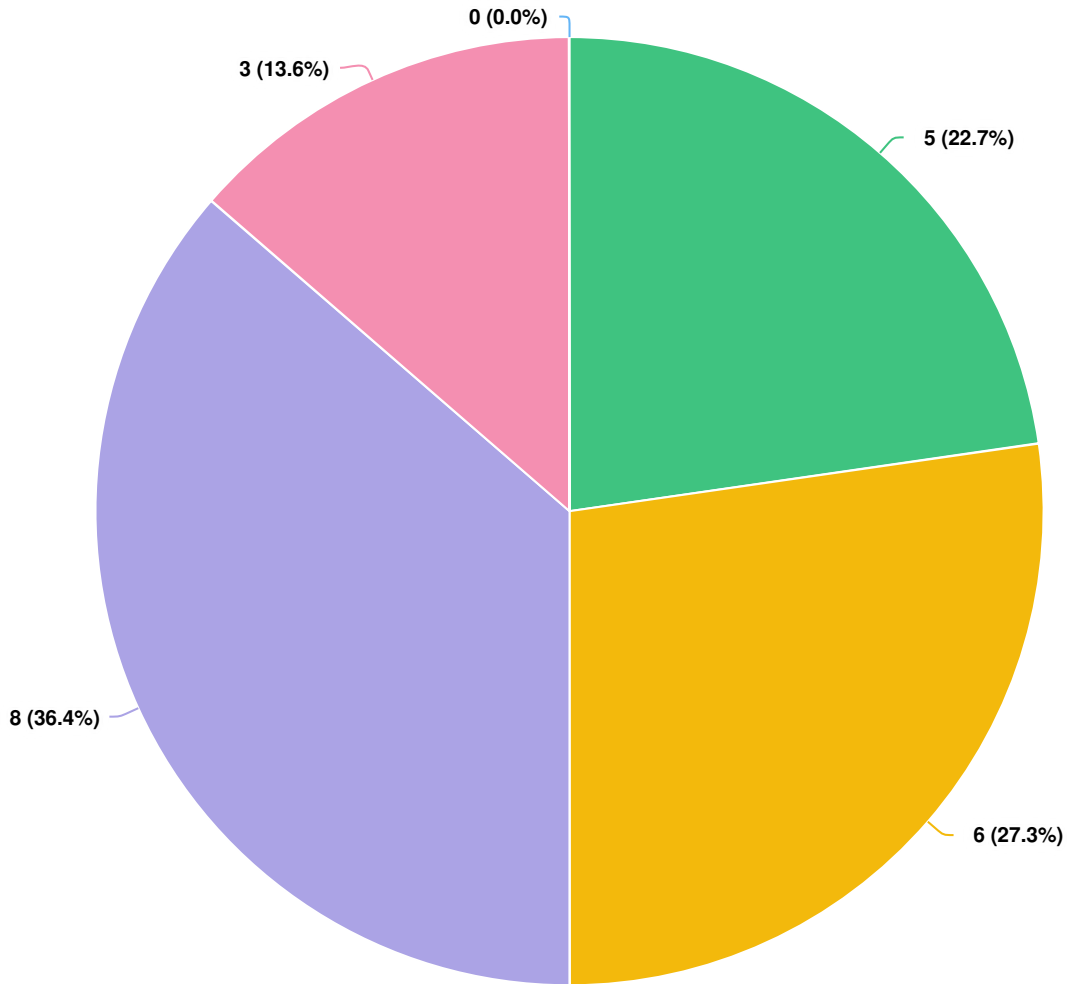
I don't buy it.

11/15/2022 11:41 AM

**Optional question** (1 response(s), 22 skipped)

**Question type:** Essay Question

**Q30** | How often do you usually buy alcohol in off sale premises?

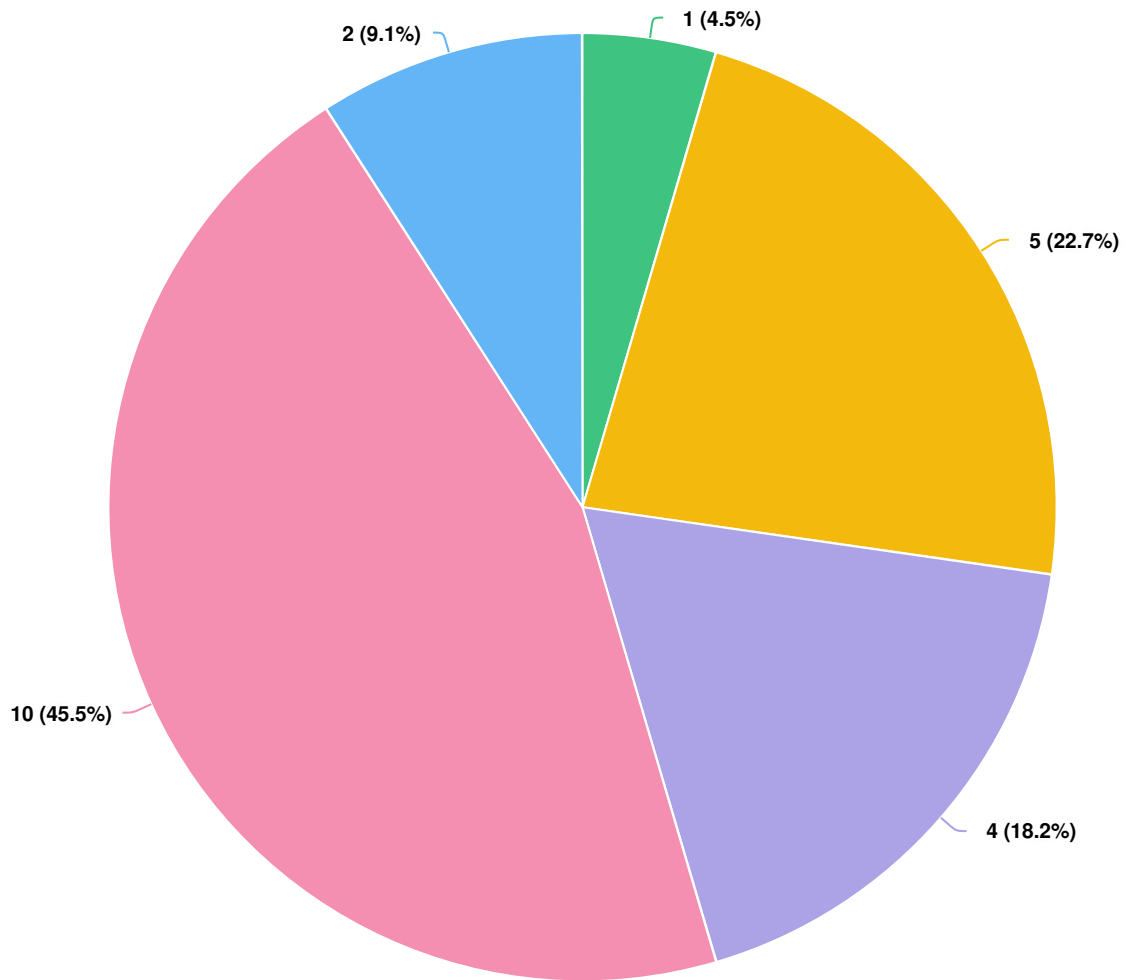


**Question options**

- Weekly
- Monthly
- Rarely
- Never
- Daily

Optional question (22 response(s), 1 skipped)  
Question type: Radio Button Question

Q31 | How often do you usually consume alcohol in on sale premises?



**Question options**

- Daily
- Weekly
- Monthly
- Rarely
- Never

Optional question (22 response(s), 1 skipped)  
Question type: Radio Button Question

**Q32** How much alcohol do you consume in an average week at home?

[REDACTED]  
11/02/2022 02:00 PM

5 units

[REDACTED]  
11/02/2022 09:46 PM

3-4 pints of beer, 2-3 glasses of wine and occasionally a couple  
drams of whisky

[REDACTED]  
11/02/2022 08:50 PM

Hardly any

[REDACTED]  
11/22/2022 12:10 PM

2 bottles of beer

[REDACTED]  
11/03/2022 02:50 PM

10 units

[REDACTED]  
11/06/2022 07:36 PM

only rarely on special occasions.

[REDACTED]  
11/08/2022 10:39 AM

10 Units

[REDACTED]  
11/08/2022 08:35 AM

2

[REDACTED]  
11/08/2022 09:04 AM

15 units

[REDACTED]  
11/08/2022 12:26 PM

14

[REDACTED]  
11/09/2022 10:58 AM

too much

[REDACTED]  
11/09/2022 02:47 PM

About 4 units

[REDACTED]  
11/09/2022 02:26 PM

5 cans of beer

Engagement on Main Issues

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[REDACTED] a bottle of red wine  
11/11/2022 10:04 AM

[REDACTED] 1 unit  
11/11/2022 11:39 AM

[REDACTED] None  
11/15/2022 11:41 AM

Anonymous Glass of wine  
12/06/2022 09:24 PM

Anonymous very little  
12/09/2022 04:18 PM

Anonymous 1-2 units  
12/09/2022 06:30 PM

Anonymous 5 units  
1/05/2023 03:31 PM

Anonymous None  
1/08/2023 01:08 PM

**Optional question** (21 response(s), 2 skipped)  
**Question type:** Single Line Question

**Q33 How much alcohol do you consume in an average week within an onsales premises?**

[REDACTED] 10 units  
11/02/2022 02:00 PM

[REDACTED] 1 or 2 pints of beer  
11/02/2022 09:46 PM

[REDACTED] Hardly any  
11/02/2022 08:50 PM

[REDACTED] None  
11/22/2022 12:10 PM

Engagement on Main Issues

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[REDACTED] 5 units  
11/03/2022 02:50 PM

[REDACTED] none  
11/06/2022 07:36 PM

[REDACTED] 5 Units  
11/08/2022 10:39 AM

[REDACTED] 8  
11/08/2022 08:35 AM

[REDACTED] 0 units  
11/08/2022 09:04 AM

[REDACTED] 4  
11/08/2022 12:26 PM

[REDACTED] very little,  
11/09/2022 10:58 AM

[REDACTED] 0  
11/09/2022 02:47 PM

[REDACTED] 5 pints of beer  
11/09/2022 02:26 PM

[REDACTED] a bottle of red wine  
11/11/2022 10:04 AM

[REDACTED] 1 unit  
11/11/2022 11:39 AM

[REDACTED] None  
11/15/2022 11:41 AM

Anonymous Wine  
12/06/2022 09:24 PM

Anonymous very little

Engagement on Main Issues

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12/09/2022 04:18 PM

Anonymous 1 unit

12/09/2022 06:30 PM

Anonymous 2 units

1/05/2023 03:31 PM

Anonymous Two units

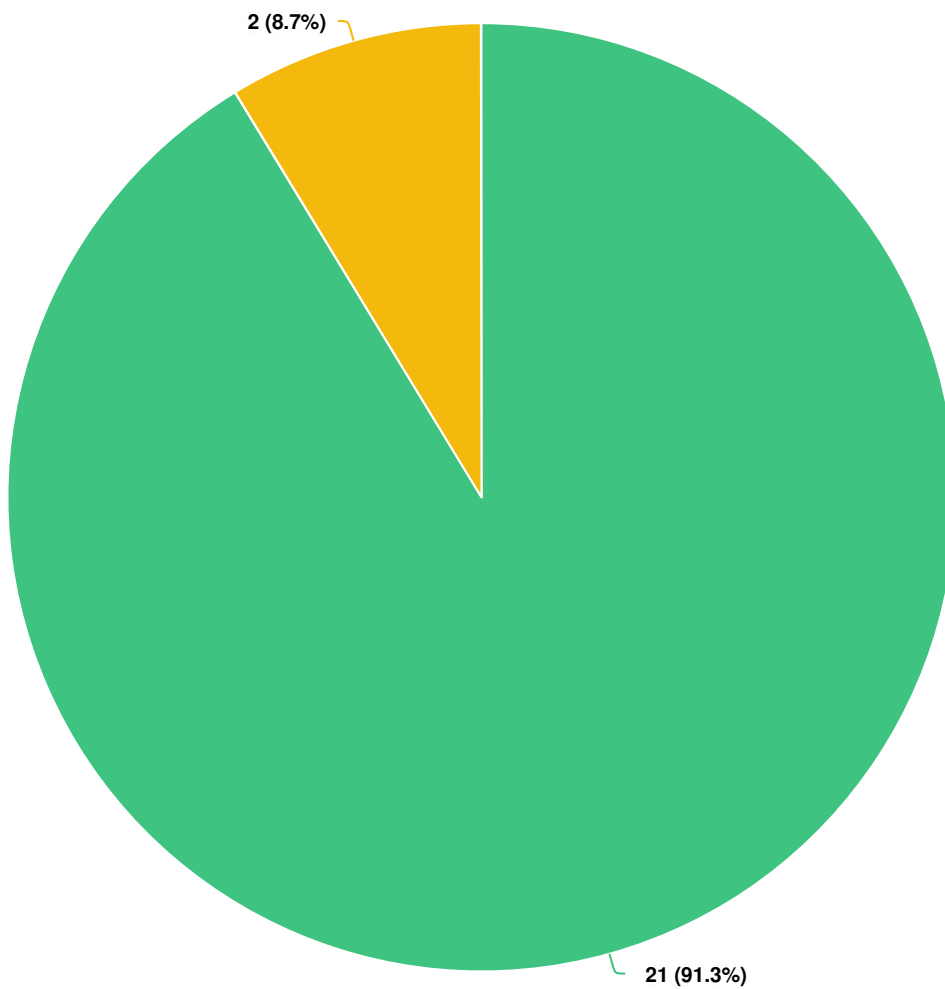
1/08/2023 01:08 PM

**Optional question** (21 response(s), 2 skipped)

**Question type:** Single Line Question



**Q34** | The Board has to determine "localities" that will be considered for overprovision of alcohol. Currently this is done by Council ward area. The Board are considering whether this should be looked at a more focused level, settlement, e.g. Banff, Pet...

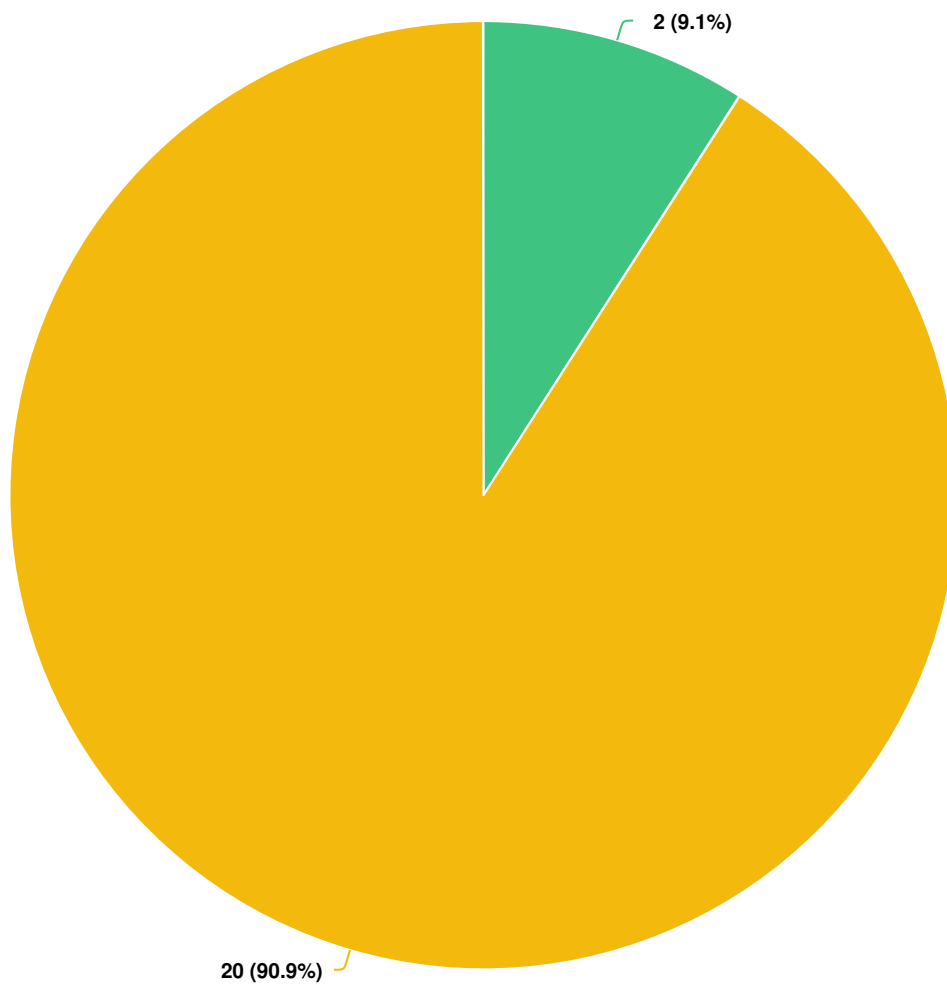


**Question options**

- Yes
- No

*Optional question (23 response(s), 0 skipped)*  
*Question type: Radio Button Question*

Q36 | Do you consider there to be overprovision in Aberdeenshire?

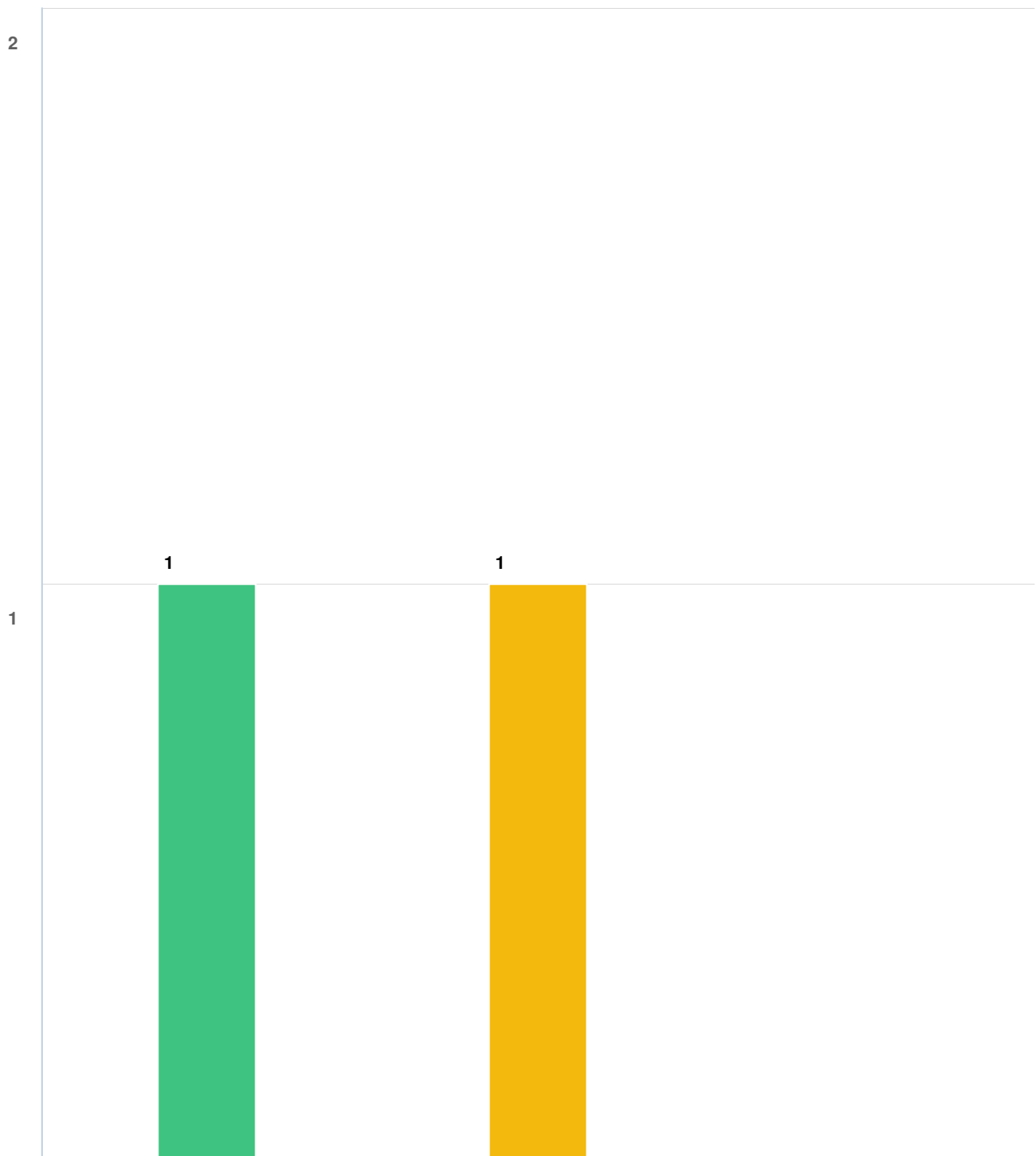


**Question options**

- Yes
- No

*Optional question (22 response(s), 1 skipped)  
Question type: Radio Button Question*

**Q37** | What type of premises do you consider there to be overprovision of:



**Question options**

- Off Sales Premises
- Premises that offer both On Sales and Off Sales
- On Sales Premises

*Optional question (2 response(s), 21 skipped)*  
*Question type: Checkbox Question*

**Q39** | Why do you believe there is an overprovision of Off Sales Premises within Aberdeenshire and what harm do you consider to be associated with this:

██████████  
11/06/2022 07:36 PM

There's an overprovision in that most corner shops/small retailers sell alcohol which youngsters see most days and is advertising alcohol as being a good thing. The sale of alcohol should be banned at petrol stations, what are the police/council saying to drivers? Drink and drive !!!!!

**Optional question** (1 response(s), 22 skipped)

**Question type:** Essay Question

**Q40** | Why do you believe there is an overprovision of Premises offering both On Sales and Off Sales within Aberdeenshire and what harm do you consider to be associated with this:

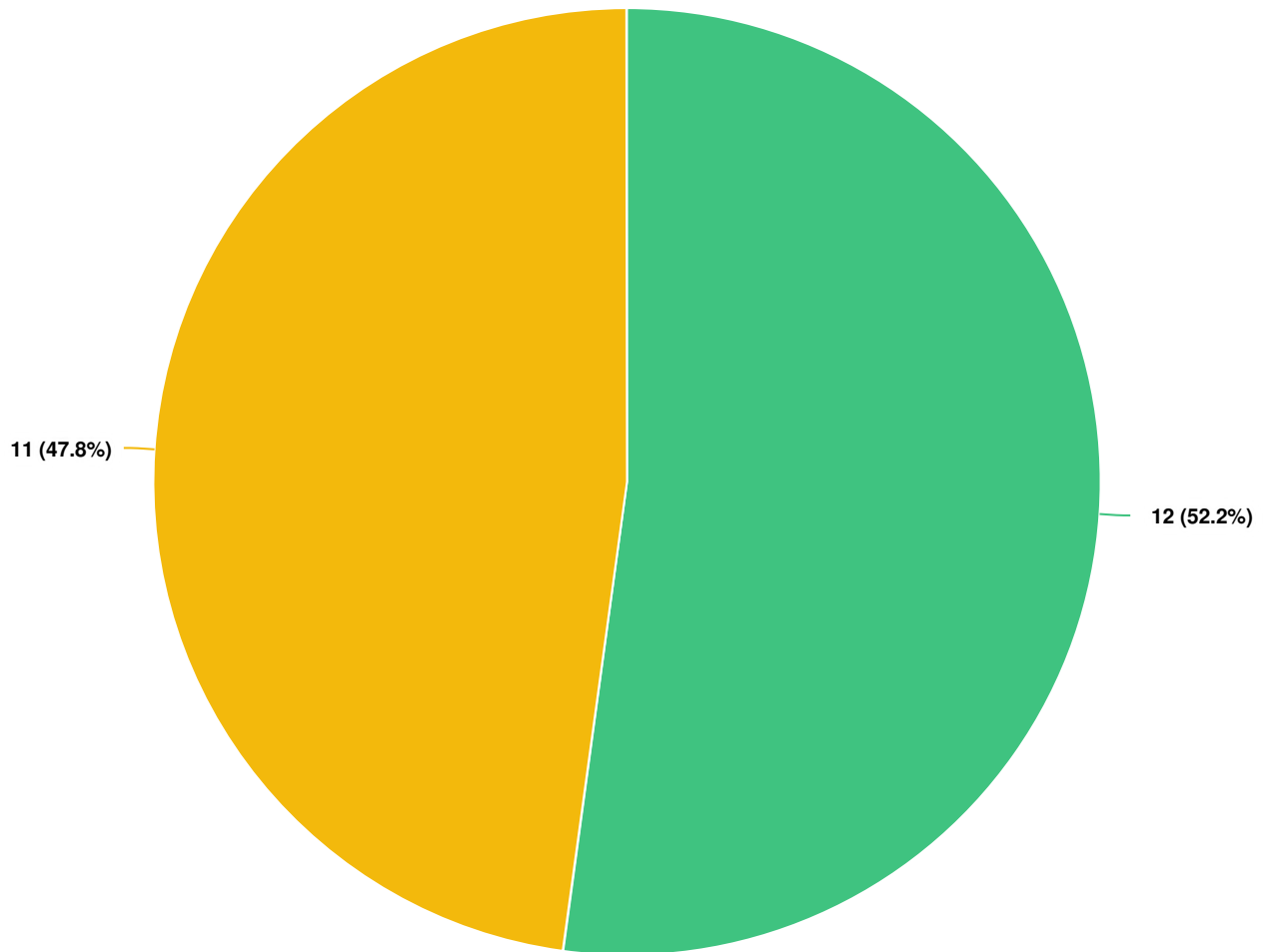
██████████  
11/08/2022 10:39 AM

Every local shop seems to sell alcohol when there is no need as most villages / towns have a pub and at a cheaper price. This is used at home bars which are not legislated.

**Optional question** (1 response(s), 22 skipped)

**Question type:** Essay Question

**Q41** | Did your drinking habits change as a result of the COVID 19 pandemic?



**Question options**

- Yes
- No

*Optional question (23 response(s), 0 skipped)*  
*Question type: Radio Button Question*

**Q42** Please explain how your drinking habits changed as a result of the COVID 19 pandemic:

[REDACTED]  
11/02/2022 09:46 PM

There has been an adverse effect on socialising placed by the covid pandemic, this has particularly hard effected local pubs which can play a key component in a local community. I feel the licensing authorities must better support local pubs to play their part in communities,

[REDACTED]  
11/02/2022 08:50 PM

Drank more at home

[REDACTED]  
11/22/2022 12:10 PM

Increased drinking at home

[REDACTED]  
11/03/2022 02:50 PM

Previously I was able to visit beer gardens and have a sociable few, but as they are very confusing and closed after covid this is no longer possible.

[REDACTED]  
11/08/2022 10:39 AM

Lots set up home bars, breweries sell and deliver to members of the public direct. People now gather in home bars which are unregulated. Bars now have no real knowledge as to how many drinks they have consumed prior to visiting the bar.

[REDACTED]  
11/08/2022 08:35 AM

More drinking at home

[REDACTED]  
11/09/2022 02:47 PM

Because of COVID bought alcohol in supermarkets. This has still affected me today and i tend to drink at home with family and friends

[REDACTED]  
11/09/2022 02:26 PM

stopped going out for a drink now limit the places i go to to places with less people in them

[REDACTED]  
11/11/2022 10:04 AM

Yes of course, hospitality was shut down

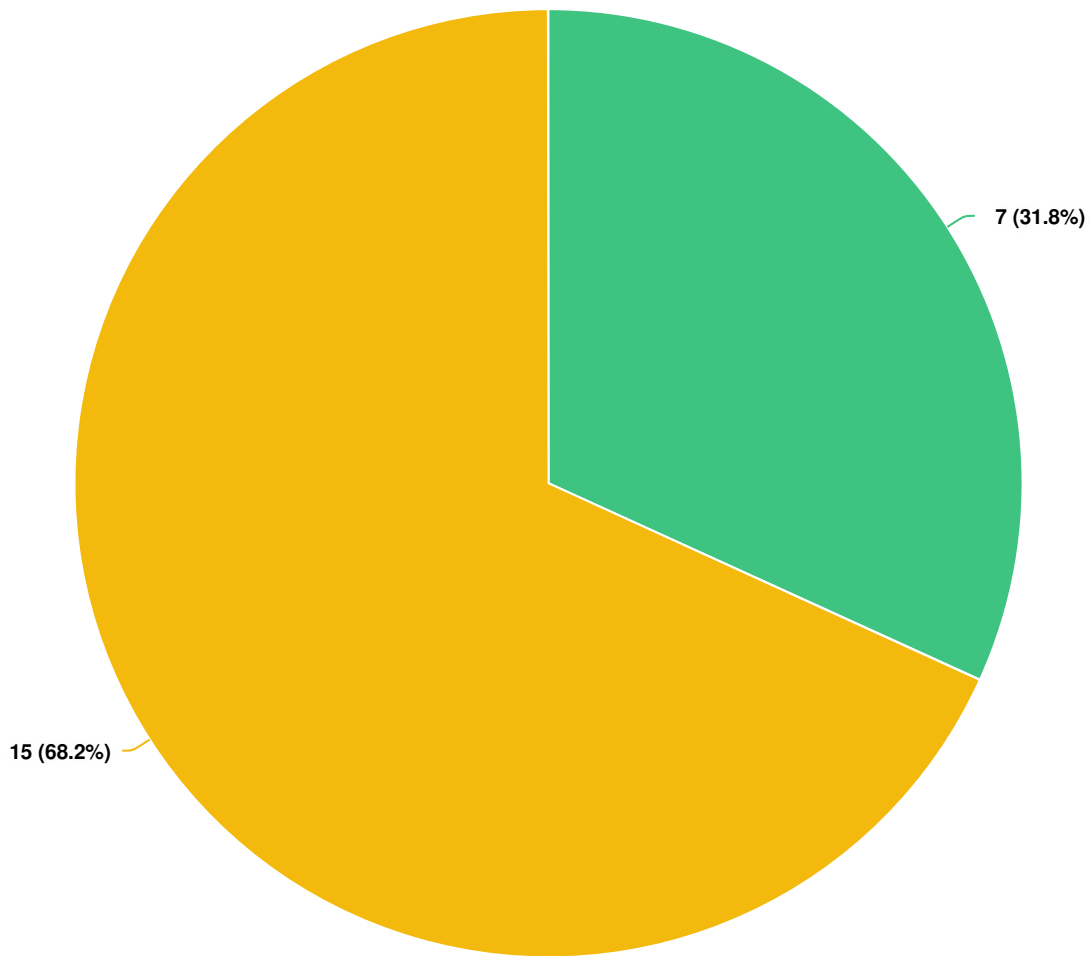
Anonymous  
12/06/2022 09:24 PM

Drinking at home

**Optional question** (10 response(s), 13 skipped)

**Question type:** Essay Question

**Q43** | Have your drinking habits reverted to how you would purchase and consume alcohol before COVID?



**Question options**

- Yes
- No

*Optional question (22 response(s), 1 skipped)*  
*Question type: Radio Button Question*



#### Q44 | Why do you think you have reverted back to previous habits?

[REDACTED] No be honest, COVID didn't change my drinking habits.  
11/22/2022 12:10 PM

[REDACTED] My habits did not change during Covid.  
11/08/2022 10:39 AM

[REDACTED] as a natural progression  
11/08/2022 12:26 PM

[REDACTED] Eating out, meeting friends  
11/11/2022 10:04 AM

[REDACTED] As i don't drink much it was never an issue  
11/11/2022 11:39 AM

Anonymous because the freedom now exists to  
12/09/2022 06:30 PM

Anonymous all open and available  
1/05/2023 03:31 PM

**Optional question** (7 response(s), 16 skipped)

**Question type:** Essay Question

#### Q45 | Why do you think you have not reverted back to previous habits?

[REDACTED] Because people have changed how they soicalise and this has  
11/02/2022 02:00 PM affected the local amunittes. It's such places as banchory are  
considered to have an over provision of license then the development  
and. Planners need to look beyond houses and what there is in the  
communities for people

[REDACTED] There is less provision for local pubs with many businesses going out  
11/02/2022 09:46 PM of business during the pandemic.

[REDACTED] There isn't really anywhere to go. It's not the same now  
11/02/2022 08:50 PM

Engagement on Main Issues

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[REDACTED]  
11/03/2022 02:50 PM

For some reason the beer gardens now close at 11

[REDACTED]  
11/06/2022 07:36 PM

didn't have a habit.

[REDACTED]  
11/08/2022 09:04 AM

Habits have not changed but this is not an option on this form

[REDACTED]  
11/09/2022 10:58 AM

It suits me to buy online and have a glass of wine at home

[REDACTED]  
11/09/2022 02:47 PM

Cheaper and still not comfortable with large crowds of people

[REDACTED]  
11/09/2022 02:26 PM

i limit the places i go to and the times to ensure not crowded

[REDACTED]  
11/15/2022 11:41 AM

I didn't drink alcohol in the first place

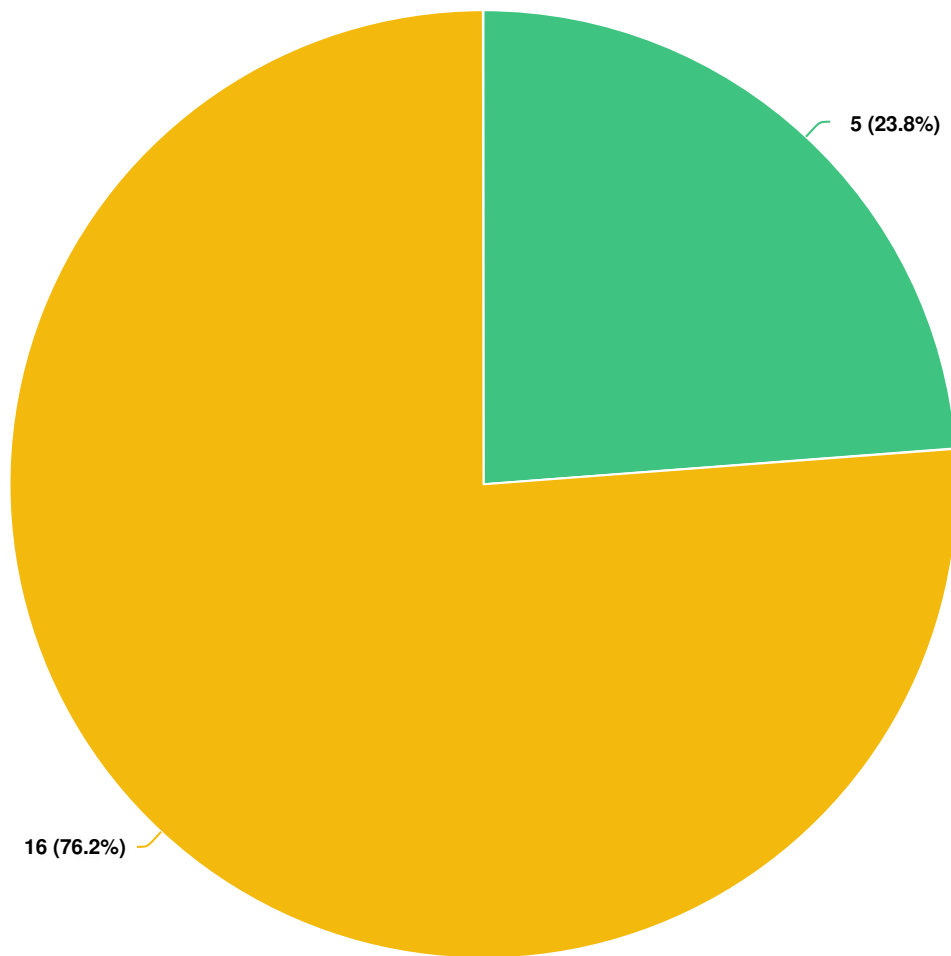
Anonymous  
1/08/2023 01:08 PM

I am not a big drinker of alcohol

**Optional question** (11 response(s), 12 skipped)

**Question type:** Essay Question

**Q46** | Is there data/statistical information that you think the Board should consider in determining whether there is overprovision in Aberdeenshire in addition to the data the Board requires to obtain?



**Question options**

- Yes
- No

*Optional question (21 response(s), 2 skipped)  
Question type: Radio Button Question*

**Q47** | Please provide details of the data/statistical information which you think the Board should consider when it comes to determining overprovision in Aberdeenshire:

[REDACTED]  
11/02/2022 02:00 PM

Have a look in the towns and see what happens at night first hand. People going out to eat. Drinking. Socialising. Look how no one goes out in places like banchroy and Aboyne at night during in the week because there is no licenses for new restaurants to obtain because of the appanrent over supply, to which there is no place to get said supply.

[REDACTED]  
11/02/2022 09:46 PM

The board of directors should consider the number of local pubs that have gone out of business or are struggling to continue through the cost of living issues of the moment.

[REDACTED]  
11/08/2022 10:39 AM

How many home bars there are ensure they follow same rules or push for these to be legislated. These are organised social gatherings that would normally be in a controlled environment as a licensed premise. Supermarkets should be controlled on their cheap alcohol and small shops should be reviewed. Look at the North America where alcohol is not available in stores. You need to go to a registered alcohol store to purchase.

[REDACTED]  
11/08/2022 08:35 AM

You should be looking at visit aberdeen stats, as its not only local people using places to eat & drink and there is too many places in aberdeen city failing but yet a shortage in the local shire

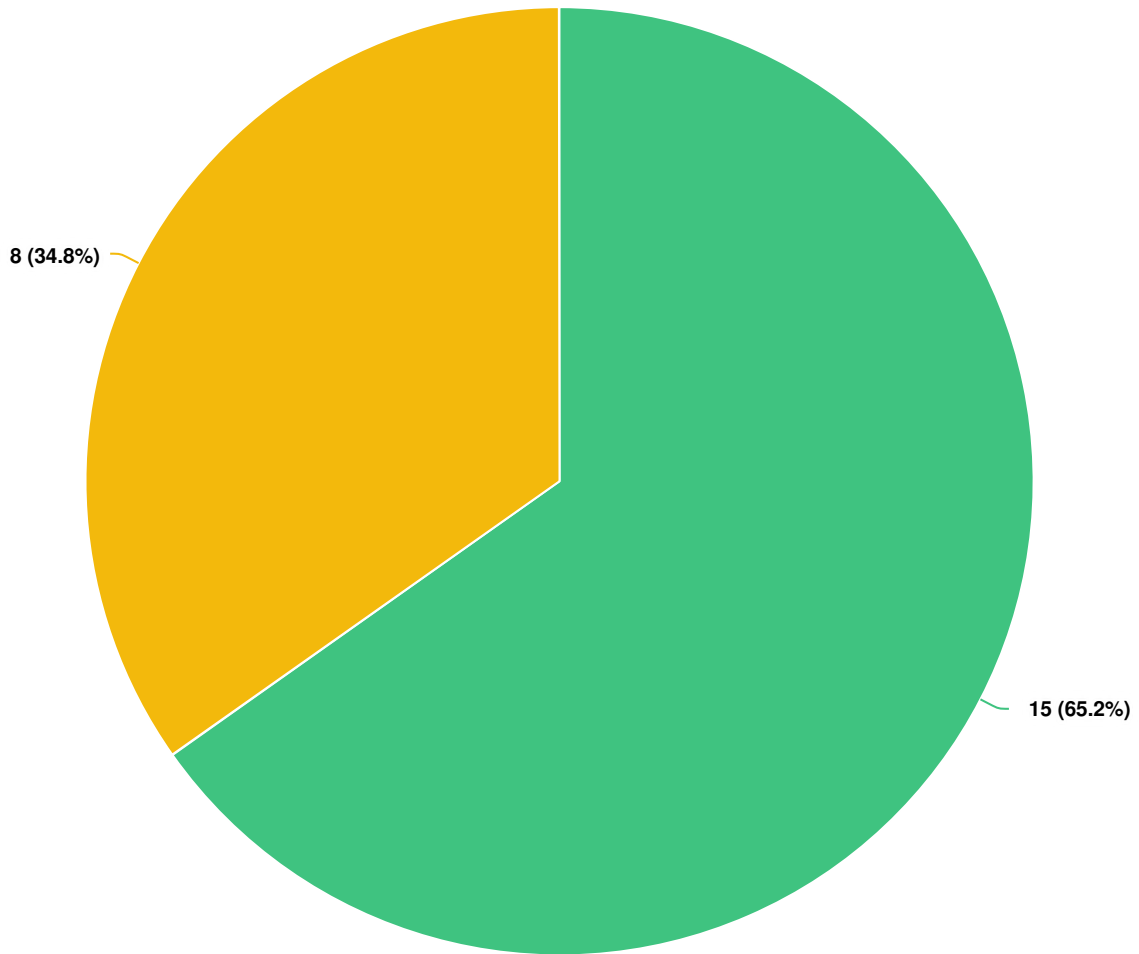
Anonymous  
12/06/2022 09:24 PM

Supermarket cheap alcohol

**Optional question** (5 response(s), 18 skipped)

**Question type:** Essay Question

**Q48** | Do you have views on how the current energy cost crisis/cost of living crisis might impact on Aberdeenshire in respect of availability of licensed premises?



**Question options**

- Yes
- No

*Optional question (23 response(s), 0 skipped)*  
*Question type: Radio Button Question*

**Q49 | Please provide us with your views on how the current energy cost crisis / cost of living crisis might impact on the availability of licensed premises within Aberdeenshire:**

[REDACTED]  
11/02/2022 02:00 PM

Because it's hard to get people in or out in town centres when there is nothing to come out for because someone things there is an overpervision

[REDACTED]  
11/02/2022 09:46 PM

Many of us have less availability spare cash, and publicans naturally need to pass on increased overheads and product price rises. So have concerns on the viability of licensed businesses.

[REDACTED]  
11/22/2022 12:10 PM

There is an obvious decrease in the amount of people attending licenced premises due to economic constraints. People will go out less and source their alcohol from the cheapest outlets, i.e., supermarkets and home delivery. More pubs will close as a result. I do not think there will be an overprovision issue in the on sales trade.

[REDACTED]  
11/08/2022 10:39 AM

It is not sustainable and many places will have no option to close.

[REDACTED]  
11/08/2022 08:35 AM

Its killing business

[REDACTED]  
11/08/2022 09:04 AM

Places will be forced to close as they will become uneconomic

[REDACTED]  
11/08/2022 12:26 PM

they will become harder to sustain and remain open

[REDACTED]  
11/09/2022 10:58 AM

People will have less money to spend in pubs/clubs/restaurant and will go out less

[REDACTED]  
11/09/2022 02:47 PM

Hotels etc. will struggle to afford the energy costs

[REDACTED]  
11/09/2022 02:26 PM

a large number of places are in danger of closing due to very high energy costs.

Engagement on Main Issues

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██████████  
11/11/2022 10:04 AM

Many smaller business may close as a result of the rising costs. then overprovision will no longer be an issue if there is one

██████████████████  
11/15/2022 11:41 AM

Energy costs combined with increased retail prices will affect licensed premises in Aberdeenshire.

Anonymous  
12/06/2022 09:24 PM

Utility overheads, less disposable income

Anonymous  
12/09/2022 06:30 PM

I think people will likely used pubs less, and stay home to save money

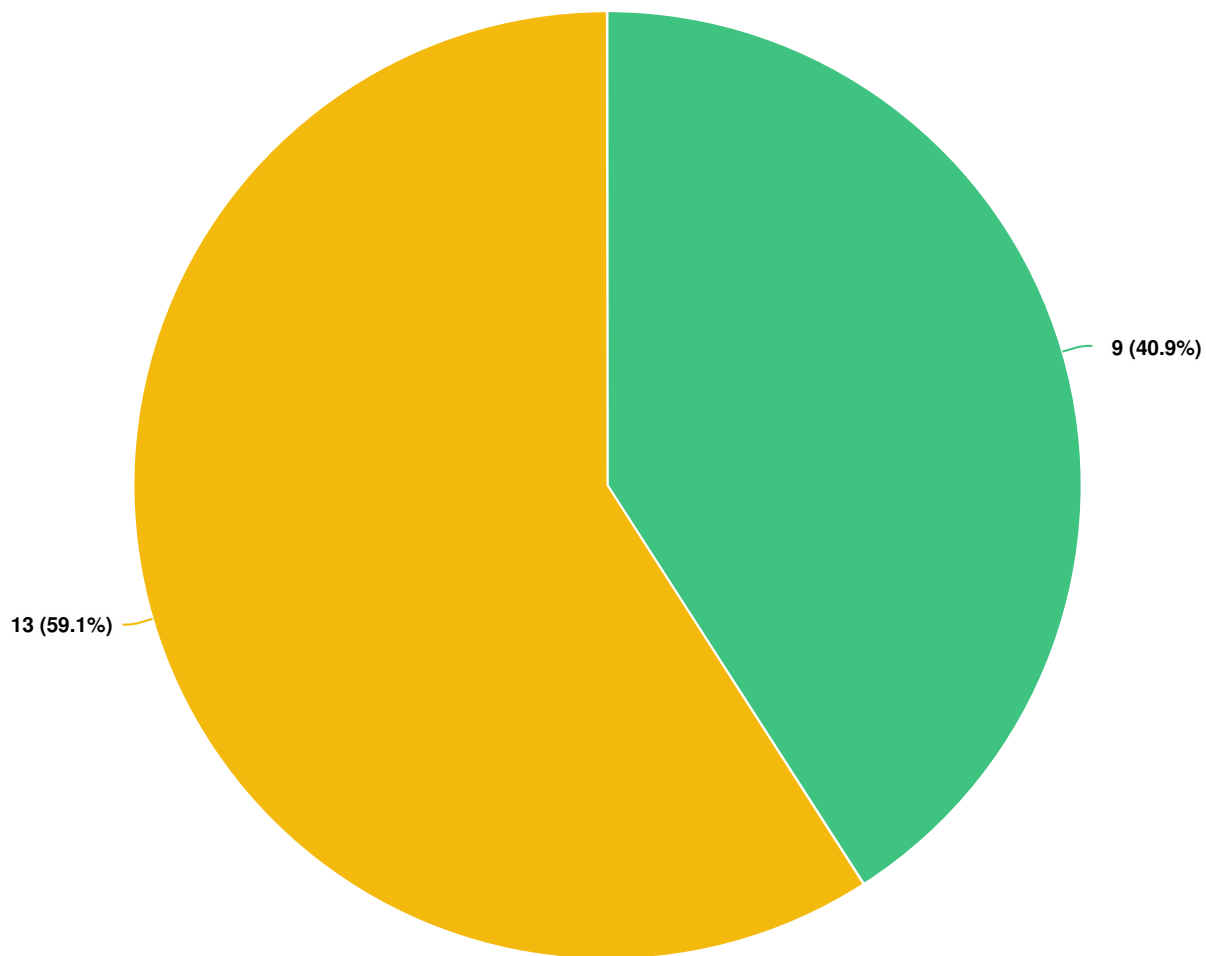
██████  
1/04/2023 05:14 PM

Feedback from the trade - e.g. electricity going from 17p to 60p per unit. They will no longer be able to heat the function room and closing lounge to reduce heating and lighting costs. Staffing being reduced in order to save money.

**Optional question** (15 response(s), 8 skipped)

**Question type:** Essay Question

**Q50** | Do you think the current energy cost crisis, cost of living crisis will impact your drinking habits/patterns?



**Question options**

- Yes
- No

*Optional question (22 response(s), 1 skipped)*  
*Question type: Radio Button Question*



**Q51** | Please explain how your drinking habits / patterns will be affected by the energy cost crisis / cost of living crisis:

[REDACTED] 11/02/2022 09:46 PM  
Less available spare funds and increased costs limits the ability to support local pubs and more impetus to drink at home.

[REDACTED] 11/08/2022 10:39 AM  
Priority bills will be paid first and I will probably purchase cheap alcohol from Supermarkets.

[REDACTED] 11/08/2022 08:35 AM  
Disposable income will be short

[REDACTED] 11/08/2022 12:26 PM  
reduction in consumption if living standards squeezed too much

[REDACTED] 11/09/2022 02:47 PM  
Costs of energy will impact what i can spend in entertainment including alcohol

[REDACTED] 11/09/2022 02:26 PM  
If the pup / club closes then there is no place to go so social contact will become limited whichb is bad news

[REDACTED] 11/11/2022 10:04 AM  
We will not have the same money to spend. Less socialising. We are already seeing this.

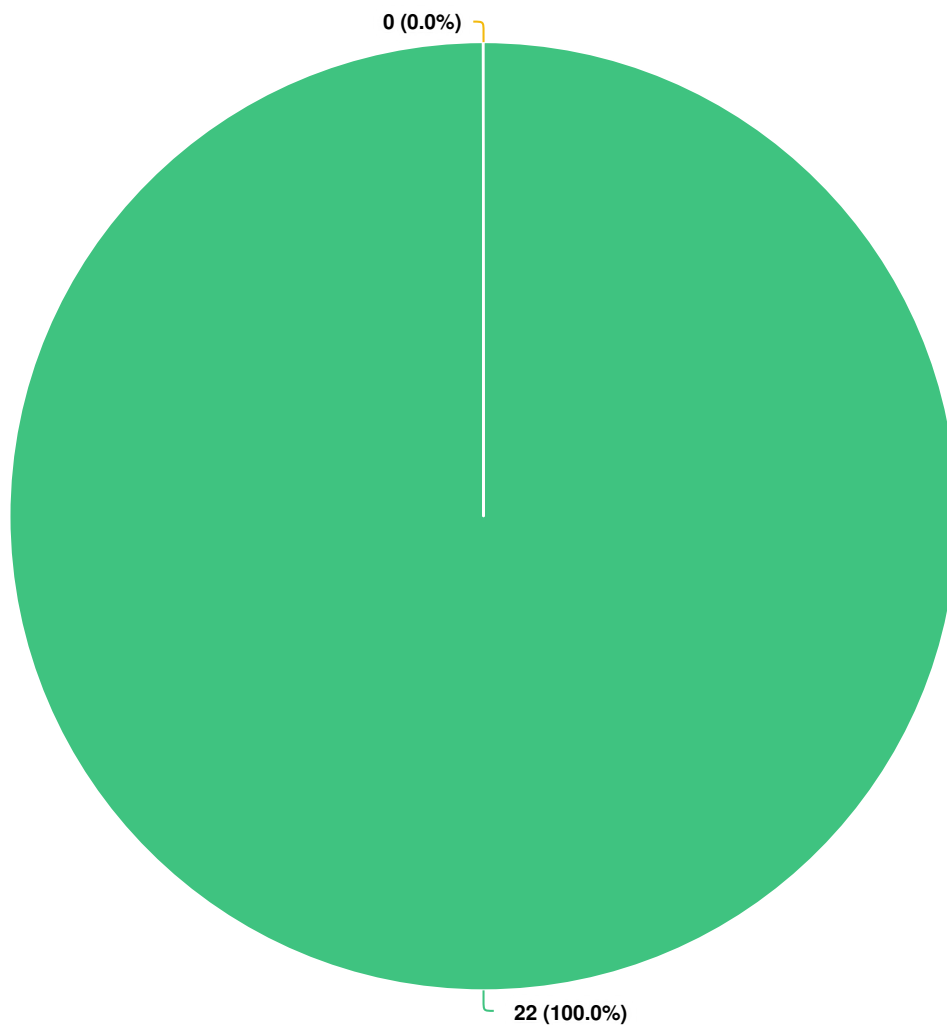
[REDACTED] 11/11/2022 11:39 AM  
We will not have that extra income to go out so much for meal and drinks

Anonymous 12/06/2022 09:24 PM  
Less disposable spend

**Optional question** (9 response(s), 14 skipped)

**Question type:** Essay Question

**Q52** | Are you affected by antisocial behaviour or noise from licensed premises where you live?



**Question options**

- No
- Yes

*Optional question (22 response(s), 1 skipped)*  
*Question type: Radio Button Question*

**Q54** | What impact do you think the end of aisle promotion policy has had?

[REDACTED]  
11/02/2022 02:00 PM

None.

[REDACTED]  
11/02/2022 09:46 PM

Don't feel there has been any benefit from the policy.

[REDACTED]  
11/22/2022 12:10 PM

It reduces impulsive purchases although I have no idea by how much

[REDACTED]  
11/03/2022 02:50 PM

No impact.

[REDACTED]  
11/06/2022 07:36 PM

Adverse a member of my family and on occasion needed to be followed because of end-of-aisle promos.

[REDACTED]  
11/08/2022 10:39 AM

It only has an impact if shops follow it. Many of them do not.

[REDACTED]  
11/08/2022 08:35 AM

As a producer end of aisle is where small brands can stand out from larger companies.

[REDACTED]  
11/08/2022 09:04 AM

Very little

[REDACTED]  
11/08/2022 12:26 PM

none

[REDACTED]  
11/09/2022 10:58 AM

None

[REDACTED]  
11/09/2022 02:47 PM

Nothing

[REDACTED]  
11/09/2022 02:26 PM

Encourage people to buy drink

[REDACTED]

None

Engagement on Main Issues

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11/11/2022 10:04 AM

[REDACTED]  
11/11/2022 11:39 AM

No effect as if you are going to buy alcohol you will go to alcohol area, i dont believe alcohol is an impulse purchase

[REDACTED]  
11/15/2022 11:41 AM

Most probably it's only affected small business who may depend on that extra sale. The effect on consumers is negligible I believe. An impulse buy does not make anybody an alcoholic any more than an impulse buy of chocolate leads to obesity.

Anonymous  
12/06/2022 09:24 PM

Supermarkets undercut licensed premises

Anonymous  
12/09/2022 04:18 PM

positive

Anonymous  
12/09/2022 04:46 PM

None

Anonymous  
12/09/2022 06:30 PM

None

[REDACTED]  
1/04/2023 05:14 PM

Can be difficult for smaller premises to design the store in order not to have alcohol near queues etc.

Anonymous  
1/05/2023 03:31 PM

nothing

Anonymous  
1/08/2023 01:08 PM

Good

**Optional question** (22 response(s), 1 skipped)

**Question type:** Essay Question

**Q55 Do you have any other comments to make in terms of the end of aisle promotion policy?**

[REDACTED]  
11/02/2022 02:00 PM

I think it should be revoked

Engagement on Main Issues

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[REDACTED]  
11/02/2022 09:46 PM

Do not feel it is necessary, if someone is going in to buy alcohol, they will wherever it is located, end of isle is generally a smaller frontage so many would likely buy less from an end isle display as there is less choice.

[REDACTED]  
11/22/2022 12:10 PM

My preference would be to prohibit end of aisle or any other drinks promotions.

[REDACTED]  
11/03/2022 02:50 PM

Can you provide the evidence to support this?

[REDACTED]  
11/06/2022 07:36 PM

they are unnecessary. If retailers do that why don't they do the same with cigs and tobacco?? Alcohol ruins a family and rips at the heart of any communication.

[REDACTED]  
11/08/2022 10:39 AM

Alcohol should be the same as cigarettes and hidden from view or a controlled separate area that children are unable to enter.

[REDACTED]  
11/08/2022 09:04 AM

No

[REDACTED]  
11/09/2022 02:47 PM

Not at this time

[REDACTED]  
11/09/2022 02:26 PM

A good way to advertise items and encourage people to buy

[REDACTED]  
11/11/2022 10:04 AM

None

[REDACTED]  
11/11/2022 11:39 AM

no

[REDACTED]  
11/15/2022 11:41 AM

End of aisle promotions should be "in isolation" and not displayed beside snacks, sweets or any other item (especially Childrens).

Anonymous  
12/09/2022 06:30 PM

If people want drink they'll buy it, this is over reaching

Engagement on Main Issues

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1/04/2023 05:14 PM

Keep policy in place. Previously granted layout plans will not be consistent with this policy but new/variation applications can have concerns re layout addressed.

Anonymous

1/05/2023 03:31 PM

no

Anonymous

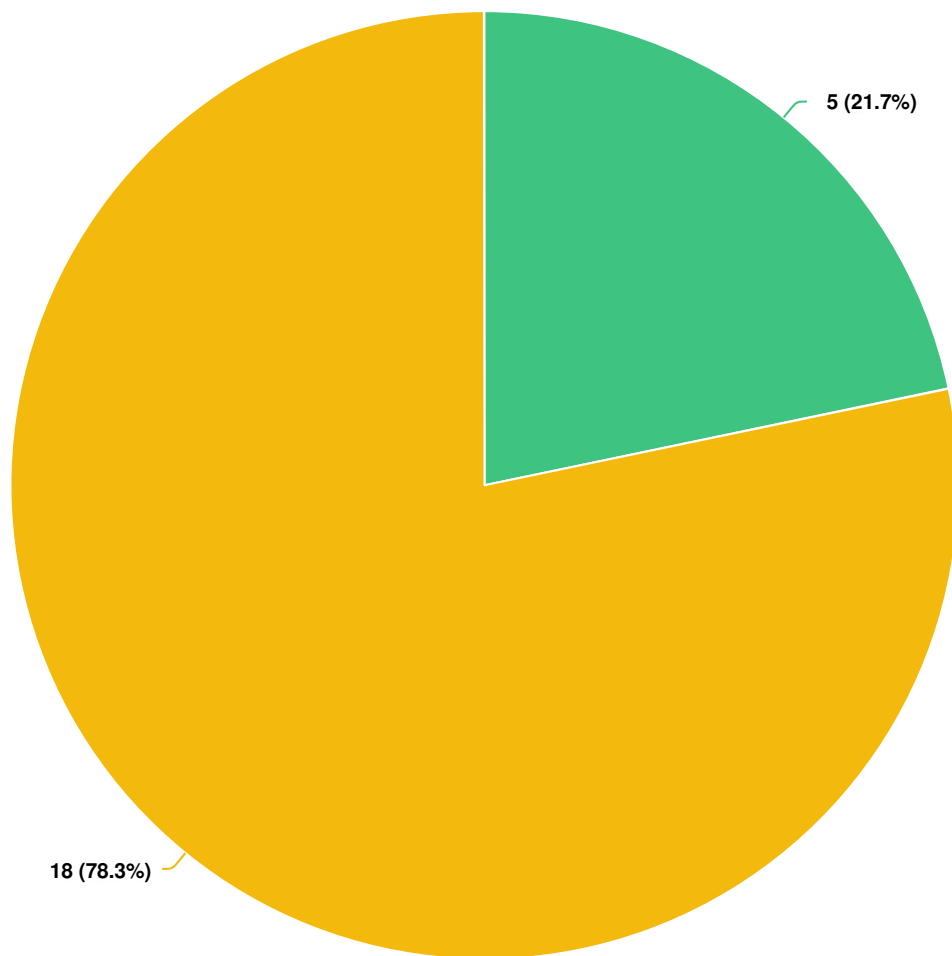
1/08/2023 01:08 PM

I dont think there is a great need for any sort of Alcohol Advertising. Adults will know what they like and where to get it. I think advertising alcohol can only have a negative effect on the vulnerable.

**Optional question** (16 response(s), 7 skipped)

**Question type:** Essay Question

**Q56** | Do you have any comments about what the earliest opening hours should be in Aberdeenshire?



**Question options**

- Yes
- No

*Optional question (23 response(s), 0 skipped)*  
*Question type: Radio Button Question*

**Q57** | Please provide us with your comments:

██████████  
11/22/2022 12:10 PM

I am happy for opening hours to start at 0900 hrs where there is an economic reason for a premises to do so. Distillery tours, Champagne breakfasts etc.

██████████  
11/09/2022 02:26 PM

depends upon the location but generally should be no earlier than tea time

██████████████████  
11/15/2022 11:41 AM

Nightshift workers and other shift workers deserve to be catered for in this flexible working age. Not everybody finishes work at 5pm.

██████  
1/04/2023 05:14 PM

Standardise hours across Aberdeenshire. Consistency and fairness across the whole area. Consider making the same as off sales 10am.

Anonymous  
1/08/2023 01:08 PM

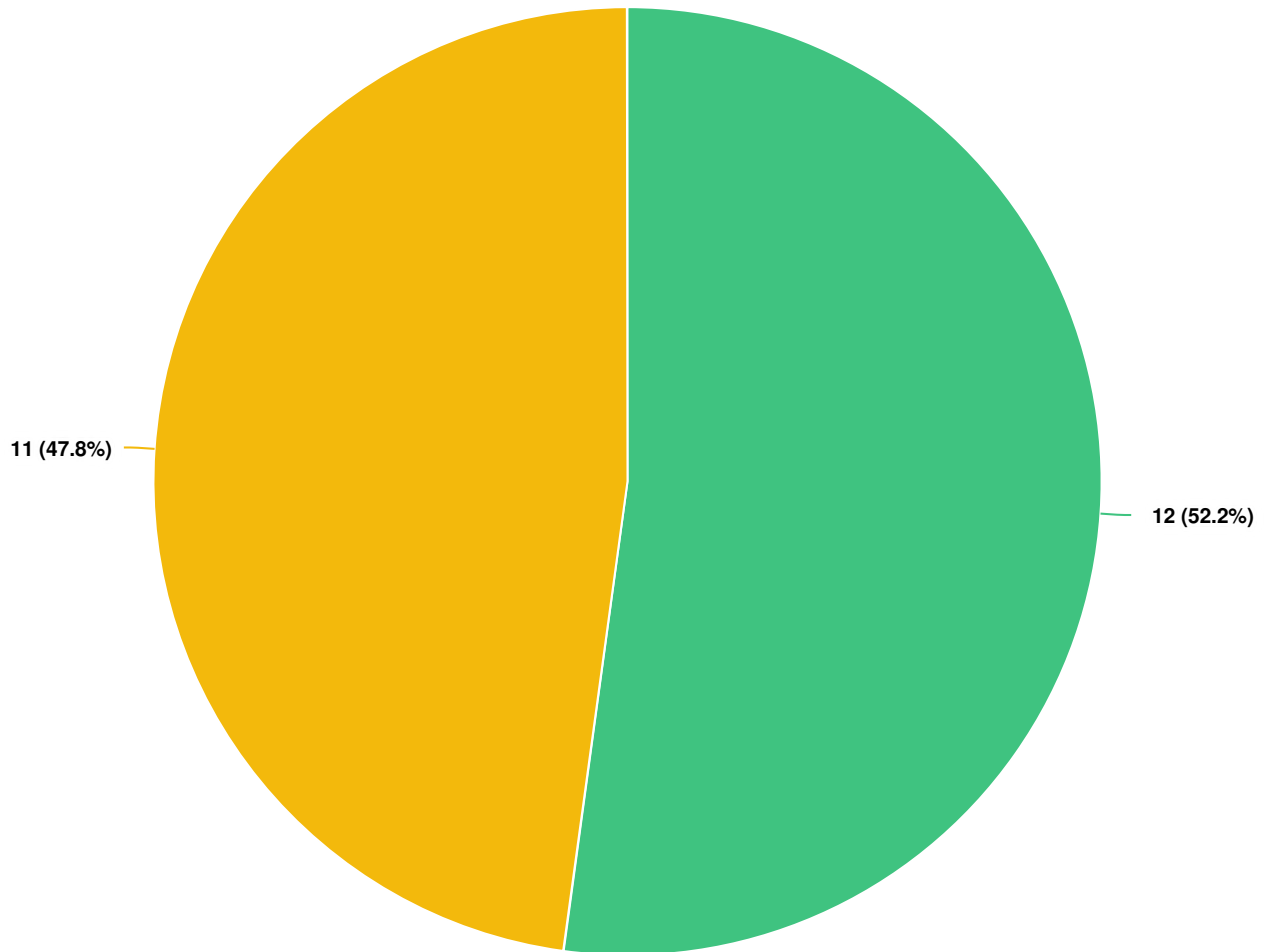
I don't see what positives there are for opening a licenced premises before 11am

**Optional question** (5 response(s), 18 skipped)

**Question type:** Essay Question



**Q58** | Do you think the opening hours should be the same across Aberdeenshire or do you think that there is scope for regional variations:



**Question options**

- Opening hours should be the same
- Opening hours should be allowed to differ depending on regional variations

*Optional question (23 response(s), 0 skipped)*  
*Question type: Radio Button Question*

**Q59** | Can you give reasoning for your answer above?

[REDACTED]  
11/22/2022 12:10 PM

It provides uniformity and is fairer

[REDACTED]  
11/06/2022 07:36 PM

Publicans and venues should be able to open and close at a tie that suits the business.

[REDACTED]  
11/08/2022 08:35 AM

Its fair and reasonable

[REDACTED]  
11/08/2022 09:04 AM

If there is consistency then people will know the rules.

[REDACTED]  
11/09/2022 02:47 PM

To avoid causing confusion within the region

[REDACTED]  
11/11/2022 10:04 AM

I believe as we all come under one local government we should be the same.

[REDACTED]  
11/11/2022 11:39 AM

I don't see why different areas should be treated differently as all members of the public that go to these establishments

Anonymous  
12/09/2022 04:18 PM

fair for everyone

Anonymous  
12/09/2022 06:30 PM

it will save people from heading to one area where the hours are more favourable, thereby spreading drinking more evenly, not placing some pubs at a disadvantage to others, and reduce temptation to drink and drive

[REDACTED]  
1/04/2023 05:14 PM

Consistency and fairness across the whole area. Consider making the same as off sales 10am.

Anonymous  
1/08/2023 01:08 PM

Opening hours should be the same across the board but with the ability to be tweaked on a case by case basis based on surroundings etc. Similar premises in similar surroundings but in different areas shouldn't be faced with different opening hours.

**Optional question** (11 response(s), 12 skipped)

**Question type:** Essay Question

**Q60** | Why do you feel that regional variations should be allowed in terms of opening hours:

[REDACTED] 11/02/2022 09:46 PM  
Licensing should wherever possible be done to suit the local area, some areas may benefit from earlier opening hours when some others could stay the same.

[REDACTED] 11/02/2022 08:50 PM  
We have more visitors to the area and they should be able to buy alcohol

[REDACTED] 11/03/2022 02:50 PM  
Each operating plan is unique

[REDACTED] 11/08/2022 10:39 AM  
Variations on Tourism.

[REDACTED] 11/08/2022 12:26 PM  
regions are best placed to respond to local needs

[REDACTED] 11/09/2022 10:58 AM  
The areas have different demographics, socio-economic variations which need to be reflected

[REDACTED] 11/09/2022 02:26 PM  
yes

[REDACTED] 11/15/2022 11:41 AM  
Farming communities may have different needs from fishing communities.

Anonymous 12/06/2022 09:24 PM  
Avoid everyone pouring onto streets. Adapt to different markets, visitors, tourists

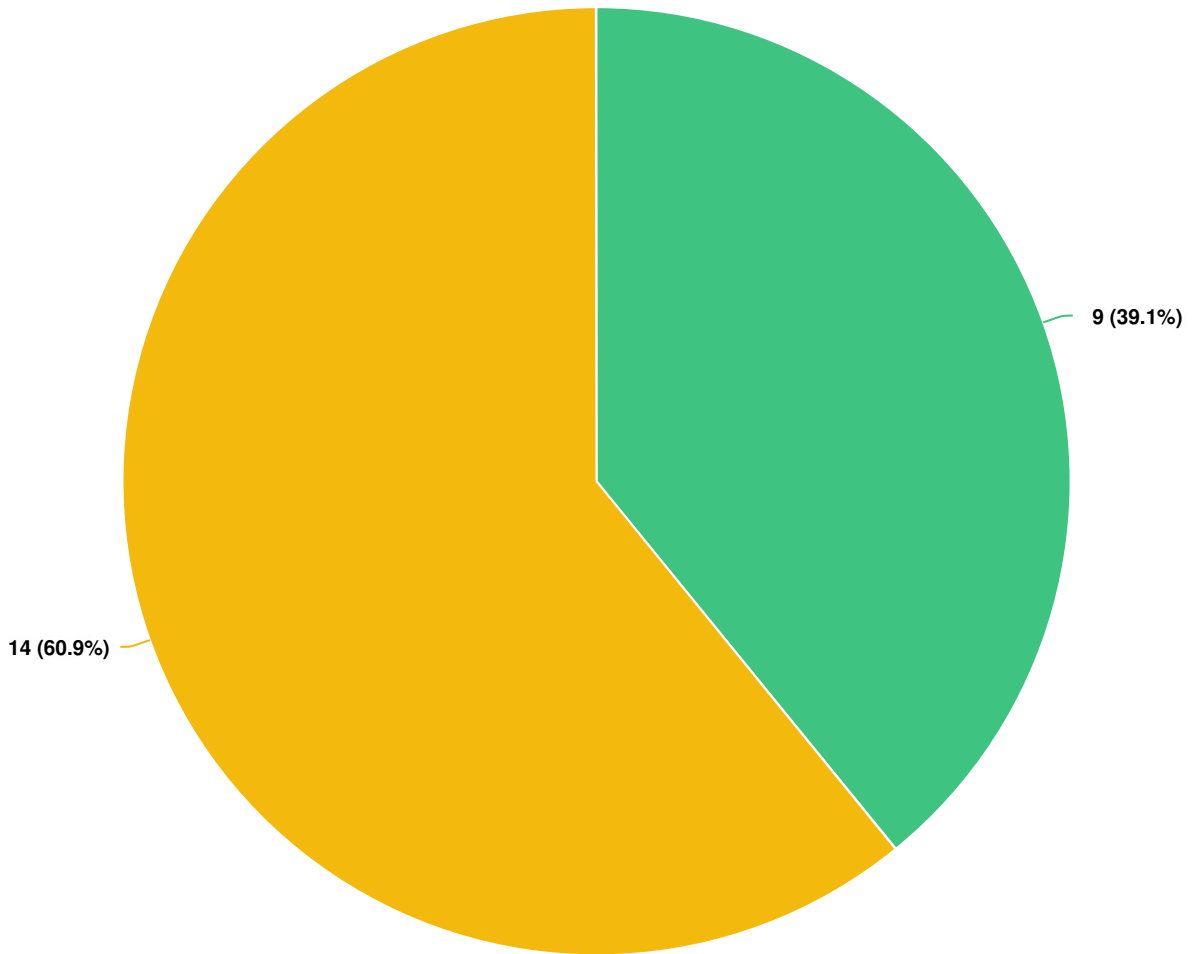
Anonymous 1/05/2023 03:31 PM  
suit local areas / facilities / consumer requirements

**Optional question** (10 response(s), 13 skipped)

**Question type:** Essay Question

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**Q61** | Generally, nightclubs can open til 2am Sundays to Thursdays, and 3am Fridays and Saturdays. Do you have any comments these opening times?



**Question options**

- Yes
- No

*Optional question (23 response(s), 0 skipped)*  
*Question type: Radio Button Question*

**Q62** | Please provide us with your comments in respect of the general closing times for nightclubs:

[REDACTED]  
11/02/2022 09:46 PM

The opening hours need to be aligned with local amenities.. generally nightclubs will need to have takeaway food establishments and taxi companies able to provide service after closing time. So better locally arranged than a nominal closing time.

[REDACTED]  
11/22/2022 12:10 PM

Later closing times generally has an adverse impact on the emergency services particularly on staffing resources.

[REDACTED]  
11/03/2022 02:50 PM

They should be allowed to open later.

[REDACTED]  
11/06/2022 07:36 PM

Very backwards compared to other regions when clubs can still be open at 5 am.

[REDACTED]  
11/09/2022 02:26 PM

should close no later than midnight on a Sunday as people have to go to work on Monday

[REDACTED]  
11/11/2022 10:04 AM

why is there a need to allow people to drink till that time of the day.

Anonymous  
12/06/2022 09:24 PM

2.00 for nightclubs is late enough

Anonymous  
12/09/2022 04:46 PM

To late 2 am should be latest

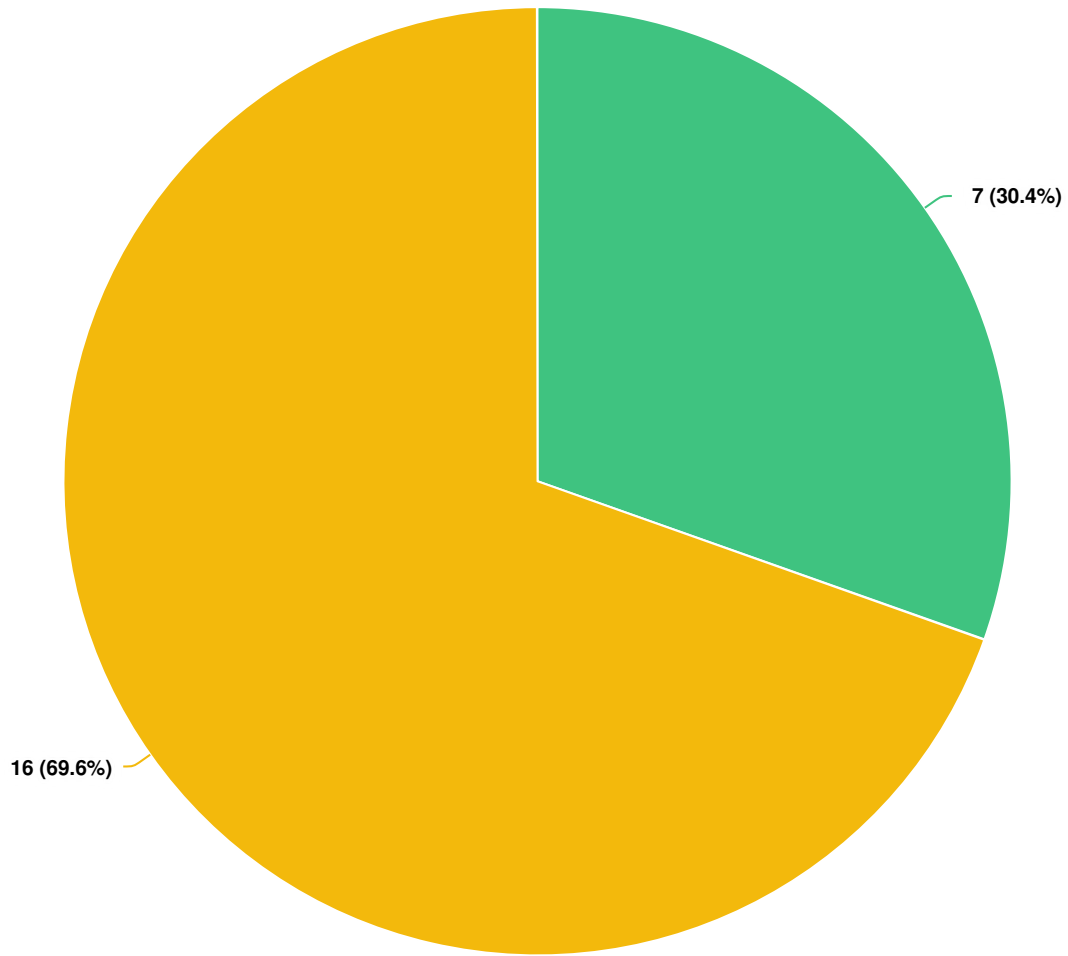
[REDACTED]  
1/04/2023 05:14 PM

Nightclubs are a thing of the past - not opening Sunday-Thursday at all with the exception of key festive dates. Some don't open Fridays and still struggle on Saturdays. Late night premises in operation where no entertainment etc is required.

**Optional question** (9 response(s), 14 skipped)

**Question type:** Essay Question

**Q63** | Generally, most premises can open til 1am daily. Do you have any comments to make on the general closing times?



**Question options**

- Yes
- No

*Optional question (23 response(s), 0 skipped)*  
*Question type: Radio Button Question*

**Q64** | Please provide us with your comments on the general closing times for other premises:

[REDACTED]  
11/02/2022 09:46 PM

1 am seems a good hour for most circumstances. The option to extend for live music or cultural activities should be encouraged.

[REDACTED]  
11/03/2022 02:50 PM

They should be allowed to open later.

[REDACTED]  
11/06/2022 07:36 PM

They should open and close when they want.

[REDACTED]  
11/08/2022 10:39 AM

I think general bars with no food or live entertainment should close at 11.

[REDACTED]  
11/09/2022 02:26 PM

1am is far too late during the week

Anonymous  
12/06/2022 09:24 PM

12.00 mid week

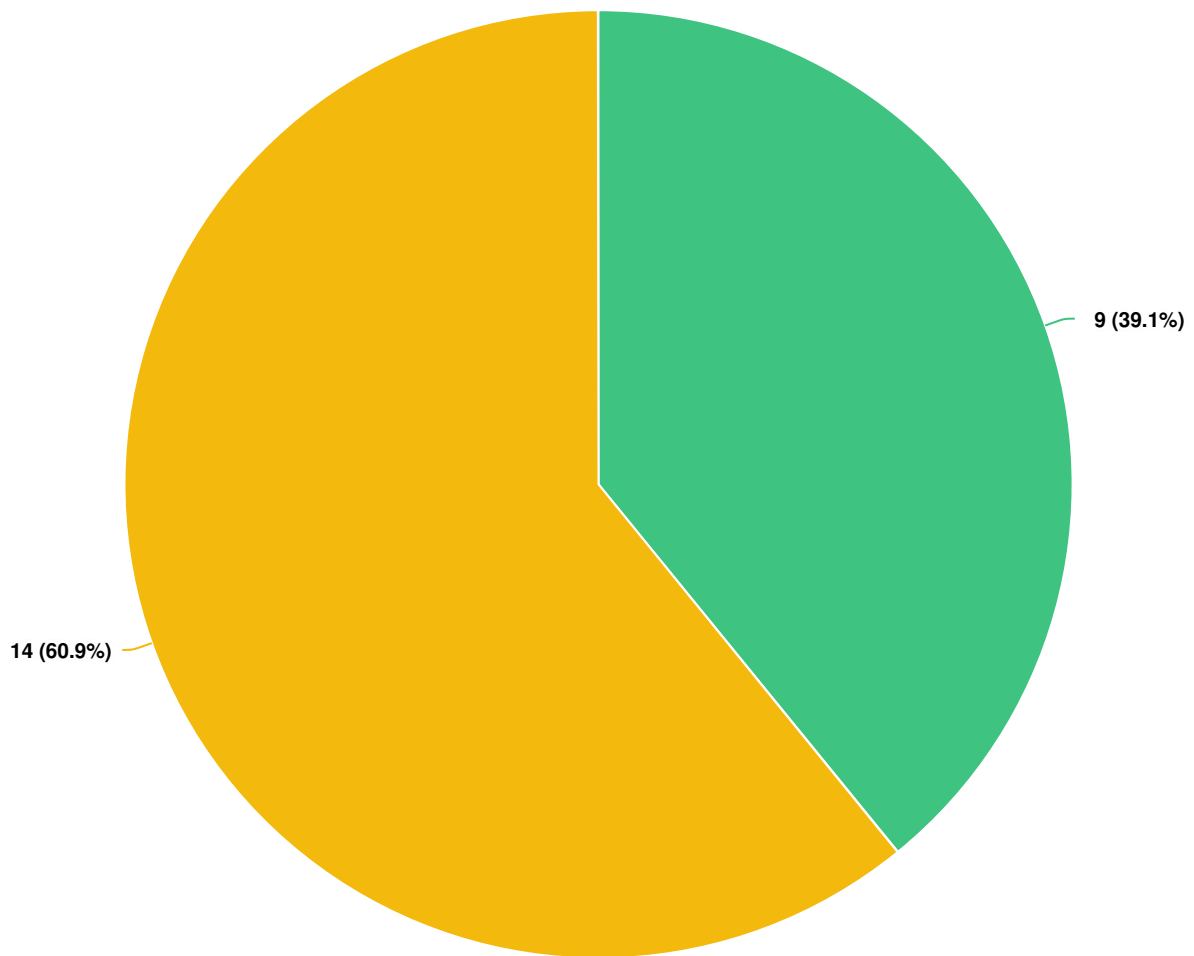
Anonymous  
1/08/2023 01:08 PM

1am is too late for weekdays. Only Friday and Saturday should be 1am

**Optional question** (7 response(s), 16 skipped)

**Question type:** Essay Question

**Q65** | Do you think that there should be a different closing time if there is a private function happening on the premises? In the North, premises with a private function can open til 1.30am but not in South or Central areas.



**Question options**

- Yes
- No

*Optional question (23 response(s), 0 skipped)  
Question type: Radio Button Question*



**Q66** | Please explain your reasoning.

[REDACTED]  
11/02/2022 09:46 PM

Extended opening for private functions should be encouraged. When guests are all there for an event, there is a better atmosphere than a standard open public evening.

[REDACTED]  
11/03/2022 02:50 PM

This should be allowed, a function or event

[REDACTED]  
11/08/2022 08:35 AM

Its a paid hired space and often the people having the party its a rare occasion and want to enjoy the full evening

[REDACTED]  
11/09/2022 02:26 PM

a private function is more controlled with known people so should be able to stay open until say 1.30am if required

Anonymous  
12/09/2022 06:30 PM

keeps large groups from spilling out at the same time, using all the taxis etc.

Anonymous  
1/05/2023 03:31 PM

easier controlled

**Optional question** (6 response(s), 17 skipped)

**Question type:** Essay Question

**Q67** Why should there not be a difference?

[REDACTED]  
11/22/2022 12:10 PM

It provides uniformity and is fairer. 0100 hours for everywhere would be better.

[REDACTED]  
11/06/2022 07:36 PM

Close when they want.

[REDACTED]  
11/08/2022 10:39 AM

We find that most people leave before the end of the private function anyway.

[REDACTED]  
11/08/2022 09:04 AM

Again to give consistency across Aberdeenshire.

Engagement on Main Issues

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[REDACTED]

11/08/2022 12:26 PM

I see no need as to why private functions should be treated differently

[REDACTED]

11/09/2022 10:58 AM

I don't think private functions should be treated any differently from those open to the public

[REDACTED]

11/09/2022 02:47 PM

Again i feel we will cause confusion and sometimes give conflicting messages

[REDACTED]

11/11/2022 10:04 AM

Again, why the need to drink past this time.

[REDACTED]

11/11/2022 11:39 AM

Everywhere should be the same to save confusion as you might travel to an event in that area

[REDACTED]

11/15/2022 11:41 AM

Because there is no difference in activity. It's still people drinking at a bar.

[REDACTED]

1/04/2023 05:14 PM

Premises are not using 1.30am as it is. Require to comply with local late night conditions.

Anonymous

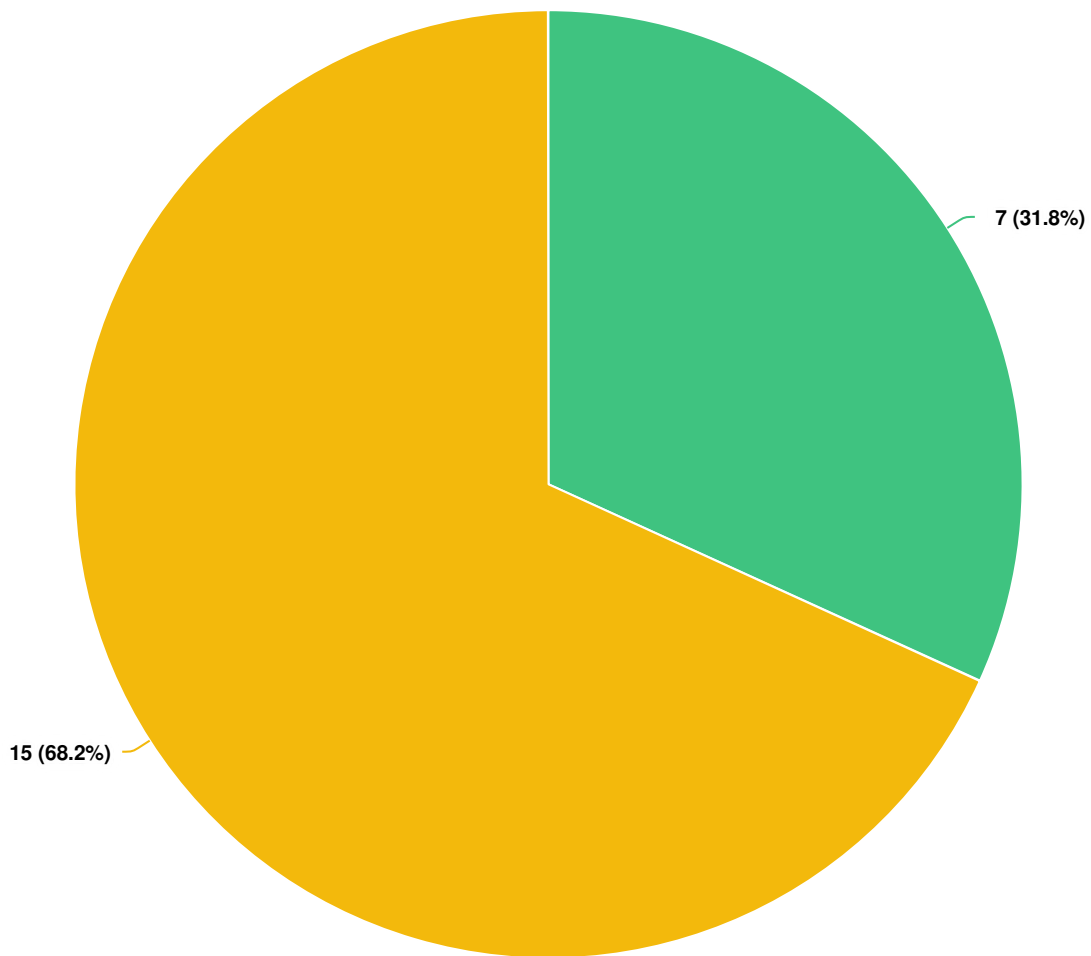
1/08/2023 01:08 PM

Opening hours for private functions should be the same across the board.

**Optional question** (12 response(s), 11 skipped)

**Question type:** Essay Question

**Q68** | In the North, nightclubs are allowed to open for an additional hour during the festive season. This is not the case in Central and South Aberdeenshire. Do you have any comments on the festive hours for nightclubs?



**Question options**

- Yes
- No

*Optional question (22 response(s), 1 skipped)*  
*Question type: Radio Button Question*

**Q69** | Please provide us with your comments in respect of the festive hours for nightclubs:

[REDACTED] Mark it universal. All the same  
11/02/2022 02:00 PM

[REDACTED] Often the main social event for many businesses, often followed by a Christmas meal which can extend the evening and line the stomach so extended hours make sense.  
11/02/2022 09:46 PM

[REDACTED] Remove the extra hour in the North to bring it in line with Central and South.  
11/22/2022 12:10 PM

[REDACTED] They should be the same throughout Aberdeenshire.  
11/08/2022 09:04 AM

[REDACTED] should be the same all over Scotland  
11/09/2022 02:26 PM

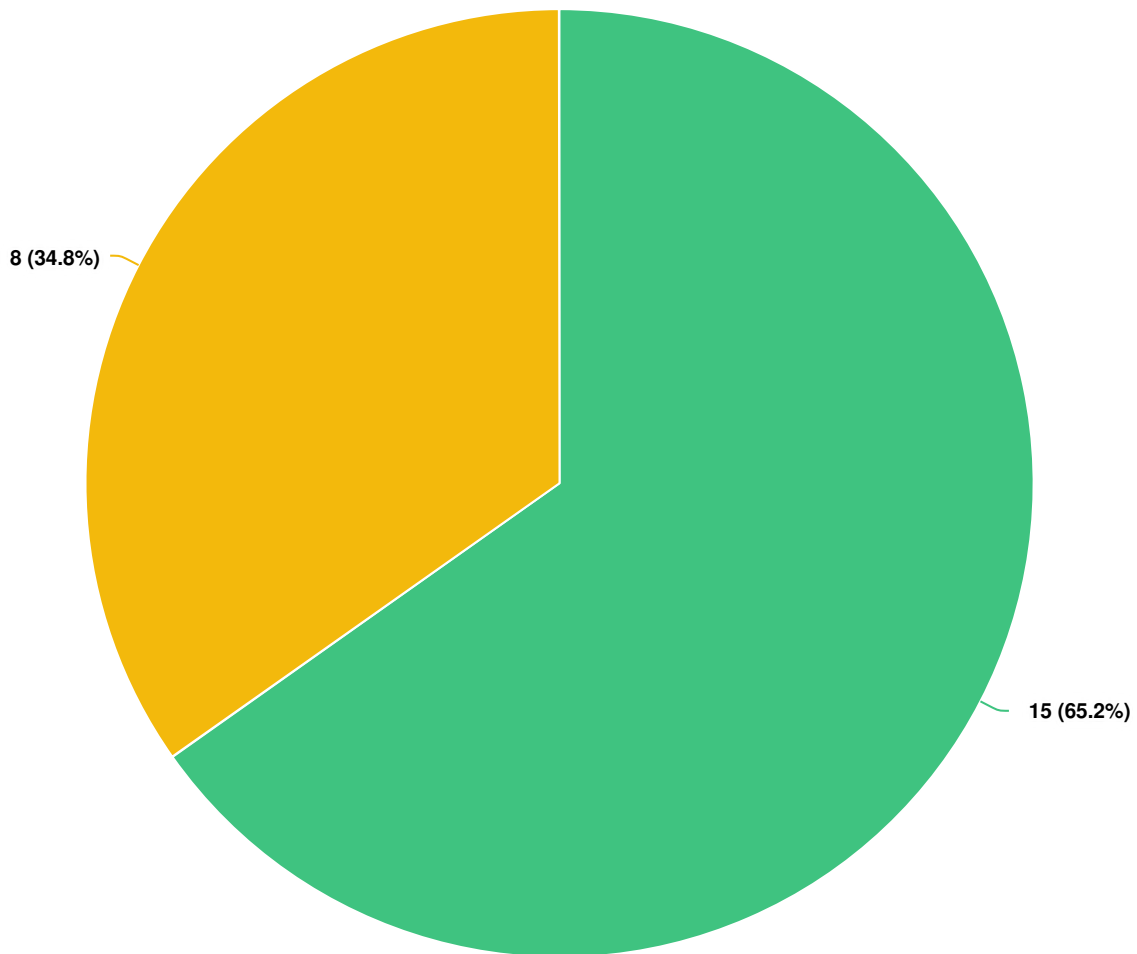
[REDACTED] 3 am sufficient - Align hours across the whole of Aberdeenshire - recommend no additional hours available. Putting increased pressure on emergency services, taxis etc. Availability of taxis across the Shire for evenings and late night hours has become more and more difficult. Premises having to put vulnerability policies in place but are getting stuck with customers unable to get home at the end of the night. Inconsistent with licensing objectives. Christmas events often start earlier in the day or pre loading at home and additional hour(s) is increasing risk of drunkenness, violence etc.  
1/04/2023 05:14 PM

Anonymous Opening hours for nightclubs should be the same across the board but conditions should be made for premises within a specified distance of high residential areas.  
1/08/2023 01:08 PM

**Optional question** (7 response(s), 16 skipped)

**Question type:** Essay Question

**Q70** | Do you think that the festive hours across Aberdeenshire for nightclubs should be the same or do you think that there is room for regional variation?



**Question options**

- The hours should be the same across Aberdeenshire
- The hours should be allowed to differ based on regional variations

*Optional question (23 response(s), 0 skipped)*  
*Question type: Radio Button Question*

**Q71** | Can you explain your thinking on your answer above?

[REDACTED]  
11/22/2022 12:10 PM

It provides uniformity and is fairer.

[REDACTED]  
11/06/2022 07:36 PM

Aberdeenshire council are way way too controlling let the owners decide.

[REDACTED]  
11/08/2022 08:35 AM

Its fair

[REDACTED]  
11/08/2022 09:04 AM

To give consistency

[REDACTED]  
11/09/2022 10:58 AM

The festive season is same across Aberdeenshire

[REDACTED]  
11/09/2022 02:47 PM

I feel that all clubs should be open for the same period of time to allow all clubs the chance to make the same profits within same opening times

[REDACTED]  
11/09/2022 02:26 PM

have a standard system

[REDACTED]  
11/11/2022 10:04 AM

One local government one rule for all

[REDACTED]  
11/15/2022 11:41 AM

A nightclub is a specific venue attracting a specific crowd at a specific time. I don't see the need for regional variations.

Anonymous  
12/09/2022 06:30 PM

As above, level the playing field

[REDACTED]  
1/04/2023 05:14 PM

3am is sufficient - Align hours across the whole of Aberdeenshire - recommend no additional hours available. Putting increased pressure on emergency services, taxis etc. Availability of taxis across the Shire for evenings and late night hours has become more and more difficult. Premises having to put vulnerability policies in place but are getting stuck with customers unable to get home at the end of the night.

Engagement on Main Issues

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Inconsistent with licensing objectives. Christmas events often start earlier in the day or pre loading at home and additional hour(s) is increasing risk of drunkenness, violence etc.

Anonymous

1/08/2023 01:08 PM

Festive Hours should be treated differently to usual times and allowances be made for the time of the year but the same across the board.

**Optional question** (12 response(s), 11 skipped)

**Question type:** Essay Question

**Q72** | Why do you feel that regional variations should be allowed when it comes to the festive hours for nightclubs?

[Redacted]

11/02/2022 09:46 PM

Hours should meet the needs of the local area.

[Redacted]

11/03/2022 02:50 PM

It depends on your market, busier areas are more suited to allow longer hours.

[Redacted]

11/08/2022 10:39 AM

It allows transport to vary also rather than everyone leaving at the same time.

[Redacted]

11/08/2022 12:26 PM

regions are best placed to respond to local needs

[Redacted]

11/11/2022 11:39 AM

It would depend on the size of the town and how busy the venue was going to be

Anonymous

12/06/2022 09:24 PM

Different need

Anonymous

1/05/2023 03:31 PM

suit local areas / facilities / consumer requirements

**Optional question** (7 response(s), 16 skipped)

**Question type:** Essay Question

**Q73** | If the Board decided to make the festive hours for nightclubs the same across the whole of Aberdeenshire, what do you think the closing time should be?

[REDACTED]  
11/02/2022 09:46 PM

4am

[REDACTED]  
11/02/2022 08:50 PM

2am

[REDACTED]  
11/22/2022 12:10 PM

It should be the same as the normal closing time, no extensions.

[REDACTED]  
11/03/2022 02:50 PM

4AM.

[REDACTED]  
11/06/2022 07:36 PM

5-6 am

[REDACTED]  
11/08/2022 10:39 AM

2am

[REDACTED]  
11/08/2022 08:35 AM

3pm

[REDACTED]  
11/08/2022 09:04 AM

1 am

[REDACTED]  
11/08/2022 12:26 PM

as is

[REDACTED]  
11/09/2022 10:58 AM

2am

[REDACTED]  
11/09/2022 02:47 PM

2.00am

[REDACTED]  
11/09/2022 02:26 PM

1am

[REDACTED]  
11/11/2022 10:04 AM

1am



Engagement on Main Issues

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[REDACTED]  
11/11/2022 11:39 AM

1am

[REDACTED]  
11/15/2022 11:41 AM

3am

Anonymous  
12/06/2022 09:24 PM

2.00

Anonymous  
12/09/2022 04:18 PM

2.00am

Anonymous  
12/09/2022 04:46 PM

2am

Anonymous  
12/09/2022 06:30 PM

whatever is later

[REDACTED]  
1/04/2023 05:14 PM

03:00 hours

Anonymous  
1/05/2023 03:31 PM

dont know

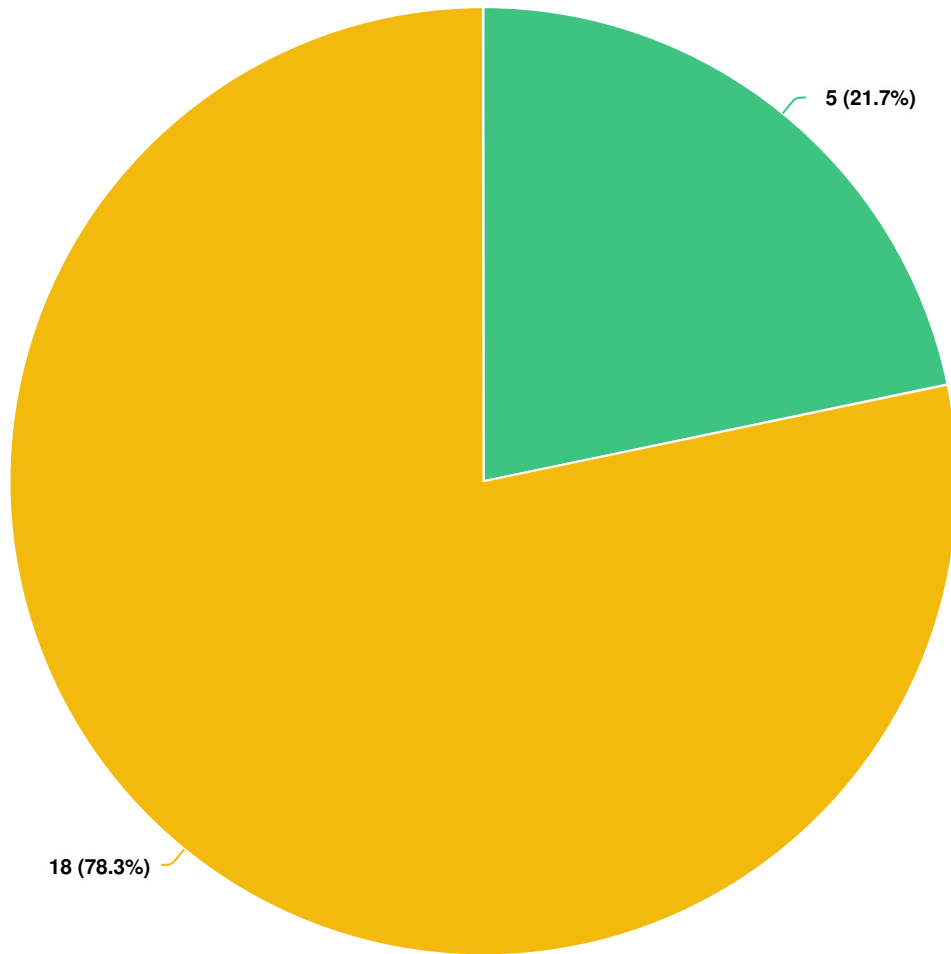
Anonymous  
1/08/2023 01:08 PM

I think there needs to be defined closing time and I dont think 24 hour  
opeing is a good thing.

**Optional question** (22 response(s), 1 skipped)

**Question type:** Single Line Question

**Q74** | Do you have any comments to make in terms of the festive hours for other types of premises?



**Question options**

- Yes
- No

*Optional question (23 response(s), 0 skipped)*  
*Question type: Radio Button Question*


**Q75** | Please provide us with your comments in respect of the festive hours for other types of premises:

  
11/02/2022 09:46 PM

There is less provision of nightclubs in Aberdeenshire, especially in rural communities. Local Pubs and restaurants should be allowed to extend hours providing support it a difficult time for businesses.

  
11/22/2022 12:10 PM

It should be the same as the normal closing time, no extensions.

  
1/04/2023 05:14 PM

Believe all premises should be allowed same hours for fairness/consistency etc - North hours are most appropriate - 24th, 25th, 26th, 31st December 1st & 2nd January.

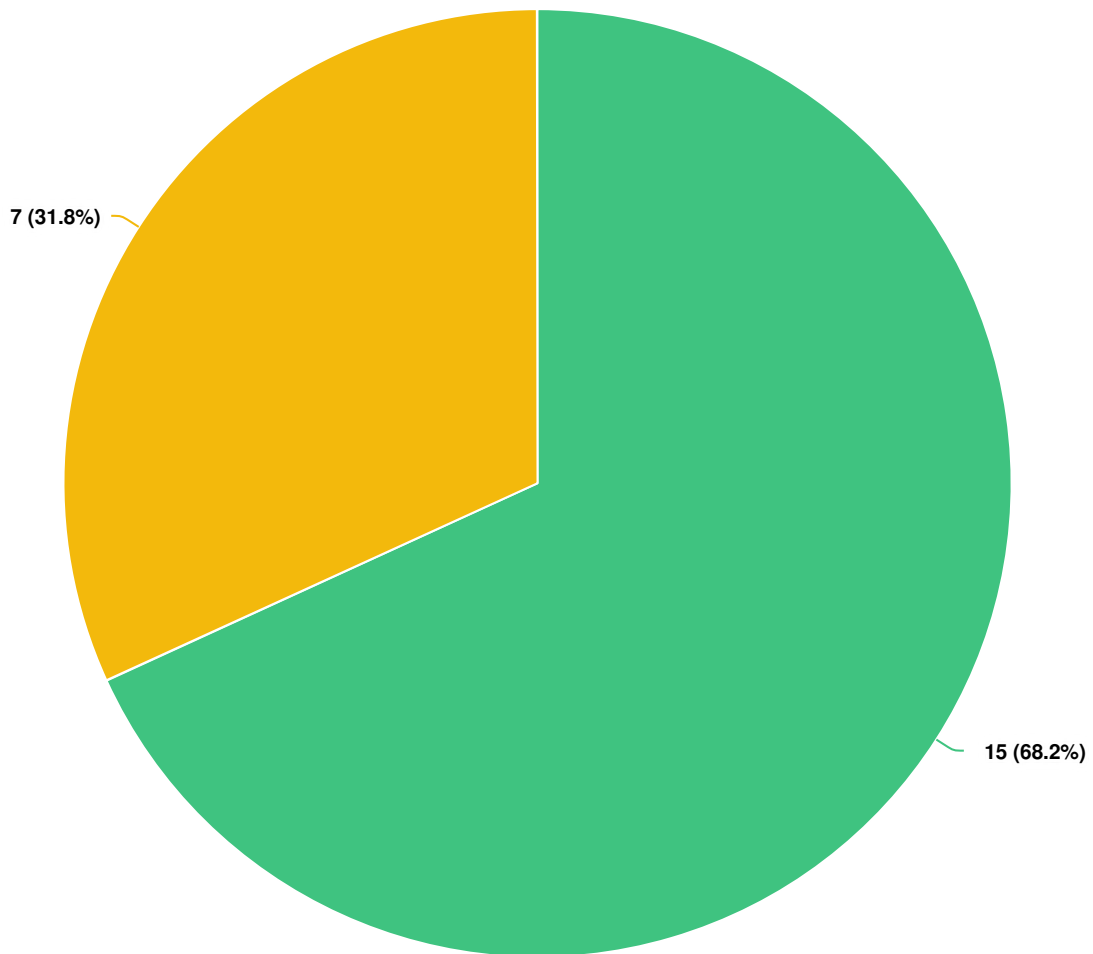
Anonymous  
1/08/2023 01:08 PM

Standard premises should have an allowance for a later closing time but fully dependant on the location, in a residential area for example.

**Optional question** (4 response(s), 19 skipped)

**Question type:** Essay Question

**Q76** | Do you think that the festive hours across Aberdeenshire for other types of premises should be the same or do you think that there is room for regional variation?



**Question options**

- The hours should be the same across Aberdeenshire
- The hours should be allowed to differ depending on regional variations

*Optional question (22 response(s), 1 skipped)*  
*Question type: Radio Button Question*

**Q77** | Please explain why.

[REDACTED]  
11/22/2022 12:10 PM

It provides uniformity and is fairer.

[REDACTED]  
11/06/2022 07:36 PM

Really the premise owners should say when THEY want to open/close.

[REDACTED]  
11/08/2022 10:39 AM

Fairness and to try and keep people utilising their local rather than travelling to a later pub.

[REDACTED]  
11/08/2022 09:04 AM

To give consistency

[REDACTED]  
11/09/2022 02:47 PM

To be fair to all establishments

[REDACTED]  
11/09/2022 02:26 PM

standard system

[REDACTED]  
11/11/2022 10:04 AM

One local government one rule for all

[REDACTED]  
11/15/2022 11:41 AM

Many are off work so I don't see the need for any variation.

Anonymous  
12/09/2022 06:30 PM

level playing field

[REDACTED]  
1/04/2023 05:14 PM

Believe all premises should be allowed same hours for fairness/consistency etc - North hours are most appropriate - 24th, 25th, 26th, 31st December 1st & 2nd January.

Anonymous  
1/08/2023 01:08 PM

Opening hours should be the same across the board but with the ability to be tweaked on a case by case basis based on surroundings etc. Similar premises in similar surroundings but in different areas shouldn't be faced with different opening hours.

Engagement on Main Issues

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**Optional question** (11 response(s), 12 skipped)

**Question type:** Essay Question

**Q78** | Why do you feel that regional variations should be allowed when it comes to the festive hours for other types of premises?

[REDACTED] Hours should meet the needs of the local area.  
11/02/2022 09:46 PM

[REDACTED] It should be what owners want and customers expect  
11/08/2022 08:35 AM

[REDACTED] regions are best placed to respond to local needs  
11/08/2022 12:26 PM

Anonymous suit local areas / facilities / consumer requirements  
1/05/2023 03:31 PM

**Optional question** (4 response(s), 19 skipped)

**Question type:** Essay Question

**Q79** | If the Board decided to make the festive hours for other types of premises the same across the whole of Aberdeenshire, what do you think the closing time should be?

[REDACTED] 3am  
11/02/2022 09:46 PM

[REDACTED] It should be the same as the normal closing time, no extensions.  
11/22/2022 12:10 PM

[REDACTED] 5/6 am  
11/06/2022 07:36 PM

[REDACTED] 2am  
11/08/2022 10:39 AM

[REDACTED] 1 am  
11/08/2022 09:04 AM

[REDACTED] as is

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11/08/2022 12:26 PM

[REDACTED] Midnight  
11/09/2022 02:47 PM

[REDACTED] 1am  
11/09/2022 02:26 PM

[REDACTED] 1am  
11/11/2022 10:04 AM

[REDACTED] 1am  
11/11/2022 11:39 AM

[REDACTED] 1am  
11/15/2022 11:41 AM

Anonymous 2.00  
12/06/2022 09:24 PM

Anonymous 2am  
12/09/2022 04:46 PM

Anonymous 2am  
12/09/2022 06:30 PM

[REDACTED] 1.30am for all dates.  
1/04/2023 05:14 PM

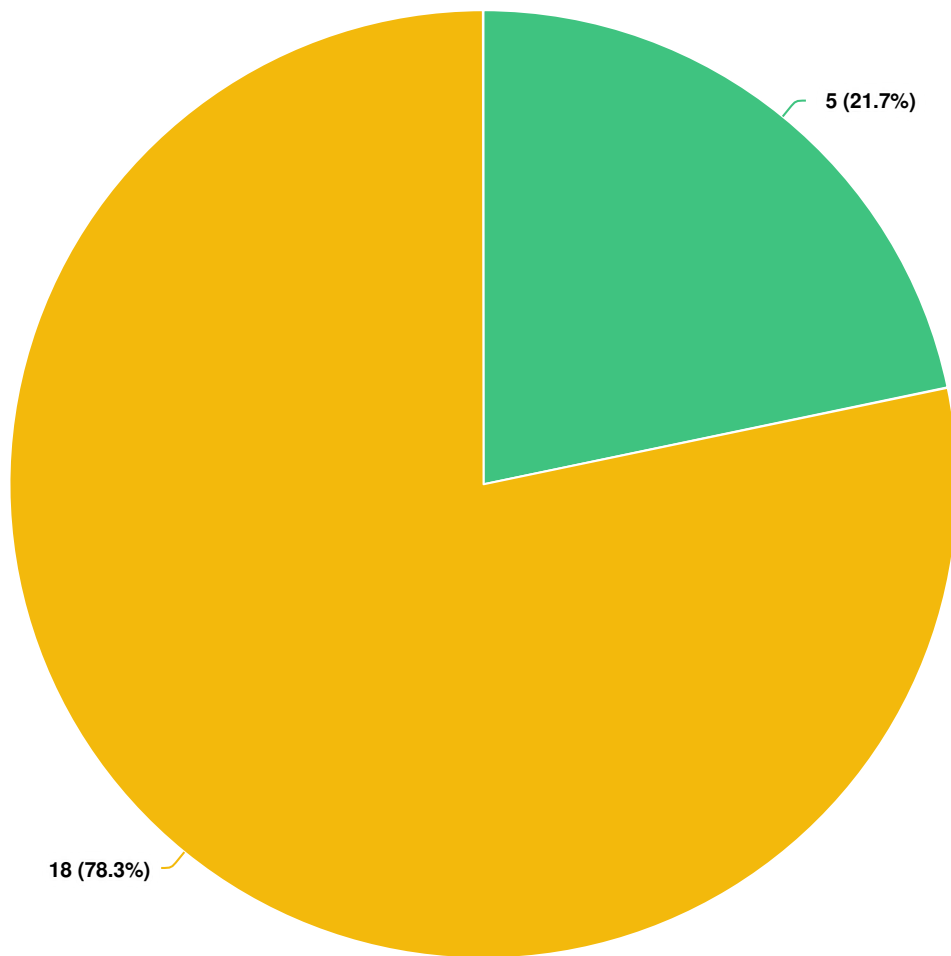
Anonymous dont know  
1/05/2023 03:31 PM

Anonymous 2am  
1/08/2023 01:08 PM

**Optional question** (17 response(s), 6 skipped)

**Question type:** Single Line Question

**Q80** | In the North, the Festive Season hours are applied only on the 24th, 25th, 26th, 31st days of December and the 1st and 2nd of January each year. This is regardless of which days these dates fall. In Central and South Aberdeenshire the Festive Season...



**Question options**

- Yes
- No

*Optional question (23 response(s), 0 skipped)*  
*Question type: Radio Button Question*



**Q81** | Please provide us with your comments on the festive season dates:

[REDACTED]  
11/02/2022 09:46 PM

A wider date range could be provided for business to have Christmas socials.

[REDACTED]  
11/08/2022 09:04 AM

There should be consistency throughout Aberdeenshire

[REDACTED]  
11/11/2022 10:04 AM

The Festive Season takes in the whole month of December and first week in January

[REDACTED]  
1/04/2023 05:14 PM

All premises to have North seasonal dates.

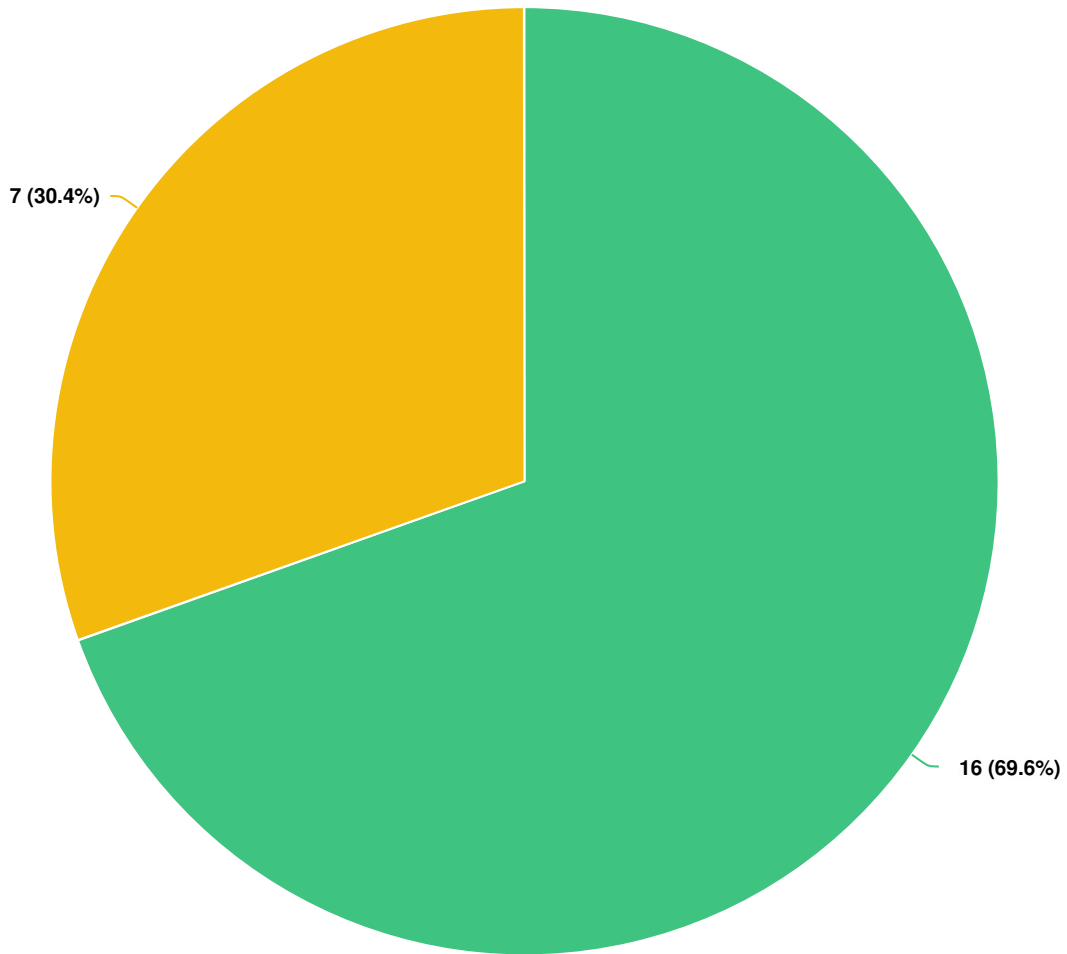
Anonymous  
1/08/2023 01:08 PM

I think the North dates should be used across the board.

**Optional question** (5 response(s), 18 skipped)

**Question type:** Essay Question

**Q82** | Do you think that the festive season dates across Aberdeenshire should be the same or do you think there is room for regional variation?



**Question options**

- The dates should be the same across Aberdeenshire
- The dates should be allowed to differ depending on regional variations

*Optional question (23 response(s), 0 skipped)*  
*Question type: Radio Button Question*

**Q83** | Please explain your reasoning.

[REDACTED]  
11/22/2022 12:10 PM

It provides uniformity and is fairer.

[REDACTED]  
11/06/2022 07:36 PM

The dates and times applied by the board for both festive and all other times should be a matter for the venues and the council should butt out,

[REDACTED]  
11/08/2022 09:04 AM

To give consistency

[REDACTED]  
11/09/2022 10:58 AM

see reply to Q41

[REDACTED]  
11/09/2022 02:47 PM

To allow all establishments a fair chance

[REDACTED]  
11/09/2022 02:26 PM

standard over the county

[REDACTED]  
11/11/2022 10:04 AM

One local government one rule for all

[REDACTED]  
11/15/2022 11:41 AM

Unlike Easter the festive dates don't change. Anybody interested in these dates should already be able to plan ahead.

Anonymous  
12/09/2022 06:30 PM

level playing field for all

[REDACTED]  
1/04/2023 05:14 PM

All premises to have North seasonal dates.

Anonymous  
1/08/2023 01:08 PM

I think the North dates should be used across the board. They are the most sensible hours.

**Optional question** (11 response(s), 12 skipped)

**Question type:** Essay Question

**Q84** | Why do you feel that regional variations should be allowed when it comes the festive dates?

[REDACTED] Hours should meet the needs of the local area.  
11/02/2022 09:46 PM

[REDACTED] Tourism and locality  
11/08/2022 10:39 AM

[REDACTED] regions are best placed to respond to local needs  
11/08/2022 12:26 PM

Anonymous suit local areas / facilities / consumer requirements  
1/05/2023 03:31 PM

**Optional question** (4 response(s), 19 skipped)  
**Question type:** Essay Question

**Q85** | If the Board decided to make the festive dates the same across the whole of Aberdeenshire, what do you think the dates should be?

[REDACTED] 20 Dec - 5 Jan fitting Friday - Sunday  
11/02/2022 09:46 PM

[REDACTED] No issue with either set of dates  
11/22/2022 12:10 PM

[REDACTED] The dates and times applied by the board for both festive and all other times should be a matter for the venues and the council should butt out, How backward are the council ???  
11/06/2022 07:36 PM

[REDACTED] Christmas Eve and Hogmany only  
11/08/2022 10:39 AM

[REDACTED] 24, 25, 26 and 31 December and 1 and 2 January  
11/08/2022 09:04 AM

[REDACTED] As described for Central and South  
11/09/2022 10:58 AM

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[REDACTED] 24th of December to 2nd of January Inclusive  
11/09/2022 02:47 PM

[REDACTED] m  
11/09/2022 02:26 PM

[REDACTED] The same for everyone covering the festive period  
11/11/2022 10:04 AM

[REDACTED] No change  
11/15/2022 11:41 AM

Anonymous 2am  
12/09/2022 04:46 PM

Anonymous 23rd, 24th 25th 31st Dec. & 1st and 2nd Jan  
12/09/2022 06:30 PM

[REDACTED] 24th, 25th, 26th, 31st December 1st & 2nd January.  
1/04/2023 05:14 PM

Anonymous dont know  
1/05/2023 03:31 PM

Anonymous 11am to 2am  
1/08/2023 01:08 PM

**Optional question** (15 response(s), 8 skipped)  
**Question type:** Essay Question

**Q86 What impact do you think this would have on the trade?**

[REDACTED] In the current climate, it doesn't seem right to place restrictions on the number of social events that voluntary organisations or members clubs can hold, many especially elderly people can have become isolated and would benefit from regular social interaction.  
11/02/2022 09:46 PM

[REDACTED] No comment to make  
11/22/2022 12:10 PM

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[REDACTED]  
11/03/2022 02:50 PM

A positive impact.

[REDACTED]  
11/06/2022 07:36 PM

It should be free for all so to speak a simple registration at a council office with relevant docs should only be the requirement

[REDACTED]  
11/08/2022 10:39 AM

It makes a mockery of the trade as we have to adhere strictly to our premises license and yet occasional holders do not....most of them with no knowledge or training.

[REDACTED]  
11/08/2022 08:35 AM

It would improve growth in areas that need new revenue streams

[REDACTED]  
11/08/2022 09:04 AM

It will be detrimental as less controls will be in place

[REDACTED]  
11/08/2022 12:26 PM

It would allow a more flexible entrepreneurial approach to licensing that would encourage smaller operations to provide services

[REDACTED]  
11/09/2022 10:58 AM

I don't know

[REDACTED]  
11/09/2022 02:47 PM

Nothing

[REDACTED]  
11/09/2022 02:26 PM

Should be able to increase from 12 to cover private functions members clubs may need this to be able to stay in business

[REDACTED]  
11/11/2022 10:04 AM

why are the members clubs being penalised! why when we know every patron enter the door who pay to be a member are we still to be restricted with how may licences we can apply for.

[REDACTED]  
11/15/2022 11:41 AM

Negligible impact.

Anonymous  
12/06/2022 09:24 PM

Displacement, not the same risk compared to a publican

Anonymous  
12/09/2022 06:30 PM

no comment

██████████  
1/04/2023 05:14 PM

Depends if the Scottish Government put in any restrictions in place; although we are of the opinion that premises must have Section 50 Certification in place to meet the licensing objectives. Other departments should be involved in the decision process of allowing businesses to operate under the OLs. If the board change policy, what procedures will be put in place to ensure public safety.

Anonymous  
1/05/2023 03:31 PM

nothing

Anonymous  
1/08/2023 01:08 PM

I think this would be beneficial to the Licence Trade.

**Optional question** (18 response(s), 5 skipped)

**Question type:** Essay Question

**Q87** | We are really grateful for the time and effort that you have put into answering our questions. Do you have any other comments about the licensing policy that you want to make, or is there anything that you would want us to explore further in reviewing the policy?

██████████  
11/02/2022 09:46 PM

The impact of the covid pandemic have impacted many, with many becoming isolated, not eased by the cost of living crisis. The licensing authority should do all it can to support local pubs, which in turn support local communities.

██████████  
11/22/2022 12:10 PM

Police Scotland are in the process of collating statistics around violence, disorder and incidents of concern linked to licenced premises. We are scheduled to receive them from our analyst in early January 2023. I will forward these to you in due course.

██████████  
11/06/2022 07:36 PM

That's all from me.

██████████  
11/08/2022 10:39 AM

One concern is that we are restricted in our beer gardens and now there is a threat to losing more trade if the hours are decreased but it seems alright for the public to have home bars in their gardens and do what they like and cause disruption to their neighbours. It is not controlled and there is no responsible person to oversee things. In a bar the premises manager ensures the welfare of the customers.

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[REDACTED]  
11/08/2022 08:35 AM

The number of occasional licences could be increased also or making the application for full premises licence easier to navigate as consideration to who is applying and in what location seems to be taken personally by the local authority rather than looking at things on merit

[REDACTED]  
11/08/2022 12:26 PM

More flexibility regarding the granting of occasional licences and speeding up the process/shortening the timeframe for applications

[REDACTED]  
11/09/2022 10:58 AM

Some of the questions require the option of multiple responses e.g 13 and 14, and some Don't Know e.g Q 21 and 25

[REDACTED]  
11/09/2022 02:47 PM

I feel we need clarification for the whole of Aberdeenshire region so that all establishments know what they can and cannot do to avoid what appears to be a discrimination against certain parts of region

[REDACTED]  
11/09/2022 02:26 PM

no

[REDACTED]  
11/11/2022 10:04 AM

Private members clubs and public licences are completely different establishments, the private clubs being the safer option, yet the restrictions are the same if not worse especially with the occasional licensing, this needs to be readdressed.

[REDACTED]  
11/15/2022 11:41 AM

No

Anonymous  
12/06/2022 09:24 PM

Variations , minor and major should be processed and confirmed within 4 weeks. No need to take longer with email.

Anonymous  
1/05/2023 03:31 PM

nothing

**Optional question** (13 response(s), 10 skipped)

**Question type:** Essay Question



# **Licensing (Scotland) Act 2005**

## **Section 142 Guidance for**

### **Licensing Boards**

## MINISTERIAL FOREWORD



Under the terms of the Licensing (Scotland) Act 2005 Ministers may issue guidance to Licensing Boards as to the exercise of their functions under the Act. I am pleased now to be able to issue updated guidance for Licensing Boards, which will also be of use to local authorities and other licensing stakeholders affected by the Act.

Whilst section 142 of the Act requires Boards to have regard to the guidance I would like to stress that Boards will have the flexibility to operate and take decisions in light of their particular circumstances (although, in terms of section 142(4), a Board deciding not to follow the guidance must give Ministers notice of that decision together with a statement of the reasons for it). That is a fundamental principle of the Act and it is important to maintain it. The guidance does not seek to instruct boards exactly how to make the Act work. It is simply intended to assist boards as they carry out their responsibilities under the Act. Ministers wish boards and their clerks to be creative and innovative and to implement the Act in a way that best meets local needs and circumstances, which can be informed by direct engagement and dialogue with local licensing forums. Guidance that is too prescriptive would hinder that creativity.

Finally I would like to make it clear that we remain open to suggestions about how the guidance might be revised in future. With that in mind my officials have already committed to on-going engagement beyond publication of the updated guidance and we will therefore continue to engage with Boards, via SOLAR and other licensing stakeholders over the coming months, and beyond to ensure that any issues can be collectively considered and worked through. In addition, we expect that new issues may arise in light of experience gained whilst Boards develop their Licensing Policy Statements in the months ahead and we will be happy to consider and discuss any matters of concern. Any revised or new guidance will, of course, have to be laid before the Parliament, as the 2005 Act requires.

A handwritten signature in black ink that reads "Elena Whitham". The signature is written in a cursive, flowing style.

Elena Whitham MSP  
**Minister for Community Safety**

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## 1. INTRODUCTION

### Licensing (Scotland) Act 2005

#### Statutory Guidance

1.1 As part of the overarching national framework for the alcohol licensing regime introduced by the Licensing (Scotland) Act 2005 (“the 2005 Act”), Scottish Ministers issued statutory guidance to Licensing Boards. The guidance is termed “statutory” as Scottish Ministers made use of the powers given to them under Section 142 of the 2005 Act to issue guidance. This guidance is frequently referred to as “Section 142 guidance”.

Section 142 of the Act provides that, in carrying out its functions, a Licensing Board must have regard to Guidance issued by Ministers under that section. However, it is recognised that the Guidance cannot anticipate every possible scenario that may arise. Licensing Boards may therefore depart from the Guidance if they have reason to do so. If Licensing Boards depart from the Guidance, section 142(4) of the Act requires that they must give the Scottish Ministers notice of the decision together with a statement of reasons for it.

1.2 The purpose of the guidance is to assist Licensing Boards in carrying out their functions under the 2005 Act. That having been said, it is hoped that the guidance will also be of interest to others involved in the alcohol licensing regime, such as new / existing licence holders and licensing solicitors.

1.3 This version of the statutory guidance (issued on 13 January 2023) replaces the version of the original statutory guidance.

#### Approach Taken

1.4 The 2005 Act has been operational for over thirteen years. Licensing Boards have gained valuable experience and expertise in administering the alcohol regime as set out under the 2005 Act.

1.5 Scottish Ministers recognise the independence of the Licensing Boards but also consider it is important for Licensing Boards to share and learn from each other’s experiences.

1.6 The Scottish Government Licensing Team recognises the important work undertaken by the Society of Local Authority Lawyers and Administrators in Scotland (SOLAR) Licensing Group to promote inter authority communication, information sharing and best practice between members of the SOLAR Licensing sub group. The Licensing Team are grateful to both the Convenor and Depute Convenor for the opportunity to attend SOLAR Licensing sub group quarterly meetings.

1.7 Throughout the guidance, where possible, examples of best practice have been set out, which it is hoped will be beneficial for all Licensing Boards to see and consider implementing in their licensing authority area as appropriate. Whilst reference may be made to specific Licensing Boards, it is acknowledged that many

Licensing Boards may be undertaking similar work but it is impractical to list what each individual Licensing Board may / may not be doing.

1.8 Going forward, the intention is to have more frequent updates to the guidance. This will be achieved through the creation of a small SG led stakeholder group that will meet twice a year to reflect legislative changes and other matters. The Licensing Team will also look to Licensing Boards to provide examples of best practice, which can be incorporated into the guidance.

#### Licensing (Scotland) Act 2005

1.9 A number of amendments have been made to the 2005 Act since it was commenced and since the issue of the last version of the statutory guidance. Some of the amendments were fairly minor and some were more substantive. The amendments made are referenced and discussed, as appropriate, within the individual chapters of the guidance.

#### Licensing Objectives

1.10 The guidance contains a separate chapter on the five Licensing Objectives which play a key role in the administration of the alcohol licensing regime. Each of the Licensing Objectives is of equal importance.

1.11 Just as legislative changes have been made to the 2005 Act since commencement, there have also been changes in the way that alcohol is both purchased and consumed.

1.12 It is much more likely that individuals purchase alcohol in off sales premises to consume at home rather than purchase and drink in on sales premises. [According to Monitoring and Evaluating Scotland's Alcohol Strategy \(MESAS\) monitoring report 2019](#), of the total alcohol sold in Scotland, 73% is now sold in the off trade. Drinking at home means less control over how much is consumed and some harms are harder to detect e.g. domestic violence. Many Licensing Boards recognise this shift and have reflected this when developing their licensing policy statements. This is an approach the Scottish Government strongly supports, and would encourage all Licensing Boards to consider.

1.13 Licensing Boards will be well acquainted with the range of reports and research material that has been published in relation to alcohol harm, not least the Scottish Government's Alcohol Framework 2018 – Preventing Harm report. Scottish Ministers' approach to reducing alcohol harm, aligned with that of the World Health Organisation (WHO), is reflected in the report.

1.14 An example of statistical information can be found on the National Records of Scotland (NRS) website. On 4 August 2022, NRS published annual figures (as at August 2021) relating to alcohol specific deaths in Scotland. The figure as at August 2021 stands at 1,245 deaths, an increase of 4.62% on the August 2020 figure of 1,190 (the corresponding figures for 2019 and 2018 being 1,020 and 1,136 respectively). The report also states "Alcohol-specific deaths have generally risen

since 2012. Before this point, deaths fell [sic] sharply from the peak of 1,417 in 2006 to 968 in 2012”.

1.15 Given the passage of time since the 2005 Act commenced, there is a wealth of information available to Licensing Board to help inform decision making/carrying out its functions e.g. documents they require to both consult on and publish including overprovision statements and licensing policy statements. It is also important that Licensing Boards fully engage at appropriate times with key partners such as Local Licensing Forums, Community Planning Partnerships, Health Boards, Alcohol and Drug Partnerships and Police Scotland. These local partners can often be a useful source of relevant and up to date information in their specific area of expertise.

1.16 The Scottish Government acknowledges that many Licensing Boards do review relevant information and actively engage with key partners. In addition, a number of Licensing Boards publish on their websites details containing the background information that has led them to adapt a particular policy. The Scottish Government commends these approaches to all Licensing Boards.

## 2. LICENSING OBJECTIVES

### Introduction

2.1 This chapter provides information on the five licensing objectives. A key component of the licensing system set out in the 2005 Act is that it provides local flexibility to deal with local circumstances. However, to ensure consistency of approach, it is important that this local flexibility is balanced with a clear, effective and national framework within which Licensing Boards are required to operate. The 2005 Act established just such a national policy framework.

2.2 The 2005 Act sets out 5 high level “licensing objectives” that represent the values on which the Scottish alcohol licensing system is based, the parameters against which elements of the system should be measured and the solid foundation which Licensing Boards must have regard to in carrying out their functions under the 2005 Act.

2.3 The licensing objectives are the engine that drives the 2005 Act. They are a key feature of Licensing Board policy statements, the basis for refusal of a premises or occasional licence, the attachment of conditions, sanctions on a personal licence holder or a competent ground for review of a premises licence.

2.4 The five licensing objectives are listed below:

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

2.5 Since the implementation of the 2005 Act, Licensing Boards have been able to develop their knowledge and understanding of how to best promote the 5 licensing objectives. This will continue to be an ever evolving process, informed by local experience.

2.6 Licensing Boards are also required by the 2005 Act to produce and publish Annual Function Reports which should be drafted with a focus on explaining the work of the Licensing Board over the relevant period, in order to provide transparency and accountability to the local community. The reports are primarily about Licensing Boards showing *how* they adhere to the licensing policies and *how* they promote the licensing objectives, rather than providing a description of the Licensing Boards’ procedural approach.

### Licensing Objectives

2.7 The guidance offered below for each objective is given in the order in which the objectives are listed in the 2005 Act. Each objective is equally important i.e. no one licensing objective carries more weight than any other. It is recognised that whilst the licensing objectives are standalone there will also be an element of interaction between them.

*Preventing crime and disorder*

2.8 This objective relates to the prevention of crime and disorder as a result of the sale or supply of alcohol or irresponsible operation of licensed premises. This covers behaviour such as: drunk and disorderly conduct; breach of the peace; assault and other crimes or offences which may occur within premises, outside premises, or in other settings which may have occurred as a result of the sale or supply of alcohol (see Chapters 11 and 13 for more information on control of order and other offences).

2.9 One example of a Licensing Board promoting this licensing objective can be found within Edinburgh Licensing Board's statement of licensing policy 2018 which states:

- "The promotion of the licensing objective to prevent crime and disorder, places a responsibility on licence holders to become key partners in achieving this objective. Applicants will be expected to demonstrate in their operating plan that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and the activities at those premises".

The statement of licensing policy goes on to provide clear, concise and helpful information as to the factors an applicant needs to address in their application/ operating plan to satisfy the Licensing Board that due consideration has been given by the applicant to this specific licensing objective.

2.10 Alcohol related crime and disorder does not only occur within or immediately outside licensed premises. A significant proportion of alcohol is bought to be consumed at home or in other private dwellings. Whilst alcohol licensing alone cannot directly address issues such as domestic violence, Licensing Boards may wish to consider supporting work in this regard through partnership working. One example of a Licensing Board demonstrating a wider understanding of alcohol related crime can be found within West Lothian Licensing Board's statement of licensing policy 2018 which states:

- "The Board wishes to ensure that West Lothian is a safe place to work, live in and visit, and recognises that it is widely acknowledged that the consumption of alcohol can be a significant contributory factor in late night crime and disorder and in certain types of antisocial behaviour. Gender based violence issues also have strong associations with alcohol consumption (domestic abuse, sexual violence, human trafficking, commercial sexual exploitation and exploitation of vulnerable persons). While licensing alone cannot directly address these they are nonetheless significant issues within the crime and disorder, health, community safety and child protection agendas. The Board, in partnership with Police Scotland and other local agencies, is committed to playing its part in helping to reduce alcohol related crime and disorder and antisocial behaviour problems.



- “The Board recognises that licensing is not the primary mechanism for the control of criminal behaviour, public nuisance and antisocial behaviour once individuals have left licensed premises. Nevertheless the Board considers that licensing plays a key role in both preventing and controlling alcohol related crime and disorder and antisocial behaviour through the promotion of the licensing objectives and the monitoring of licensed premises.”

#### *Securing public safety*

2.11 This objective links to a duty placed on licence holders to ensure that the public are kept safe in relation to the sale or supply of alcohol or operation of licensed premises.

2.12 The public in this context relates to a wide definition which includes customers on the premises, the premises’ staff and passers-by or persons in the vicinity of a licensed premises. For example, The Highland Licensing Board Statement of licensing policy states at Appendix 8:

- “All alcoholic and non-alcoholic drinks shall only be sold and served in cans or in plastic or polycarbonate containers. (This condition is likely to be applied at all large-scale public events such as music festivals, Highland Games and large agricultural shows, but may also be applied to other occasional licences where considered appropriate in the interest of public safety)”

#### *Preventing public nuisance*

2.13 Whilst the operation of a licensed premise does not of itself inherently create public nuisance, the 2005 Act recognises that nuisance from a licensed premise can be a concern for local residents and communities and this objective therefore seeks to provide comfort that nuisance (e.g. noise, littering) and anti-social behaviour can be addressed where relevant. It is likely that the Police will be involved as the first responder to issues of public nuisance and anti-social behaviour.

2.14 It should be noted that not all noise emanating from a licenced premise should be treated as a public nuisance for the purposes of this licensing objective. For example, nuisance caused to local residents from a noisy extractor fan or ventilation system should properly dealt with under a different regulatory regime.

2.15 Fife Licensing Board’s statement of licensing policy sets out the steps one Licensing Board is taking to promote this licensing objective:

- stipulating shorter hours when considering a premises licence application if it considers this to be appropriate, depending on where the premises are situated or the likelihood of the situation or use of the premises contributing to anti-social behaviour.
- clearly setting out licence holders’ responsibilities with regard to: smoking in public places (making a cross reference to the “protecting and improving public health” and “protecting children from harm” licensing objectives);

waste generated in or by the premises being disposed of safely; and the provision of outdoor seating.

- helpful examples of control measures are given to assist applicants who may need to take account of such matters when preparing and carrying out the activities in their Operating Plan. Applicants are also reminded of the need to consult with various named bodies prior to holding any outdoor musical events or using amplified equipment.

#### *Protecting and improving public health*

2.16 This licensing objective prompts those involved in the alcohol licensing regime to consider the impact of the sale and consumption of alcohol on health within the legislative framework provided by the 2005 Act. This Licensing objective, probably more so than the others, provides Licensing Boards with the opportunity to take a more strategic approach to licensing in their area, and set out their vision for their licensing area through engagement with the local community.

2.17 In this way this licensing objective encourages Licensing Boards to consider the cumulative effect of licensed premises on alcohol-related harm, within their licensing area, rather than the actions of any individual premises. Collecting harm data for localities will build a picture of the health and wellbeing of the people in the locality, and doing so on a consistent basis over time means the long term health and wellbeing of a locality can be monitored and improvements made. Local Licensing Forums are well placed to assist Licensing Boards in this task.

2.18 City of Glasgow Licensing Board is an example of one of a number of Licensing Boards which have adopted an approach of looking at alcohol and health issues at their local authority area level, and then made a policy that seeks to promote the public health objective. City of Glasgow's Licensing Board's statement of licensing policy sets out its approach to this matter:

- ".....the Licensing Board was particularly concerned by the number of areas in the city which suffer from high levels of alcohol related emergency hospital admissions and alcohol related deaths, in many cases well above the average for the country as a whole..... it was also evident that in some areas there are very few licensed premises and therefore identifying them as an overprovision locality in terms of the number and capacity of licensed premises would not be appropriate.
- "However, overprovision is only one ground for refusal, and the Licensing Board believes that in terms of the alcohol related health data it has considered, it is important to clearly set out its concern regarding the granting of an off-sales licence and the Licensing Objective of Protecting and Improving Public Health.
- "While each application will be considered on its own merits, in the view of the Board where there is evidence that the locality in which the applicant premises are situated suffers from higher than the national average levels of alcohol related health harms, .....the Licensing Board will carefully

consider whether the granting of such a licence would be inconsistent with the Licensing Objective of Protecting and Improving Public Health”.

*Protecting children and young persons from harm*

2.19 The Air Weapons and Licensing Act 2015 amended the 2005 Act to broaden out this objective - from “protecting children from harm” - to “protecting children and young persons from harm”. The 2005 Act provides that “a child” means a person under the age of 16 and “a young person” means a person aged 16 or 17. Young people are particularly vulnerable to the effects of alcohol, whether they are drinking themselves or being affected by other people drinking in their lives. Broadening out this objective gives Licensing Boards greater scope to protect young persons.

2.20 In a wider sense, the presence of this objective underlines that the responsible operation of licenced premises is not simply about avoiding the commission of criminal offences but in ensuring that the environment or atmosphere of a premise where children or young people are to be admitted is a sensible, non-threatening one where children and young persons can be in the company of adults who are consuming alcohol.

2.21 For example, in the foreword to its 2018 statement of licensing policy South Ayrshire Licensing Board commented:

- “The Board wished to strike a balance, in support of our very important objective of protecting children and young persons from harm, by suggesting that moderate on-premises consumption of alcohol in a well-run and supervised family friendly environment is better able to protect our young people than any provisions we can make to discourage families consuming excessive alcohol in their homes.”

2.22 Dundee Licensing Board, is one of a number of Licensing Boards which clearly state in its statement of licensing policy that:

- “As a general rule, children and young persons under the age of 18 will only be permitted into licensed premises which are considered to be restaurants or into other licensed premises where the primary purpose of allowing them access is to consume a meal or to attend a pre-booked and ticketed function”

2.23 North Ayrshire Licensing Board is one of a number of Licensing Boards which make specific reference in their statement of licensing policy to licensed premises requiring to provide the appropriate environment for children and young people.

- “The Board has a long-standing interest in encouraging family-friendly Premises within North Ayrshire and wishes to continue to ensure that Premises which seek to accommodate under-18s are run in such a way that they are suitable. Premises which are small and enclosed or which have few facilities, are unlikely to be accepted as able to provide the appropriate environment”

2.24 Children and young people are particularly vulnerable to the effects of alcohol – the earlier a young person begins to drink alcohol, the more likely they are to drink in ways that can be risky later in life. The 2005 Act creates a number of offences which relate to the sale or supply of alcohol to children and young persons (see Chapter 12 for more information).

2.25 Licensing Boards will wish to be mindful that children and young people can be impacted by exposure to marketing and promotion of alcohol within licensed premises. For example, Falkirk Licensing Board comments in its statement of licensing policy 2018 that:

- “Where licensed premises intend to hold events where alcohol is not provided and those events are specifically targeted at children or young persons (for, example, underage discos or parent and toddler groups), consideration should be given to taking steps to avoid any obvious promotion of alcohol.”

2.26 Whilst alcohol licensing alone cannot directly address issues such as child sexual exploitation, Licensing Boards may wish to consider supporting work in this regard through signposting licence holders to further information or through partnership working. For example, the East Lothian Licensing Board statement of licensing policy 2018 signposts parties to “*East Lothian & Midlothian Inter-Agency Guidance on Child Sexual Exploitation*”.

2.27 City of Glasgow Licensing Board’s statement of licensing policy 2018 outlines that as part of the consultation process on the draft statement of licensing policy, the Licensing Board met with representatives from Barnardo Scotland, to hear about their campaign to work with businesses in Glasgow, including licensed premises, to help them understand their role in preventing and tackling child sexual abuse. In the finalised licensing statement, the Licensing Board encourages all licence holders and operators of licensed premises to carry out a risk assessment of their premises with regard to child sexual exploitation and use it to inform their written policies and procedures, as well as in staff training and refresher training and the Licensing Board states it will also consider making this a condition of a premises licence where it is considered necessary and appropriate to do so.

### **3. LICENSING BOARDS**

#### **Introduction**

3.1 This Chapter provides information about a range of activities – including publication of reports, training and fee setting – Licensing Boards undertake under the 2005 Act.

3.2 Licensing Boards were created by the Licensing (Scotland) Act 1976. Section 5 of the 2005 Act provides for the continuation of those Licensing Boards. This means that there is a Licensing Board for each local authority area or, where a local authority area has been divided into licensing divisions, a Licensing Board for each division.

3.3 The 2005 Act also allows for a local authority area which was not previously divided into licensing divisions to subsequently make such a determination. The existing Licensing Board is dissolved and a separate Licensing Board created for each of the divisions. In a similar vein any local authority can revoke a previous determination they have made to divide their area into licensing divisions. However, if they decide to do so, there is to be a single Licensing Board for the whole of the local authority area.

3.4 If a local authority decides to make any such determination or revocation they must notify the Scottish Ministers accordingly, no later than 7 days after doing so and must publicise it in a manner the local authority sees fit. For example this may be achieved by making the information available on the local authority's and Licensing Board's websites.

3.5 Licensing Boards are independent regulatory bodies governed by the 2005 Act as amended and associated statutory instruments. Local authorities elect members from amongst their councilors to form a Licensing Board. However, a Licensing Board is a separate legal entity from the local authority within whose area it sits. Licensing Boards are expected to operate in a transparent and fair way whilst being mindful of best practice when fulfilling their statutory duties and are accountable to their local communities.

3.6 Schedule 1 of the 2005 Act sets out procedural matters relating to the membership and other administrative matters for Licensing Boards provided for by section 5 of the 2005 Act. Whilst the Scottish Ministers have a number of powers under the 2005 Act to make subordinate legislation - to in effect put more flesh on the legislative framework set out in this piece of legislation – the 2005 Act is clear that the operation of the licensing system is the responsibility of the Licensing Boards. Licensing Boards have wide discretion to determine appropriate licensing arrangements according to the needs and circumstances of their local communities and their own legal advice.

#### **Duties under the 2005 Act**

3.7 Licensing Boards are required by the 2005 Act to carry out a number of duties some of which are described below.

### *Statement of Licensing Policy*

3.8 The 2005 Act places a duty on Licensing Boards to publish what it refers to as a “statement of licensing policy” for their area for a three year period. This statement should, amongst other matters offer guidance and clarity on the policy on which a Licensing Board will base its decisions in implementing their functions under the 2005 Act. A Licensing Board may choose to publish a supplementary statement of licensing policy during the three year period that the statement of licensing policy applies. When preparing these documents a Licensing Board must consult with various people. Chapter 4 “Statement of Licensing Policy” covers this topic in more depth.

### *Overprovision Assessment*

3.9 The 2005 Act placed a duty on Licensing Boards to make an assessment of overprovision and include a statement regarding this in their statement of licensing policy. This policy provides Licensing Boards with powers to consider the unique circumstances of their area and decide whether, based on local needs, it is appropriate to restrict access to alcohol through limits on new licences, licences of a particular type, or variations of existing licences. Where it is assessed that there is overprovision a rebuttable presumption is created against granting new licences although each case is judged on its own merits and there is always the possibility of exceptions. The Air Weapons and Licensing (Scotland) Act 2015 amended the 2005 Act overprovision assessment provisions. Chapter 5 “The Overprovision Assessment” covers this in more depth.

### *Public Register*

3.10 In addition to the Freedom of Information requirements (see paragraphs 3.21 below) which Licensing Boards have to comply with, the 2005 Act places a duty on Licensing Boards to keep a licensing register containing the following information:

- premises licences, personal licences and occasional licences issued by the Licensing Board,
- the Licensing Board's decisions in relation to applications made to the Licensing Board under the 2005 Act, and
- other decisions of the Licensing Board relating to the licences mentioned in paragraph (a).

3.11 Licensing Boards are also required to make their licensing registers available for public inspection at all reasonable times. For example, the [Dundee City Licensing website](#) provides information on how to view public registers on-line and “in person”. Dundee City Licensing pages.

### *Annual Reports*

3.12 The Air Weapons and Licensing (Scotland) Act 2015 amended the 2005 Act to require Licensing Boards to prepare and publish an annual functions report and an annual financial statement no later than three months after the end of the financial year (31 March). Provision is also made in the 2005 Act which allows a Licensing Board, if they consider it appropriate, to prepare and publish a combined function and financial report and such a report must be published not later than 3 months after the end of the financial year in question.

### *Training of Licensing Board Members*

3.13 The 2005 Act provides that an 'election of Licensing Board members' must be carried out by the local authority at their first meeting after each ordinary election of the local authority. All Licensing Board members must undertake the required training within 3 months of appointment. If the local authority area is divided into licensing divisions, each of the Licensing Boards for those divisions will have an 'election of members.' Each time members are re-elected they must undergo the training again, within three months of their re-election.

3.14 Members must provide evidence of having completed their training to the clerk to the Licensing Board within four months of the member's election or re-election. Until this has been done, the member may not take part in Licensing Board proceedings. If the member fails to undergo training within three months, or to submit evidence within four months, of election or re-election, the member ceases to hold office.

3.15 Consideration should be given by the Licensing Board to co-ordinate accredited training for new and re-elected members along with other persons for which training is relevant, for example, members of the Local Licensing Forum and local Licensing Standards Officers. This could assist with gaining an understanding of each of their respective roles and build good working relations. Consideration could also be given to including information on relevant local issues alongside the training.

3.16 As with Licensing Standards Officer training (see Chapter 7), Licensing Board members training has been reviewed and a revised training specification submitted to and accredited by Scottish Ministers. As part of the training qualification project to refresh the Licensing Board Member training and the Licensing Standards Officer training both specifications were also considered by a steering group who consulted and agreed on the proposed content in particular, the Scottish Qualifications Authority who have had significant involvement in advising on and developing the training specification. The following topics require to be covered under the accredited training:

#### *Introduction to alcohol licensing*

- what the Licensing (Scotland) Act 2005 covers
- reason for the Licensing (Scotland) Act 2005
- responsibility of Licensing Board members to regulate the sale of alcohol, and premises on which alcohol is sold

#### *The 5 licensing objectives*

- what the 5 licensing objectives are
- how alcohol can impact on the 5 licensing objectives

### *The quasi-judicial process*

- role of the Licensing Board in upholding the 5 licensing objectives through policy and decision making
- decision making
- disqualification from the Licensing Board

### *The creation, monitoring and review of appropriate licensing board policy*

- creation of a statement of licensing policy
- relationship with other policies
- duty of the Licensing Board to assess overprovision and make statements of licensing policy
- monitoring of the statement of licensing policy

### *Key role of others*

- role of the Clerk
- role of the applicant and their agent
- constitution and role of the Local Licensing Forum and the Licensing Board's duty in relation to Local Licensing Forums
- constitution and role of the Licensing Standards Officer in relation to the Licensing Board and local authority
- role of the Health Board
- role of the Police
- overview of other statutory bodies involved in the licensing process
- role of the public in licensing

### *Premises and occasional licences*

- what is a premises licence
- role of premises manager
- objections
- licence conditions
- determination of a premises licence application
- review/variation/transfer of a premises licence
- provisional/temporary licence
- occasional licences

### *Personal licences*

- what a personal licence is
- action against personal licence holders

### *Licensed hours*

- what are Licensed hours
- extensions to licensed hours

### *Fees*

3.17 Fees to be charged by Licensing Boards in relation to various matters under the 2005 Act are set out in secondary legislation - The Licensing (Fees) (Scotland) Regulations 2007 as amended – by the Scottish Ministers. These fees cover a range of activities including, amongst others, annual premises licence applications,



annual premises fees, occasional licence applications. The regulations also enable Licensing Boards to set various fees in relation to more routine processes carried out under the 2005 Act.

3.18 The fees regime is intended to reflect the Scottish Government's intention for the system to be self-funding i.e. to cover both direct and indirect costs incurred by Licensing Boards. In other words, the money raised by fees should be broadly equivalent to the expenses incurred by the Licensing Board and the local authority for that area of the Licensing Board, in administering the licensing regime during that period.

#### *Engagement Strategies*

3.19 Licensing Boards should have effective engagement strategies in place to enable them to engage with and seek the views of their local community. In the case of Local Licensing Forums (see Chapter 6) who play a significant role in reviewing the operation of the licensing system in their locality, the 2005 Act requires each Licensing Board to hold, at least once in each calendar year, a joint meeting with the Local Licensing Forum for its area.

#### *Complaints*

3.20 Any complaint about a Licensing Board should be made to the Licensing Board itself in the first instance. If this does not resolve the matter, then a complaint can be made to the relevant local authority. Local authority websites provide information about their own complaints procedure. If after going through the local authority complaints procedure the matter remains unresolved then the final stage for complaints about public organisations is the [Scottish Public Services Ombudsman](#). The Ombudsman's website sets out its complaints procedure.

#### *Freedom of Information (Scotland) Act 2002*

3.21 Licensing Boards are public authorities and as such are subject to the Freedom of Information (Scotland) Act 2002 which requires them to publish information as well as respond to requests. Information is published under the publication scheme duty. All Scottish public authorities have adopted the Scottish Information Commissioner's Model Publication Scheme as the basis for deciding what information they proactively publish. [The Model Publication Scheme \(itspublicknowledge.info\)](#) for Scottish Public Authorities was updated in March 2021.

#### *Public Sector Equality Duty – Equality Act 2010*

3.22 The public sector equality duty in section 149(1) of the Equality Act 2010 requires public authorities (including Licensing Boards) to have due regard, when exercising their functions, to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

3.23 It is supported by the specific duties contained in The Equality Act 2010 (Specific Duties) Scotland Regulations 2012 (SSI 2012 No.162) as amended. The purpose of the Regulations is to place specific duties on some of these authorities (including Licensing Boards) to enable them to better perform their public sector equality duty.

3.24 To support Scottish public authorities in meeting their equality duties, the [Equality and Human rights Commission](#) has produced technical and non-statutory guidance.

## **4. STATEMENTS OF LICENSING POLICY**

### **Introduction**

4.1 This Chapter provides information on the development and preparation of statements of licensing policy (referred to in the 2005 Act as a 'statement of licensing policy'). Each Licensing Board is required by section 6 of the 2005 Act to publish a statement of licensing policy before the beginning of each licensing policy period. Whilst the 2005 Act allows Licensing Boards to delegate certain functions, they cannot delegate responsibility for determining their licensing/supplementary statement of licensing policies.

4.2 The Air Weapons and Licensing (Scotland) Act 2015 amended the 2005 Act in relation to licensing policy periods. A statement of licensing policy will generally have effect from 18 months after a local authority election (which occur, at least, every five years) until 18 months after the next local authority election. For example following local authority elections in May 2017, Licensing Boards had to have agreed and published a statement of licensing policy by November 2018 which will cover the period to November 2023 (assuming local authority elections in May 2022).

4.3 Linking the statement of licensing policies to the local authority elections enables newly appointed Licensing Board members to use the statement of licensing policy inherited from their predecessor Licensing Board during the interim period i.e. up to 18 months post the local authority election. This allows the Licensing Board to take stock following an election, take the views of others into consideration, gather evidence and set policy statements that reflect their views and aspirations whilst being mindful of the need to promote the five licensing objectives and to be consistent with the provisions of the 2005 Act.

4.4 A Licensing Board may also issue supplementary statement of licensing policies which will be with respect to the exercise of their functions during the remainder of that licensing policy period or until it is superseded by another supplementary statement of licensing policy or new statement of licensing policy. For example North Lanarkshire Licensing Board's statement of licensing policy in its preamble section states: "This policy will be applied during the period until 18 months after the next ordinary local government elections; it will be kept under review and revised, if appropriate, by the issue of supplementary statements, during this period".

4.5 The statement of licensing policy must be published before the beginning of the licensing policy period. Once published, Licensing Boards must make copies of a licensing and any supplementary statement of licensing policy for public inspection free of charge and publicise this fact. It is recommended that licensing and supplementary statement of licensing policies are made available on the Licensing Board website and/or the alcohol licensing section of the relevant local authority website.

4.6 The statement of licensing policy is an important part of an assessment of the wider considerations at play within the Licensing Board area and should set out a general approach to the making of licensing decisions, but must not ignore, or be inconsistent with, provisions in the 2005 Act. However, it must also not simply be a

repeat of what is set out in legislation or statutory guidance. It should provide a clear indication to the local community as to the Licensing Board's evidenced based policy and should seek to promote the licensing objectives (see Chapter 2 for more about the licensing objectives) set out in the 2005 Act. It is important that statement of licensing policies should be written in terms that can be easily understood by the local community as consultation with the local community (including Local Licensing Forums), is a key part of providing feedback to Licensing Boards.

### **What should, may and should not be included in a statement of licensing policy**

4.7 The statement of licensing policy should include:

- A clear indication of the Licensing Board's policy on the granting of licensed hours generally, and where different policies may apply in different localities according to local circumstances;
- A statement of their policy on overprovision (see Chapter 5 for more about the overprovision assessment) of licensed premises or particular types of premises and which localities (if appropriate) have (1) been determined to be overprovided for by the Licensing Board, or (2) are approaching overprovision, including the evidence upon which the Licensing Board relied and the material considerations taken into account;
- A note which states that where an application is made for the confirmation of a provisional premises licence (section 46 of the 2005 Act refers), that the Licensing Board may make a variation to the conditions for the purposes of "ensuring consistency with any statement of licensing policy since the licence was issued".
- A general statement on how many Licensing Standards Officers the local authority employs, their role and remit, and how they can be contacted; and
- A statement of the agreed procedures the Licensing Board has developed for handling applications, objections, representations, delegation of functions and review hearings etc. for premises and personal licences.

#### *Licensed hours*

4.8 In relation to licensed hours, the statement of licensing policy should:

- State that licensed hours will be those agreed following the Licensing Board's consideration of the operating plan and any mandatory and local licence conditions applied. Particular attention should be drawn to those premises wishing to open after 1 am since additional mandatory licence conditions will apply (see Chapter 8 for more about Premises Licences). It is important that in developing its policy on licensed hours, the Licensing Board must take account of the views of the Local Licensing Forum so that any policy published has the backing and confidence of the local

community. Further to this, following a review, reducing licensed hours can be one of the sanctions applicable against a licence holder.

- Provide a clear indication of the Licensing Board's policy in relation to licensed hours in general and outline any specific areas of the policy which may differ from that general policy e.g. where different policies may apply in different localities according to local circumstances, if appropriate. Evidence for the policy approach should be included within the statement of licensing policy (this may be in an annex to the statement of licensing policy) in the interests of transparency and openness.
- State that each application will be considered on its individual merits. However, it is important that the Licensing Board is alert to, and the statement of licensing policy recognises, the aggregate effect that a number of licensed premises may have on a community. For example, consideration should be given as to ways in which large numbers of customers leaving premises simultaneously can be appropriately managed. This might be necessary to reduce friction outside establishments, at taxi ranks and other transport sources, which can lead to disorder and disturbance.
- Observe the presumption in section 64 of the 2005 Act against 24 hour opening in Scotland for on and off sales. Licensing Boards are entitled to agree exceptions to that presumption but only if satisfied that there are exceptional circumstances justifying it. Ministers are of the view that Licensing Boards should consider "exceptional circumstances" to cover social events such as one-off local or national festivals.

4.9 A Licensing Board may extend the licensed hours in respect of the premises by such period as is specified in the extended hours application or such other period as the Licensing Board considers appropriate. Irrespective of the time period for the extended hours requested by the applicant or such other period as the Licensing Board considers suitable, the time period for the operation of the extended hours must be a maximum of one month.

4.10 In considering applications relating to licensed hours, Licensing Boards may wish to consider applications for up to 14 hours continuous trading as being reasonable but local circumstances and views of those represented by Local Licensing Forums should always be considered. Any application for licensed hours for more than 14 hours should require further consideration of the effect of granting extra operating hours. It is unlikely that "exceptional circumstances" would be justified in the case of premises where there were routine requests to sell alcohol for 24 hour periods.

4.11 Other considerations that may be included in the statement of licensing policy are:

- A clear indication of how the Licensing Board will take into account other strategies when developing their policy statement, for example,

Community Planning Partnerships, Local Health Improvement Plan, Alcohol & Drug Partnership, local crime prevention.

- Being clear that no statement of policy overrides the right of any person to make representations on an application or to seek a review of a licence where such provision has been made in the 2005 Act.

#### *Relationship with other strategies and regimes*

4.12 The alcohol licensing regime in Scotland does not exist in a vacuum and Licensing Boards should clearly explain how they will take into account other pertinent strategies and regimes when developing their statement of licensing policy. For example, the Western Isles Licensing Board statement of licensing policy comments that “The Board will work and appoint a Board Member to work with the Outer Hebrides Alcohol and Drug Partnership and the Outer Hebrides Community Safety Partnership in the Western Isles; the importance of such co-operation is recognised as part of the wider alcohol agenda”.

#### *Planning*

4.13 A statement of licensing policy should indicate that planning, building control and licensing regimes have separate processes and applications which have to be considered on their merits under the relevant regime. A good practice example is the City of Edinburgh’s statement of licensing policy where at Chapter 2 “Wider Context” it is stated that “in particular, the board’s licensing functions will be discharged separately from the Council’s functions as the local planning authority. The Board recognises that planning and licensing regimes are separate and that the processing of licensing applications should be an exercise distinct from the processing of planning applications. Notwithstanding that, consultations with the Council’s Planning service are carried out on all licensing applications to underpin the common approach referred to below. The Board as the licensing authority will not be bound by decisions made by the Council as the local planning authority. Applicants for licences will be reminded that planning permission may be required for certain uses and that planning consents may carry conditions.”

#### *Transport*

4.14 A statement of licensing policy should describe any arrangements between the police and Licensing Standards Officers for reporting views or concerns to the local authority transport committee (or other bodies with responsibility for transport in their area). The police are best placed to advise on the need to disperse people from town and city centres quickly and safely to avoid high concentrations of people in particular vicinities which may lead to disorder, disturbance and pressures on public transport facilities. The use of taxi contracts, taxi marshals are examples of ways in which large numbers of people can be safely dispersed from pubs and clubs.

#### *Tourism*

4.15 Statement of licensing policies should indicate that arrangements have been put in place for Licensing Board to receive, when appropriate, reports on the local tourist economies for their area to ensure these are reflected in their considerations. A good practice example can be found within Fife’s Licensing Board’s statement of licensing policy which makes reference to and agrees with views expressed by the Fife Tourism Partnership regarding the importance of tourism to Fife and supports

the creation of high quality facilities for tourists and a vibrant night time economy in the larger settlements in Fife. Fife's statement of licensing policy also states that "the Board will seek reports from the tourism agencies on the local tourist economy to ensure that they are reflected in the Board's considerations".

4.16 The statement of licensing policy should not include:

- An intention to introduce (by means of the imposition of licence conditions) a prohibition on the sale of alcohol for consumption off the premises to those over 18 but under 21, whether in relation to some or all premises in the Licensing Board's area. However, this does not prevent a Licensing Board from imposing licence conditions restricting off-sales of alcohol to people under 21 on a case by case basis.

### **Licensing policy and the licensing objectives**

4.17 As discussed above, when preparing a statement of licensing policy or a supplementary statement of licensing policy, a Licensing Board is required by the 2005 Act to ensure that the policy stated in these statements seeks to promote the 5 licensing objectives. The 5 licensing objectives are (covered in more detail in Chapter 2):

- Preventing crime and disorder;
- Securing public safety;
- Preventing public nuisance;
- Protecting and improving public health; and
- Protecting children and young persons from harm.

4.18 Licensing Boards are required to have regard to these 5 objectives when carrying out their functions under the 2005 Act. The 5 objectives carry equal weight and importance. Inconsistency with one or more of the objectives could provide a basis for refusal of an application.

4.19 A policy must also be consistent with the principles of what constitutes a lawful policy in general administrative law terms. Licensing clerks will be familiar with *Calderwood v Renfrewshire Council* (2004) Inner House of the Court of Session.

4.20 The licensing policy must not be inconsistent with the licensing objectives. If the licensing objectives pull in one direction and policy in the opposite, then the objectives rule. If both tend to the same view then policy simply reflects the licensing objectives.

4.21 Where an application comes before a Licensing Board which is contrary to the licensing policy, this does not necessarily mean that the application should be refused. It would be appropriate to refuse the application if it was inconsistent with the licensing objectives. Policy is an expression of how those objectives can be met. Inconsistency with policy can therefore be an important factor in deciding whether there is an inconsistency with the licensing objectives.

4.22 As licensing policy has a substantial role to play in promoting how the licensing objectives might be met, inconsistency with policy may be an indicator that the refusal of the application should follow. Equally, consistency with policy may be an indicator that an application is consistent with the licensing objectives. The licensing policy is entitled to be given considerable weight. It is not merely a guideline. It is for the Licensing Board to determine whether what is proposed is inconsistent with the policy and whether the grant of the application would impact upon the rationale for the policy.

4.23 To assist Licensing Boards in their consideration of whether an application is consistent with their policy and the licensing objectives, Licensing Boards may wish to consider asking applicants to set out in their operating plan how they will address the licensing objectives and also to supply a written statement detailing how they will promote the licensing objectives. A good practice example is Falkirk Licensing Board's statement of licensing policy which says:

- "While not a requirement of the Act, the Board expects applicants for new and provisional Premises Licences and transfers of Premises Licences to accompany their applications with a written statement tailored to their particular premises setting out how they intend to conform to the 5 licensing objectives, paying particular attention to the locality in which the premises are situated and the activities to be carried out. The Board is of the opinion that a written statement demonstrates an active and thoughtful engagement with the licensing objectives".

4.24 Falkirk's statement of licensing policy goes on to say that: "The Board expects that an occasional licence will be operated in such a manner as to be consistent with the five licensing objectives. To that end, the Board requires applicants for occasional licences to submit with their application a written statement explaining how they will promote the five licensing objectives." To help applicants, Falkirk Licensing Board has attached a pro forma to the application form (available on the occasional licence page of Falkirk Council's website) to be completed and the website also indicates that "if applicants need assistance then contact one of the Licensing Standards Officers to make an appointment".

### **Matters to consider when preparing a statement of licensing policy**

4.25 It is good practice when considering a new statement of licensing policy or supplementary statement of licensing policy to evaluate the impact the previous statement of licensing policy or supplementary statement of licensing policy. The output from this evaluation exercise can help inform the development of the new statement of licensing policy or supplementary statement of licensing policy. The development of a new statement of licensing policy also provides a Licensing Board with the opportunity to consider and reflect on any emerging issues and whether this might result in the need to consider a change in policy.

4.26 In the interests of openness and transparency Licensing Boards will wish to consider including some narrative in their statement of licensing policy (perhaps as an annex) to explain the evaluation process and how this fed into the development of a new statement of licensing policy.



4.27 The 2005 Act provides that, at the request of a Licensing Board, the Chief constable, the relevant health board or the relevant local authority must provide to the Licensing Board statistical or other information that it may reasonably require for the purpose of preparing a supplementary/statement of licensing policy. Relevant information from these parties will help develop a solid evidence base on which the Licensing Board can build its licensing policy. Licensing Boards may find it helpful to discuss and agree with these parties, in advance of the information being required, what the most useful categories of information might be and in what format the information should be presented. This should ensure any potential difficulties are highlighted and resolved at an early stage.

4.28 It is important that Licensing Boards consider and evaluate any evidence gathered to ensure there is a reliable and credible basis on which to develop their policy. Local Licensing Forums may be well placed to assist Licensing Boards with this matter. Licensing Boards should give appropriate weight to the views and responses obtained.

4.29 After the initial evidence gathering process, it is good practice for Licensing Boards to publish their draft statement of licensing policy for comment. For example Argyll and Bute Licensing Board carried out a 7 week consultation on a draft statement of licensing policy in early 2020. Argyll and Bute Licensing Board helpfully also provided a list of policy changes between the existing statement of licensing policy and the proposed new draft statement of licensing policy.

4.30 Argyll and Bute Licensing Board also published a “You said, We did” document on the relevant local authority website. This provided information on the number of responses received and an outline of what the responses covered, with issues of particular note being highlighted. The document also advised the consultation feedback was considered by the Licensing Board at its June 2020 meeting and changes were made to the licensing document prior to its finalisation and subsequent publication. In cases where there may be substantial differences between the draft statement of licensing policy consulted on and the final statement of licensing policy which is published, then in the interests of openness and transparency, Licensing Boards may wish to reflect on the need to fully explain the decision making process which resulted in their arriving at the final statement of licensing policy.

4.31 When preparing a licensing or a supplementary statement of licensing policy, a Licensing Board is required by the 2005 Act to consult—

- the Local Licensing Forum for the Board's area,
- if the membership of the Forum is not representative of the interests of all of the persons specified in paragraph 2(6) of schedule 2, such person or persons as appear to the Board to be representative of those interests of which the membership is not representative,
- the relevant health board, and
- such other persons as the Board thinks appropriate.

4.32 In short, a Licensing Board should consult its local community in its widest sense. For example, Aberdeen City Licensing Board's convenor commented in her introduction to her Board's 2018 Statement of licensing policy that:

- "In order to create a policy that stakeholders could feel they had helped shape, the Board recognised that they would have to rewrite the Policy and not simply amend what had gone before. To that end, the Board carried out extensive consultation which included holding a Licensing Conference. The collaborative approach generated some very interesting feedback from the community and public-sector partners, residents and the trade which helped the Board to understand their needs and wishes."

### **Review of the statement of licensing policy**

4.33 In exercising their functions under the 2005 Act, a Licensing Board must have regard to the current statement of licensing policy and any relevant supplementary statement of licensing policy, published by the Licensing Board. Licensing Boards must keep the effectiveness and rationale of the statement of licensing policy under review and make revisions as and when appropriate.

4.34 The Air Weapons and Licensing (Scotland) Act 2015 amended the 2005 Act to place a duty on Licensing Boards to prepare and publish an annual report on the exercise of their functions no later than three months after the end of the financial year (i.e. year ending 31 March). This report should contain a statement explaining how the Board has had regard to the licensing objectives, their statement of licensing policy, and any supplementary statement of licensing policy in the exercise of their functions under the 2005 Act during the financial year.

4.35 Being able to review the statement of licensing policy means that where a decision made by the Licensing Board, inadvertently, has an unintended consequence on the local community, there is a mechanism for the Licensing Board to review this decision. Local Licensing Forums can be of particular assistance to Licensing Boards in terms of providing feedback on how a specific policy is impacting on the local community.

### **Other considerations**

4.36 There are of course many other matters that Licensing Boards can include in their statement, for example, their policy on outdoor seating areas and the suitability of take-away premises for the sale of alcohol for consumption off the premises.

## 5. OVERPROVISION

### Introduction

5.1 This chapter provides information to assist Licensing Boards to make a pro-active assessment of the overprovision of licenced premises in their licensing authority area.

5.2 Licensing Boards have two separate but directly linked responsibilities in relation to overprovision. Each Licensing Board is required to include a statement as to overprovision in its authority area within the Board's statement of licensing policy (section 7 of the 2005 Act refers) and each Board also needs to consider overprovision when determining a premises licence or premises licence variation application (see chapter 8 Premises Licences).

5.3 There have been a number of amendments made to section 7 since its commencement. The Alcohol etc. (Scotland) Act 2010 and the Police and Fire Reform (Scotland) Act 2012 made changes to the to the list of persons a Licensing Board must consult when considering whether there is overprovision (as set out at section 7(1)) in any locality). The "relevant Health Board" was added to the list of consultees and a textual amendment was made to the reference to Chief constable.

5.4 The Air Weapons and Licensing (Scotland) Act 2015 made a number of amendments to section 7. Some were technical whilst others were more substantive. To assist Boards in considering the wider scope of the protecting and improving health licensing objective, section 7 was amended to enable Boards to consider the availability of alcohol across their whole geographic area. Further amendments clarified that increased capacity can be considered separately from an increase in the number of licensed premises in terms of overprovision and that opening hours should also be considered.

5.5 Currently, section 7 of the 2005 Act requires a Licensing Board to include in its statement of licensing policy, a statement as to the extent to which the Board considers there to be an overprovision of (a) licensed premises, or (b) licensed premises of a particular description, in any locality within the Board's area, and in doing so, the Board may determine that the whole of the Board's area is a locality.

5.6 An overprovision assessment must be evidenced base. It is a matter for each Licensing Board to determine what their overprovision policy will be and how the evidence it has ingathered will be interpreted and weighted. When undertaking this work Licensing Boards should be mindful of the five licensing objectives: preventing crime and disorder; securing public safety; preventing public nuisance; protecting and improving public health; and protecting children and young persons from harm. Licensing Boards Licensing Board should ensure the approach to ingathering, weighing and interpreting evidence, and consultation responses is robust, all of the relevant evidence before them is taken into account, and the rationale for regarding/disregarding that evidence in developing Licensing Policy Statements (LPS) is clearly set out.

5.7 It is also important that Licensing Boards consult widely on a draft overprovision assessment and carefully consider the views expressed by consultees prior to finalising an overprovision assessment for the Licensing Board area.

### **Purpose of overprovision**

5.8 The requirement to produce an overprovision assessment, and note this in the statement of licensing policy, is designed to:

- enable Licensing Boards to take account of changes since the publication of their previous statement of licensing policy and any subsequent supplementary statement of licensing policies which may have been issued.
- improve public and trade confidence in the licensing system by setting out clearly the grounds on which overprovision should be determined.
- recognise that halting the growth of licensed premises in localities is not intended to restrict trade but may be required to preserve public order, protect the amenity of local communities and mitigate the adverse health effects of increased alcohol consumption.
- provide potential entrants to the market with a clear signal that they may incur abortive costs if they intend to apply for a licence in a locality which a Licensing Board has declared to have reached overprovision.

### **Which licensed premises are to be included?**

5.9 Section 7 provides that premises which have only an occasional licence are to be left out of the assessment of overprovision. Additionally, section 125 of the 2005 Act provides that section 7 does not apply “in relation to premises which are used wholly or mainly for the purposes of any club of such description as may be prescribed”. Members clubs are a category of club which falls within Regulation 2 of the Licensing (Clubs) Scotland Regulations 2007 (2007/76). All other licensed premises should be included when considering whether there is overprovision of licenced premises generally or licensed premises of a particular description.

5.10 Licensed premises of a particular description may be determined in terms of their style of operation. For example Scottish Borders Licensing Board states in the overprovision section of its statement of licensing policy that:

- “The number of late night hour entertainment premises (after 1am) within Scottish Borders is currently four. The Board is of the view that any increase beyond that number could be overprovision”

### **Determining Localities**

5.11 It is for each Licensing Board to determine the localities within the Licensing Board’s area for the purposes of the 2005 Act. This flexibility allows Licensing Boards to reflect the different circumstances in different geographical areas

throughout the country, for example, a locality in a rural area might be larger than a locality in an urban area. As mentioned above, Licensing Boards can determine that the whole of the Licensing Board's area is a single locality.

5.12 The choice of locality must, however it is done, be rational, capable of justification and be consistent across the Licensing Board area. It is expected that, in the interests of openness and transparency, Licensing Boards set out the reasons for their decision making in arriving at their locality choices (e.g. as part of the consultation on a Licensing Board's draft overprovision assessment) . For example,

- North Ayrshire Licensing Board's statement of licensing policy states: "The Board's Overprovision Policy covers its whole area, although the Board has determined that there are 6 'Localities' in its area (coinciding with the 6 'Localities' used by the North Ayrshire Community Planning Partnership (CPP).

"These areas contain a total of 38 Intermediate Zones ("IZs"). IZs are the areas commonly used to gather a wide range of government statistics."

- West Dunbartonshire's statement of licensing policy states: "In its assessment of overprovision, the West Dunbartonshire Licensing Board has continued its established approach of utilising the Scottish Neighbourhood Statistics intermediate data zone (IDZ) geographies as the localities for this purpose. "The West Dunbartonshire area can be broken up in to 18 distinct IDZ localities."

5.13 City of Glasgow Licensing Board demonstrated best practice in relation to gathering local views when consulting on proposed localities in relation to its overprovision assessment. The Licensing Board indicated, through its website, that it intended to undertake visits to the proposed overprovision localities to speak directly to local residents and owners and staff of licensed premises in these areas to hear views on the impact of higher concentrations of licensed premises and to gauge whether there is support at a local level for including the area as an overprovision locality in the finalised LPS.

### **Matters to be considered in determining if there is overprovision**

5.14 In determining whether or not overprovision exists, section 7 provides for the matters a Licensing Board needs to consider:

- must have regard to the number and capacity of licensed premises in the locality
- must consult
  - the chief constable
  - the relevant health board
  - such persons as appear to the Board to be representative of the interests of (i) holders of premises licences in respect of premises within the locality, (ii) persons resident in the locality, and
  - such other persons as the Board thinks fit.

- may have regard to such other matters as the Board thinks fit including, in particular, the licensed hours of licensed premises in the locality.

### *Number and capacity of licensed premises*

#### Number of licensed premises

5.15 The number of licensed premises impacts on the availability of alcohol and as many Licensing Boards recognise, the type of licensed premises is also of relevance. For example, a large supermarket and a small corner shop will each count as one licensed premises. The amount of alcohol sold by each premise will be different and the potential harms associated with the amount of alcohol sold will also be substantially different. A locality with only licensed restaurants is likely to sell less alcohol than a locality with only vertical drinking establishments. The harms associated with licensed restaurants will be less than the harms associated with vertical drinking establishments.

5.16 As discussed at Chapter 3 the 2005 Act places a duty on Licensing Boards to keep a licensing register and this can be used by Licensing Boards to determine the number of premises licensed for:

- the sale of alcohol for consumption on the premises;
- the sale of alcohol for consumption off the premises; and
- the sale of alcohol both on and off the premises.

#### Capacity of licensed premises

5.17 In the context of the 2005 Act and as set out at section 147, capacity –

- in relation to licensed premises (or any part of such premises) on which alcohol is sold for consumption on the premises (or, as the case may be, that part), the maximum number of customers which can be accommodated in the premises (or, as the case may be, that part) at any one time, and
- in relation to licensed premises (or any part of such premises) on which alcohol is sold for consumption off the premises (or, as the case may be, that part), the amount of space in the premises (or, as the case may be, that part) given over to the display of alcohol for sale.

#### *On-sales*

5.18 Many Licensing Boards comment in their overprovision assessments that they seek input from their local authority Building Standards Officers regarding capacity matters. For calculating the capacity for on-sales, Licensing Boards may wish to have regard to the parts of the Technical Handbook issued in support of the Buildings (Scotland) Regulations 2004 which relate to occupancy capacity and the number of licensed hours the premises is open. The Building Standards pages on the Scottish Government website [Building standards - gov.scot \(www.gov.scot\)](http://www.gov.scot) provides information on buildings regulations and the associated technical guidance.

### *Off-sales*

5.19 For calculating the capacity for off-sales, Licensing Boards should have regard to the Premises License (Scotland) Regulations 2007 (SSI 2007 No. 252) and regulation 5 which makes provision as to the layout plan.

5.20 In its statement of licensing policy, Stirling Licensing Board states:

- “Assessing the capacity of licensed premises is important under the Act. This is, in part, due to the fact that capacity of premises will be taken into account in assessing overprovision.
- “On sales  
The Board considers that it is very important for licence holders to have a sound knowledge of the safe capacity of their premises. Capacity for on sales premises should be presented to the Board in patron numbers. The capacity should be worked out using the formula used by Building Standards, this formula does not take into account the fixtures and fitting of the premises.  
  
“This is particularly so where the premises are large, or where they include entertainment such as live music, dances and discos. The Board expects, in respect of these types of premises, that there should be suitable capacity control measures in place. These may include stewarding, door number clickers or issuing of tickets.
- “Off sales  
Again, the Board considers that it is very important for licence holders to have a sound knowledge of the capacity of their premises. Capacity for off sales premises should be presented to the Board in meters squared”.

### *Consultation*

5.21 As set out at Chapter 4 statements of licensing policy, Licensing Boards are encouraged to consult widely within their respective areas on both their statement of licensing policy and it is equally important for Licensing Boards to consult widely on their overprovision assessment. Licensing Boards may wish to consider carrying out these two consultations simultaneously. For example, Edinburgh Licensing Board published 2 consultations and commented on their web page:

- “The Edinburgh Licensing Board is consulting on the terms of its draft statement of licensing policy, having carried out an informal consultation earlier in the year. As part of this process, the Board is also consulting on its assessment of localities in the Board’s area which show characteristics of overprovision of licensed premises. These two consultations are being carried out in tandem.
- “Details of the individual localities, and the basis upon which they’ve been considered, is set out in the supporting documentation provided with this consultation”.

5.22 Chapter 6 Local Licensing Forums (LLFs) sets out the important role a LLF has to play in the alcohol licensing regime. In terms of other persons a Licensing Board may wish to consult, it is encouraging to note that LLFs and third sector organisations providing treatment services for alcohol harm within their locality, are as a matter of course being invited by many Licensing Boards to offer their views. This is an approach the Scottish Government strongly supports.

5.23 For example in its statement of licensing policy under the heading of “Development of the Pro-Active Assessment of Overprovision”, Glasgow City Licensing Board comment:

- “In particular, the Licensing Board had regard to a report from the Local Licensing Forum with evidence and recommendations as to localities where the Forum considered there to be overprovision of licensed premises or licensed premises of a particular description. A copy of the report approved by the Local Licensing Forum, together with the supporting evidence gathered, is available at:  
<https://www.glasgow.gov.uk/councillorsandcommittees/viewDoc.asp?c=P62AFQDN2U2UDNZ3DN>

5.24 As regards consultation on localities in relation to its overprovision assessment, Inverclyde Licensing Board commented in its statement of licensing policy:

- “As the determination of “localities” is largely a matter for the Board, local knowledge plays a significant part in such determinations. The Board has had extensive consultations with Inverclyde Licensing Forum, who have in turn consulted with Community Councils, premises licence holders, the Inverclyde Alcohol and Drug Partnership, the NHS, Police Scotland, Inverclyde Community Health and Care Partnership and local residents”.

5.25 In preparing their statement of licensing policy and overprovision assessment, Dumfries and Galloway Licensing Boards had 2 periods of consultation which included 2 public meetings and a Working Group was also set up to discuss Overprovision. This Group met several times and comprised of the following members: Scottish Fire and Rescue Service; Police Scotland; Alcohol and Drug Partnership (NHS) and Dumfries and Galloway Council.

#### *Other matters*

5.26 A Licensing Board’s consideration of overprovision need not be confined to only considering numbers and capacity but could take account of other factors too. Licensing Boards have considerable discretion in this area.

5.27 In considering the statutory definition of ‘capacity’, it is accepted that there are other ways of considering in a wider sense what the capacity of a premises is. While the 2005 Act does not permit any alternative definition of capacity to be used, Licensing Boards are encouraged to consider under other matters whether, for example, a relevant factor to be considered alongside capacity of premises would be the ability for stock to be resupplied quickly. In other words, a premises which was able to maintain large stock levels but only had a relatively small area for displaying



stock may then suggest a small capacity while actually they are capable of significant sales volumes.

5.28 Other matters could be such things as inequalities; the proximity of specific types of premises such as facilities for vulnerable adults with problematic alcohol use; mental health services; hospitals; schools/nurseries; sports facilities; gambling facilities. Other considerations could also include concerns regarding people visiting the locality from other areas.

5.29 In particular, inequalities is an important consideration for Licensing Boards in relation to overprovision. There is a stark inequalities gradient to alcohol harm and a growing awareness that the impact of harmful drinking and alcohol dependence is much greater for those experiencing high levels of deprivation. For example, people living in our most deprived communities are over seven times more likely to die or are more than eight times more likely to be admitted to hospital due to alcohol use than those in our least deprived communities (Monitoring and Evaluating Scotland's Alcohol Strategy: Monitoring Report 2019: NHS Health Scotland; 2019). Similarly, areas of high deprivation can have extremely high rates of alcohol-related fires and crime rates, and it can often be individuals other than the drinker who feel the effects of alcohol use, including children, family, friends, colleagues and those working in frontline services such as the Police and Health Service.

5.30 Research examining the association between the density of alcohol outlets and neighbourhood-level income deprivation in Scotland has also found that there are 40% more licensed premises in the most deprived areas of Scotland than in the least deprived (BMC Public Health 2015 Research article "A cross-sectional analysis of the relationship between tobacco and alcohol outlet density and neighbourhood deprivation" N.K. Shortt et al). By taking account of evidence on inequalities, Licensing Boards can meaningfully consider how different communities are impacted differently by alcohol, and use this to formulate their policy.

### **Assessing overprovision**

5.31 There are a number of underlying principles that the Licensing Board should take into account as they approach the development of their statement of overprovision:

- Licensing Boards should use alcohol-harm information (or potential alcohol-harm information) to identify localities and then proceed to consider the number, type and capacity of premises in those areas.
- It is the potential for undesirable consequences which is intended to be addressed through overprovision assessments as a requirement within the 2005 Act. This can be thought of as the cumulative effect of more and more licences being granted in a locality and what this means in respect of the effect on life in that area. It is the cumulative effect rather than the actions of any single operator that is key.
- If a Licensing Board considers there is at least potential for, or a reasonable basis for, concluding that there will be a risk of adverse impact

on the objectives (should more premises licences be granted), it is entitled to come to the view that there is a state of overprovision.

- Consideration should be given as to whether aggregate information and evidence from a number of sources demonstrates a link between the availability of alcohol in an area and alcohol-related harm.
- To demonstrate a “dependable causal link”, the proof of the link must be on a balance of probabilities. What this means in practice is that based on the evidence of harm in a locality, it is more likely than not that alcohol availability is a cause, or that increasing the availability of alcohol in that area will increase that harm.
- There is no simple numerical formula for pinpointing the threshold between provision and overprovision. Determining overprovision involves the application of reason and judgement in the interests of the community.

## **6. LOCAL LICENSING FORUMS**

### **Introduction**

6.1 Local Licensing Forums (“Forums”) have a crucial role at the heart of the licensing system. When operating effectively, Forums can provide Licensing Boards with helpful and community-based feedback which will enhance the local Licensing Board’s awareness of both the beneficial and detrimental impact of their policies in particular on the local community and on local trade.

6.2 Section 10 of the 2005 Act requires every local authority to establish a Forum for their area (or, alternatively, a local authority may establish a Forum for each division if a local authority area is divided into licensing divisions). Schedule 2 of the 2005 Act sets out the membership, administration and other procedural matters relating to Forums established under section 10. Sections 11 and 12 of the 2005 Act, set out the general functions of Forums and certain duties placed on Licensing Boards in respect of Forums respectively.

6.3 Licensing Boards may find it helpful to be aware that local authorities must provide administrative support (including staff, property and services) to Forums to enable Forums to effectively carry out their role.

6.4 Information in this Chapter will be useful to local authorities to help them establish, support and sustain Forums, and as background information for members of the Licensing Board to be aware of. It is not exhaustive and local authorities will wish to adopt their own individual working practices and explore innovative ways in which Forums can carry out their work, so long as they are consistent with the provisions of the 2005 Act.

6.5 The role of Forums is to keep under review the operation of the licensing system in their area along with the functions exercised by the Licensing Board and to give advice and recommendations to the relevant Licensing Board.

6.6 As the Forum for a Licensing Board’s area is a statutory consultee in respect of the formulation of the statement of licensing policy and any supplementary statement of licensing policy, the Licensing Board is encouraged to consider involving their Forum in aspects of the work Licensing Boards have to undertake. This could be in the preparation of their statement of licensing policy, any supplementary policy statement of their policy with respect to the exercise of their functions. The Forum may choose to make suggestions as to the review of policy or procedural matters.

6.7 The Forum may also make a formal written request to the Licensing Board for a review of the statement of licensing policy where there is a material change in circumstances in the Licensing Board area, for example the Forum could identify key licensing issues affecting their local authority area and develop constructive advice on how to address them – this could lead to a review of the statement of licensing policy.

6.8 The Forum could also assist with the Licensing Board's overprovision assessment through gathering evidence, analysis and consultation. Whilst not listed as a statutory consultee for the overprovision assessment, Forums come under the category of "such persons as appear to the Licensing Board to be representative of the interests of persons resident in the locality" and/or "such other persons as the Licensing Board thinks fit" and, as such, would be expected to be consulted on the overprovision assessment.

6.9 Some Forums have reviewed their Licensing Board's Annual Functions Report and Finance Report and this has been welcomed by their Licensing Board.

6.10 The role of the Forum does not include reviewing or offering advice or recommendations in relation to any particular application or case before the Licensing Board.

6.11 In the exercise of its functions, a Licensing Board has a duty to have regard to the Forum's advice or recommendations and must offer reasons to the Forum where it decides not to follow its advice or recommendations. This duty requires ongoing and regular communication between the Licensing Board and the Forum.

6.12 In general, establishing a good and close working relationship between a Licensing Board and a Forum is an important factor that can benefit the operation of a Licensing Board. Practical arrangements in support of this should be agreed between the Licensing Board and the Forum at the earliest opportunity following the Licensing Board's appointment. Such arrangements may differ in different areas, but regular meetings and communications between Licensing Boards and Forums are essential in ensuring effective channels of communication are in place.

6.13 Such arrangements should be reviewed on a regular basis to ensure that they are meeting the needs of both the Licensing Board and the Forum. There is a mandatory requirement for a minimum of one formal meeting between the Licensing Board and the Forum annually, though it would be good practice to meet more often than that to ensure the views of the Forum are fully able to be communicated to the Licensing Board.

### **Management of business**

6.14 Some Forums have found it useful to develop a work plan at the start of each year in which they set out the areas that they want to look at in the year ahead. Developing a work plan like this can give a focus to the discussions at meetings with the local Licensing Board, and provides opportunities to keep members up to date with important areas of interest.

6.15 To facilitate work that the Forum could undertake and to assist in developing a work plan, they should be provided by the Licensing Board with copies of any relevant statistics, information and reports which they may request. Information on the Licensing Board's public register would be helpful as would information available through the Licensing Board's publication scheme as required under FOI legislation.

6.16 Forums can request regular reports from the police, health and Licensing Standards Officers. Also, the chief constable must send a copy of a report annually to the Forum setting out their views on matters relating to policing in connection with the operation of the 2005 Act in the area, which should include any steps taken during the year, and the intentions for the following year, to prevent the sale and supply of alcohol to children and young people in the area. The Forum may also request a police officer to attend a meeting to discuss the report.

### **The effective Local Licensing Forum: independent, expert, trusted**

6.17 An effective Forum should be widely recognised as being both independent and expert. To ensure independence, the Forum must develop an identity that is clearly separate from the Licensing Board or any other interest or group of interests. It must have the capacity to be impartial.

6.18 The 2005 Act requires that a local Licensing Standards Officer (see Chapter 7 of this Guidance) must be a member of the Forum, providing an important link to the operation of the licensing system. The 2005 Act also requires that at least one of the members must be a member nominated by the relevant Health Board<sup>1</sup> for the Licensing Board's area. Licensing Board members may also be invited to attend or to speak to the Forum.

6.19 Forums should ideally comprise a balanced representation of relevant interests and collectively will have knowledge of licensing matters. For example, Falkirk Local Licensing Forum's membership list [Committees & council bodies - Committee ID: 229 | Falkirk Council](#) shows members with a range of relevant interests. A Forum that is dominated in terms of numbers by those who represent a specific viewpoint is unlikely to be impartial. The Forum should be able to identify key licensing issues affecting their area and be able to develop constructive advice on how to address them.

6.20 Forums may wish to consider gaining expertise, opportunities for learning and development in licensing for their members. Such opportunities may include training in licensing law (for example, Personal Licence Holder training, Licensing Board Member training), attendance at Licensing Board meetings, presentations from licensing stakeholders (such as Police Scotland, Licensing Standards Officers, the Health Board), and relevant reading materials.

6.21 As Licensing Board members are required to undergo training, consideration should be given to Licensing Board members and Forum members attending the same training together as this may assist in a shared understanding of the local position, and could assist with discussion of issues relating to the local Licensing Board area.

6.22 Forums may wish to establish links with relevant bodies responsible for developing the local alcohol action plans and strategies to reduce alcohol-related harm as well as organisations representing and supporting the responsible retail of

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<sup>1</sup> If there is more than one Health Board in the area, the one whose area contains the larger, or largest part of the Local Licensing Forum's area will nominate the Health Board representative.

alcohol (for example, Alcohol & Drug Partnerships , Community Planning Partnerships, Health & Social Care Partnerships, Pubwatch/ Shopwatch). Members of relevant bodies might be invited to sit on the Forum. [Local Licensing Forum | Angus Council](#) is an example of a Forum which has a development officer from an alcohol and drugs partnership as a member.

6.23 In producing impartial and effective advice, the Forum will gain the trust of the Licensing Board and others in the local community such as licence holders, relevant agencies and bodies, young people and local residents. In this way, the Forum will be able to fairly reflect the views of the local community and present them to the Licensing Board. The Forum is in a position to be able to support an informed conversation with the local community as to the role licensing and alcohol consumption plays in everyday life which will help to reach solutions through collaboration.

### **An inclusive and diverse approach to involvement**

6.24 The Community Empowerment (Scotland) Act 2015 is relevant to the effective functioning of Local Licensing Forums as it has a specific focus on promoting effective engagement and participation to help communities achieve greater control and influence in the decisions and circumstances that affect their lives. The seven [National Standards for Community Engagement](#) are good-practice principles designed to improve and guide the process of community engagement. They can be used to shape the participation processes of public bodies as well as shape how community organisations can involve wider community interests. The *National Standards* provide helpful information for councils, Licensing Boards and Local Licensing Forums to follow. The seven standards are:

- **Inclusion** – identify and involve the people and organisations that are affected by the focus of the engagement;
- **Support** – identify and overcome any barriers to participation;
- **Planning** – there is a clear purpose for the engagement which is based on a shared understanding of community needs and ambitions;
- **Working together** – work effectively together to achieve the aims of the engagement;
- **Methods** – use methods of engagement that are fit for purpose;
- **Communication** – communicate clearly and regularly with the people, organisations and communities affected by the engagement;
- **Impact** – assess the impact of the engagement and use what has been learned to improve future community engagement.

## Membership

6.25 Members are appointed to the Forum by the local authority. This means that the local authority needs to approve both the structure and the individuals proposed to fill that structure. There should be an inclusive, open and transparent recruitment and appointment process. Membership should be subject to regular review and refresh.

6.26 As discussed above, Schedule 2 of the 2005 Act makes provision for the membership of a Forum. A broad aim is for there to be, so far as possible, a balanced representation of all stakeholders. Forums are to consist of between 5 and 21 members, as may be determined by the relevant council.<sup>2</sup> As already mentioned above, at least one of those members must be a Licensing Standards Officer for the local authority area and at least one of the members must be a person nominated by the relevant Health Board. In appointing the “other” members, the relevant local authority has a duty to seek to ensure that the membership of the Forum is representative of the interests of persons or descriptions of persons who have an interest which is relevant to the Forum’s general functions. Where the membership is not representative, the Licensing Board should make efforts to identify and engage with the persons or bodies concerned. The 2005 Act provides that those persons include –

- holders of premises licences and personal licences (preferably both on-trade and off-trade);
- the chief constable;
- persons having functions relating to health, education or social work;
- young people;
- persons resident within the Local Licensing Forum's area.

6.27 This last category is purposefully very broad, and includes other groups who have an interest, such as persons in the recovery community, and families affected by alcohol use. Other persons will depend on the local community, for example, a Forum has included a representative from the National Union of Students Scotland as there is a significant local population of students. This same Forum met secondary school Modern Studies pupils to hear their views on licensing policy directly. With the licensing objective encompassing young persons, this Forum considered it is important for the development of the policy that the views of young persons are taken into account. This is a good example of considering how the licensing objectives might work for the local area.

6.28 The local authority should strive to keep membership of the Forum under regular review to ensure balance and to optimise engagement. A range of methods

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<sup>2</sup> The relevant council here is the council for whose area the Local Licensing Forum is established, or if the Local Licensing Forum is established for a licensing division, for the area of which the division forms part

to encourage/enhance membership will be needed to suit the different needs of participants:

- many licence holders and representatives of youth organisations and persons having functions relating to health, education or social work can be reached through representative organisations;
- in public agencies care should be taken to target the most appropriate officer, who might not necessarily be the chairperson or chief executive; and
- an innovative approach should be taken to engaging with local communities, for example, via publicity, community councils, housing associations, and other local organisations that are likely to have an interest. Other publicity tools that can be considered include:
  - the local press and any associated public meetings;
  - leaflets to explain the role of the Forum and to give notice of public meetings;
  - leaflets and posters can be placed in shops, gyms, libraries and public buildings to reach the general public;
  - leaflets can be included with letters sent to licence holders, the police and other organisations, individuals and community organisations;
  - a dedicated page on the council's web site, with a prominent link from the home page, and/or the Local Licensing Forum's own web page to give details of the Local Licensing Forum;
  - Relevant social media such as Facebook groups covering a local area and/ or Twitter pages covering a local area.

6.29 It is important to ensure that Forum members share the same core knowledge about licensing in general and the functions of a Forum in particular. The basic information which needs to be covered includes:

- the 2005 Act, in particular the functions laid down in the 2005 Act for Forums;
- secondary legislation made under the 2005 Act; and
- this Guidance.



6.30 Making sure members and potential members understand their role is crucial to the effective operation of the Forum. As previously mentioned, Schedule 2 of the 2005 Act sets out the legislative framework in terms of membership, convener, administrative support, meetings and proceedings.

6.31 For example, the convener must be mindful of time and regulate discussion so as to make sure that meetings get through their agendas. Care needs to be taken that discussions reach clear conclusions and/or stipulate clear actions to be taken, specifying who is responsible for taking matters forward. There should be regular reporting back about steps taken as a result of previous discussions and what the outcome was.

6.32 Forums may choose to prepare a document (constitution or remit) containing relevant information in one place which would assist in this regard. Information may include the above categories covered in schedule 2 of the Act and other matters not specified in the legislation, as deemed appropriate to the circumstances by the members of the Forum, and could include:

- name
- membership eligibility
- membership recruitment
- quorum
- maximum number of years of membership
- office bearers
- convener's duties
- vice convener
- administrative support
- meetings
- conduct of meetings/business
- motions and amendments
- voting; committees/sub-committees
- agendas; minutes
- reversal of previous resolutions
- adjournment of meetings
- Annual General Meeting
- special meetings
- appointment and removal of office bearers
- resignation and dismissal
- non-attendance at meetings
- alterations to the constitution and powers to make or amend rules
- geographical boundary
- contact details
- action/work plans
- annual report
- terms of reference

Click on the following web link to see an example of a constitution drawn up by [Perth and Kinross Local Licensing Forum](#).

6.33 Members should endeavour to take active steps to stay in touch with the constituency of interest that they represent so that they can convey its views to the Forum.

6.34 Establishing, supporting and maintaining an effective Forum is the responsibility of the local authority. Some actions which may assist in this activity include:

- ensuring consistency of representation, including making suitable arrangements if a member is unable to attend;
- encouraging regular attendance and taking appropriate steps when attendance falters (for example, agreeing and implementing a policy for the number of meetings a member can miss before their place on the Forum is made available to others);
- publicising agendas and minutes, perhaps on the website or through social media, and taking steps to encourage people to feed their views to their representatives;
- providing opportunities for members to meet people or groups from the constituencies they represent to discuss matters of interest.

### **Achieving a culture of participation**

6.35 As mentioned above, the *National Standards for Community Engagement* set out good practice principles for community engagement and are important in supporting organisations in putting the 2005 Act into practice, and provide helpful information for local authorities, Licensing Boards and Forums to follow.

6.36 Encouraging people to become involved in a Forum can be a challenge. It is noted that many Licensing Board functions reports describe issues such as Forums not achieving quorum and difficulties attracting new members. It is also noted that the membership of Forums can also sometimes become dominated towards a particular type of stakeholder, and are not always representative of the local community. For example, a recent Licensing Board functions report explains that despite attempts to encourage applications to join the Forum, there is a heavy imbalance toward local authority and health officials, with little engagement from the trade or general public.

6.37 Possible ways to address such challenges could include amending a Forum's constitution and making pro-active efforts to encourage applications. Carefully considering the time when meetings are held is important as a different time for meetings e.g. evening rather than daytime may increase participation. Surveys of members of Forums should be considered to assess whether members feel satisfied that they have had opportunities to participate and, if not, whether they have any suggestions of what could be improved.

6.38 It is accepted that differences of opinion/conflicts may arise and it is helpful for a Forum to consider how such situations might best be managed, particularly where a Forum experiences ongoing difficulties reaching consensus to the extent that it impacts on its ability to function effectively. It may be helpful to develop a procedure for how such situations would be handled if they arose which is agreed in advance by all members. For example the [Aberdeen Local Licensing Forum](#) has a section within its constitution entitled “*Conduct of Meetings*” which includes amongst other matters “*Convenor’s Duties*” and “*Conduct of Forum members*”.

## **Communication**

6.39 Effective communication is essential for the successful operation of the Forum, both in relation to its own internal business and its place in the opinions of the public. The seven standards for effective community engagement set out previously in relation to the *National Standards for Community Engagement* are relevant for Forums. There is a need to systematically identify what communication needs exist, and then draw up an action plan which may include:

- how those communication needs are going to be met;
- who has responsibility for the various actions required;
- what resources are needed and who will supply them.

6.40 It is important that the Forum members debate these matters and come to an agreement, especially as some aspects affect personal privacy.

6.41 Forums may wish to consider the use of video conferencing or teleconference facilities, where available, which may be particularly useful to more rural and remote communities. Account should be taken of any such needs as meetings are arranged and business is managed.

## **Summary**

6.42 An effective Forum has a vital role to play in local licensing arrangements, representing different communities of interest and ensuring that a breadth of views are considered, debated and inputted to Licensing Boards. Those involved in Forums should strive to ensure that a diversity of interests can participate, and be heard in a welcoming and supportive environment.

## 7. Licensing Standards Officers

### Introduction

7.1 This Chapter covers the general functions of Licensing Standards Officers, their roles and responsibilities and the training they are required to undertake.

7.2 The 2005 Act requires local authorities to appoint at least one Licensing Standards Officer in their area. An individual can be a Licensing Standards Officer for more than one local authority area.

7.3 A Licensing Standards Officer is neither an agent nor an employee of the Licensing Boards, however a Licensing Board should be able to rely on Licensing Standards Officers having a good understanding of the needs and aspirations of the local licensed trade. The Licensing Standards Officer should work with the trade and other stakeholders to build respect for the role by the judicious application of their powers. Licensing Standards Officers require to be able to work with persons from every background. Licensing Standards Officers do not need to be legally qualified and must not provide legal advice when offering guidance, information and assistance to interested parties.

7.4 For example a Licensing Standards Officer may be able to explain what the law actually says in relation to a particular matter but should never offer an opinion or interpretation of how the law should be applied.

7.5 The general functions of Licensing Standards Officers for a local authority area are:

- providing information and guidance concerning the operation of the 2005 Act in the area;
- supervising the compliance of the holders of premises licences or occasional licences in respect of premises in the area with the conditions of their licences and other requirements of the 2005 Act (Includes powers to issue notices to licence holders; and in relation to premises licences to make licence review applications);
- providing information to Licensing Boards about any conduct of holders of, or persons applying for, personal licences in the area, which is inconsistent with the licensing objectives; and
- providing mediation services for the purpose of avoiding or resolving disputes or disagreements between
  - (i) the holders of premises licences or occasional licences; and
  - (ii) any other persons,

concerning any matter relating to compliance with the 2005 Act as referred to in this paragraph.

7.6 Licensing Standards Officers are accountable for their actions to their local authority (as employers), and are there to serve the interests of every stakeholder interested in the operation of licensing in the Licensing Standards Officer's area. Licensing Standards Officers can be contacted by email. Contact details can be found on the licensing pages of the relevant local authority website.

### **Information and guidance**

7.7 Licensing Standards Officers often tend to be the first point of contact for most matters relating to alcohol licensing. Licensees will make requests about applications and the general working of the legislation and local policies. The public will require information to enable them to make representations, to object or complain within the terms of the legislation. Local Licensing Forums and other interested parties may also require information and guidance from Licensing Standards Officers.

7.8 Licensing Standards Officers must not give legal advice or make applications, objections or representations on behalf of any party. However, Licensing Standards Officers are usually willing to engage with anyone who wishes to object to an application in order to discuss the type of material that can be presented to the Licensing Board.

7.9 At least one Licensing Standards Officer for an area must also be a member of the Local Licensing Forum. Licensing Boards will be aware that Licensing Standards Officers may consider forming links with other groups such as Alcohol & Drug Partnerships and trade/regulatory partnerships.

### **Compliance**

7.10 Licensing Standards Officers will require to ensure that licensees carry out their business in a manner which complies with the conditions of their licences and other requirements of the 2005 Act, such as the five licensing objectives. The legislation contains wide ranging powers to enable Licensing Standards Officers to supervise compliance.

7.11 Where a Licensing Standards Officer believes a premises licence or an occasional licence is not being operated in an appropriate manner, the Licensing Standards Officer should discuss any concerns with the licence holder directly and give them an opportunity to address these concerns, working with them as necessary, to achieve the required improvements.

7.12 Should the required improvements not be made then the 2005 Act provides that the Licensing Standards Officer can issue a written warning to the licence holder setting out the improvements which require to be made. In the case of a premises licence holder, should these improvements still not be made then the Licensing Standards Officer can make a referral to the Licensing Board for a review of the premises licence.

7.13 Licensing Standards Officers have the power to enter licensed premises at any time to carry out an inspection of the premises and of any substances, articles or documents found there as the Officer thinks necessary, to determine whether the activities being carried on there are in accordance with the licence and any other requirements of the 2005 Act. They also have the power to take copies of, or of an entry in, any document found on the premises and seize and remove any substances, articles or documents found on the premises. If a document is stored in electronic form and is accessible from the premises, the Licensing Standards Officer has the power to require such a document to be produced in a form which is legible and in which it can be removed from the premises.

7.14 If any substance, article or document is seized, the Licensing Standards Officer must leave a notice on the premises stating what has been seized and why. They do not have the power to force entry to premises. Licensing Standards Officers have the power to require production of certain documentation, as the Officer thinks necessary, relating to the legislation, regulations and policies, for example, training registers, the operating plan etc. However, they do not have the power to require a person to produce any document if the person would be entitled to refuse to produce that document in any court proceedings on the grounds of confidentiality of communications. In addition, Licensing Standards Officers cannot require a person to produce any document if to do so would result in self-incrimination or incrimination of that person's spouse or civil partner.

7.15 A Licensing Standards Officer's role in no way impinges on the role of the police who are the responsible enforcing authority for criminal matters. However, Licensing Standard Officers do work with the police (and other relevant officials such as Environmental Health Officers) in ensuring the licensing objectives are adhered to and solutions are found to problems involving licensed premises.

### **Information to Licensing Boards: Personal Licences**

7.16 The Air Weapons and Licensing (Scotland) Act 2015 amended the 2005 Act with regard to the role of a Licensing Standards Officer in relation to a personal licence application and a current personal licence. Where a Licensing Board receives a personal licence application, the Licensing Board must give notification (including sending a copy of the application) to a Licensing Standards Officer for the Licensing Board's area. Within 21 days of the date of receiving this notification, a Licensing Standards Officer may provide any information to the Licensing Board in relation to the applicant that the Licensing Standards Officer considers may be relevant to the consideration of the application by the Licensing Board.

7.17 As regards existing personal licences, the 2005 Act as amended provides Licensing Standards Officers with a specific power to report conduct of a personal licence holder, who is or was working in licensed premises in their area, which is inconsistent with the licensing objectives, to the relevant Licensing Board. Where a Licensing Board receives such a report it may hold a hearing, but is under no obligation to do so.

## **Mediation**

7.18 Licensing Boards should be aware that Licensing Standards Officers utilise mediation and problem solving skills. They may be required to address issues or complaints such as a neighbour complaining regarding noise problems caused by a licensee, or a representative of the licensee, undertaking the late night deposit of bottles in bottle banks. In this example, a Licensing Standards Officer may be able to persuade the licensee to carry out this task at a more reasonable hour to resolve the issue.

## **Reporting to Licensing Boards**

7.19 In relation to particular cases, Licensing Standards Officers may be required to submit reports, objections or representations on various matters to Licensing Boards. Where appropriate, they may also be required to submit applications for review of premises licences.

7.20 Where a Licensing Standards Officer believes that one or more of the conditions relating to a premises licence or occasional licence has been breached, then the Licensing Standards Officer can take the steps outlined at paragraphs 7.11 and 7.12 above. Licensing Standards Officers also have the power to make an application for review of a premises licence on any other competent ground for review.

7.21 Licensing Boards must notify the appropriate Licensing Standards Officers of their intention to hold a review hearing in respect of a premises licence and provide the Licensing Standards Officer with a copy of the premises licence review proposal or application (unless it was s/he that submitted that particular review application). The Licensing Standards Officer receiving any such notification and information must prepare and submit a report on the proposal or application to the Licensing Board before the review hearing. The Licensing Board must take the report into account at the hearing.

7.22 Licensing Boards should be able to expect that Licensing Standards Officers will endeavour to ensure that sufficient information is placed before the Licensing Board to allow them to make a finding. Sources of information could include documentary evidence or witnesses to the matter requiring enforcement action.

## **Training**

7.23 Licensing Boards should be aware that each Licensing Standards Officer must undertake a course of training accredited by the Scottish Ministers within 18 months of being appointed to their role. It is essential that Licensing Standards Officers also receive ongoing training and are permitted to take part in relevant Continuous Personal Development opportunities (e.g. development of basic mediation skills - see below).

7.24 As with Licensing Board members training (see Chapter 3), Licensing Standards Officers (LSO) training has been reviewed and a revised training specification submitted to and accredited by Scottish Ministers.

7.25 The following topics require to be covered under the accredited LSO training albeit Section 1 introduction will not be assessed:

- Section 1 Introduction  
The reason for and the importance of the Licensing (Scotland) Act 2005  
Background to the LSO role creation and its aims
- Section 2 Legislation  
Overview of the licensing function  
Role and remit of the LSO  
Key role of others  
Licensing and operating conditions  
Protecting children and young persons from harm  
Control of order  
Miscellaneous and General  
Training
- Section 3 Associated Law
- Section 4 Responsible operation of licensed premises  
Environment  
Responsibility to staff and customers  
Community links
- Section 5 People skills and conflict management  
Basic mediation

### **National Licensing Standards Officers' Group**

7.26 Licensing Boards should be aware of the existence of the National Licensing Standards Officers Group which engages with Licensing Standards Officers across the country to share issues and best practice, and liaises with other agencies to encourage partnership working. The Group can be contacted through [Paul Fair](#) who is the current Chair of the National Licensing Standards Officers Group. Paul is an LSO with Clackmannanshire Council.



## **8. Premises Licence**

### **Introduction**

8.1 This chapter provides information on premises (including provisional and temporary) licences. Part 3 of and schedule 3 to the 2005 Act sets out the legislative framework which underpins premises licences. A number of amendments have been made to Part 3 and Schedule 3 of the 2005 Act and these are covered throughout this chapter.

8.2 The locality within which a premises is (mainly) situated will determine which Licensing Board (“the Board”) will be considered to be the “appropriate Board” – i.e. the Board which will carry out licensing functions in relation to the premises licence. Should the situation arise whereby the premises is located equally between two or more Board areas then the applicant may choose to which Board an application is made. In these, likely rare, circumstances it will be important for the relevant Boards and Licensing Standards Officer to maintain close contact with regard to the licensing of these premises.

### **Meaning of premises licence**

8.3 In the context of the 2005 Act, “premises licence”, in relation to any premises, means a licence issued by a Board under section 26(1) (issue of licence and summary) or 47(2) (temporary licence) authorising the sale of alcohol on the premises.

### **Premises Manager**

8.4 The 2005 Act provides that anyone wishing to sell alcohol on any premises, subject to the exceptions set out in the legislation, must hold a premises licence which requires to contain the name of the premises manager. The premises manager is the person responsible for running that premises. A person can only be the designated premises manager for one licensed premises.

8.5 In terms of the mandatory premises licence conditions set out at Schedule 3 to the 2005 Act, a premises manager is also required to hold a personal licence (see chapter 10 for more information on personal licences). A personal licence also requires the persons to hold a licensing qualification accredited by the Scottish Ministers. It is important that a premises manager has undertaken the appropriate training in terms of the applicable law and how to deal with customers.

8.6 In recognition of the important role carried out by a premises manager in the operation of a licenced premise, section 54 of the 2005 Act deals with circumstances where the premises manager ceases to work at the premises, becomes incapable of acting or dies or where the personal licence held by the premises manager is revoked or suspended.

8.7 The legislation provides for a “period of grace” to allow the premises to continue operating despite not having a premises manager and pending the appointment of a new premises manager. In the situations described above the 2005

Act requires the premises licence holder to inform the Licensing Board of the circumstances within 7 days. Should the notification be made within the 7 day period and an application to substitute a new premises manager is made within 6 weeks of the loss of the premises manager, then the fact that the premises are, in the meantime, operating without a premises manager will be overlooked. If no such application is received by a Board within the required timeframe, it must vary the premises licence to reflect that there is no longer any premises manager named on it. The effect of this would require the premises to stop operating as it has no premises manager.

#### *Variation to substitute new premises manager*

8.8 As discussed above, licensed premises cannot operate without a premises manager being in post. Where there is a change of premises manager, before the new premises manager can act as such, his or her name needs to be added to the licence. The 2005 Act allows for the proposed new premises manager to take up post pending the granting of an application to vary the premises licence so as to add the new premises manager's name to it. This helps to ensure that changes of premises manager can take effect quickly so as to enable businesses to continue to operate with the minimum disruption.

### **Premises licence applications**

#### *Application and notification of application*

8.9 Under the 2005 Act, any person, which includes corporate (e.g. public limited companies) unincorporated bodies (e.g. a partnership) and statutory bodies (organisations created by an Act of Parliament) as well as individuals, can apply for a premises licence. However, any individual who wants to submit an application must be 18 or over.

8.10 Each premises licence application should be tailored to the type of premises in question by reference to a compulsory draft operating plan and layout plan. The Criminal Justice and Licensing (Scotland) Act 2010 amended the 2005 Act such that after 30 March 2018 an individual applying for a premises/provisional premises licence, for the sale of alcohol for consumption either on or off the premises, also requires to provide a Disabled Access and Facilities Statement (DAFS), along with their application.

8.11 The DAFS must contain information about disabled access to the premises and the facilities and any other provision available to aid the use of the premises by disabled people. The form of the statement is set out in regulations (The Premises Licence (Scotland) Amendment Regulations 2018 SSI 2018 No. 49). Whilst the DAFS does not form part of the licence granted, a Board is unable to progress a licence application until this document is received.

8.12 The purpose of submitting an operating plan and a lay-out plan is to provide a Board and the local community with a clear indication, at the time of the application, of what activities will be undertaken on the premises. The 2005 Act also makes provision for applications to be accompanied by certain certificates evidencing compliance with planning, building control and food hygiene legislation in relation to the premises for which a licence application is being made.

8.13 Licensing Boards publish Statements of Licensing Policy (see Chapter 4) and licence applicants may find it beneficial to review their Board's statement as the statement should, amongst other matters offer guidance and clarity on the policy on which a Licensing Board will base its decisions in implementing their functions – in this instance considering a premises licence application - under the 2005 Act.

8.14 For example, under the promotion of the licensing objections section of its statement of licensing policy, Falkirk Licensing Board comments:

- “While not a requirement of the Act, the Board expects applicants for new and provisional Premises Licences and transfers of Premises Licences to accompany their applications with a written statement tailored to their particular premises setting out how they intend to conform to the 5 licensing objectives, paying particular attention to the locality in which the premises are situated and the activities to be carried out. The Board is of the opinion that a written statement demonstrates an active and thoughtful engagement with the licensing objectives.

8.15 The 2005 Act sets out a number of specific requirements as to the content of the operating plans, including, amongst other matters, the proposed opening hours, a statement as to whether alcohol is being sold for consumption on the premises or off the premises or both. Additionally, the legislation also provides for the form and (further detail on the) content of the operating plans to be set out in regulations - The Premises Licence (Scotland) Regulations 2007 (SSI 2007 No. 452). This instrument prescribes the form and content of the premises licence, the summary premises licence, the application form for a premises and provisional premises licence, the layout plan and operating plan.

8.16 Prior to considering a premises licence application, a Board is required by the 2005 Act to notify certain parties of all applications it receives. The Criminal Justice and Licensing (Scotland) Act 2010 made a number of amendments to the 2005 Act notification provisions. Health Boards within a Licensing Board's area are now amongst the list of parties to be notified of all premises licence applications. Boards are only required to send a copy of the premises licence application along with the notification to the Chief constable.

8.17 Notifying the Chief constable is an important information gathering process for a Board as this procedure is intended to ensure that checks are made for the existence or otherwise of any convictions for relevant or foreign offences that any applicant or those connected with the applicant may have. The legislation sets out timescales by which the Chief constable is required to respond.

#### *Relevant and Foreign Offences*

8.18 Section 129 (relevant and foreign offences) of the 2005 Act provides the Scottish Ministers with a power to prescribe by regulations what offences are to count as a “relevant offence”. The Licensing (Relevant Offences) (Scotland) Regulations 2007 (SSI 2007/513) specify those offences which are to be relevant offences for the purposes of the 2005 Act (regulation 2 and the Schedule).

8.19 The Schedule specifies a range of offences which cover violent and sexual offences, other statutory offences (e.g. relating to the misuse of drugs, betting and gambling offences, driving offences amongst others) and other common law offences (e.g. conspiracy to defraud, breach of the peace amongst others). Convictions for a “relevant offence” may result in refusal by a Board to grant a licence or the review of a licence.

8.20 This section also allows the persistent commission of a lower level offence - which would not by itself be sufficiently serious - to amount to a “relevant offence”. The Criminal Justice and Licensing (Scotland) Act 2010 amended section 129 by inserting two new sub-sections. The purpose of these insertions being that where a person has been found guilty of an offence and a probation order or order for absolute discharge has been imposed, the person is treated as having been convicted for the purposes of these provisions of the 2005 Act.

8.21 “Foreign offences” are offences under the laws of countries other than Scotland which correspond to relevant offences. Section 147(2) sets out who is a “connected person” in relation to a company, partnership or club. This ensures that checks are carried out on the persons in control of these bodies as well as the bodies themselves.

8.22 Section 130 (Effect of appeal against conviction for relevant or foreign offence) of the 2005 Act provides that the duties placed on Boards under the 2005 Act relating to relevant and foreign offences may still be carried out if the conviction is subject to appeal but the Board has discretion to postpone any action it has decided to take. It also provides that the Board’s actions will have no effect if the conviction is overturned on appeal.

#### *Objections and representations*

8.23 The 2005 Act provides that any person (whether an individual or a corporate body or unincorporated body) may object or make representations in relation to a premises licence application provided the Board does not consider that the objections or representations are frivolous or vexatious in nature. Argyll and Bute Licensing Board provide an example of what they consider would be a vexatious objection or representation on the Council’s alcohol licensing pages:

- “A theatre has established in an area close to residential housing. Certain performances at the theatre are considered to be particularly noisy by the neighbouring residents. The neighbours consider this to be a nuisance. They may, or may not have complained previously to the theatre owner. They may or may not have complained previously to the Council Environmental Health Department.
- “The owner of the theatre then applies for a licence to establish a theatre bar and sell alcohol. The neighbours notice that there happens to be an ongoing “licence application and decide to make objections/representations relating to the licensing objective of preventing public nuisance. This is designed to place pressure on the theatre owner to reduce noise. In this scenario where the noise constitutes a statutory

nuisance then the appropriate enforcement agency would be the Argyll and Bute Council's Environmental Health Department.

- “The licensing system should not be used as a convenient means of placing pressure on the applicant. The neighbours would no doubt find it difficult to establish a link between the noise and the proposed sale of alcohol. The Argyll and Bute Licensing Board would be entitled to consider the premises suitable for the sale of alcohol and leave enforcement in respect of noise problems to environmental health”.

8.24 The Criminal Justice and Licensing (Scotland) Act 2010 made a number of amendments to the objections and representation provisions within the 2005 Act. A new provision was inserted which means that an objection or representation concerning a premises licence application may include any information that the person submitting the objection or representation considers relevant to consideration of any of the grounds for refusal (set out at section 23(5) of the 2005 Act), including information in relation to the applicant, a connected person in relation to the applicant, or any person who would be an interested party in relation to the premises if the application were to be granted.

*Connected persons and interested parties*

8.25 As discussed above the Criminal Justice and Licensing (Scotland) Act 2010 inserted a new section (section 40A) relating to connected persons and interested parties into the 2005 Act. The policy rationale for inserting this new provision, as outlined during the parliamentary passage of what was then the Criminal Justice and Licensing (Scotland) Bill, was to tackle a concern that was highlighted to the Scottish Government by the police. Namely that there was a tier of people and organisations responsible for the operation of licensed premises who cannot be held to account for the operation of licensed premises.

8.26 The premises licence might be held by the property owner, but a tenant might be in control of operating the business on the premises. Alternatively, a management company with no property rights over the premises might be employed by the property owner to exercise management control over the business that is carried on in the premises. Prior to the insertion of section 40A, the police were unable to make representations to licensing boards on the conduct of those groups or to take action against them if offences take place on the premises. There was also no requirement on the part of the licence holder to notify the licensing board of the existence of those groups.

8.27 The new section 40A ensured that:

- the licence holder must notify the existence of those “interested parties” to the licensing board, thus enabling the board to consider the conduct of those parties in determining licence applications or considering whether to review an existing licence.
- that any changes in the details of “connected persons” are notified to licensing boards who will forward the information to the chief constable.

8.28 As a result, the licensing board and the police are kept informed of the details of, for example, the partners of firms and the directors of companies that hold premises licences, which will enable a premises licence to be reviewed if the police or the board have concerns about the conduct of the partners or directors of licence-holding partnerships or companies.

8.29 The Air Weapons and Licensing (Scotland) Act 2015 subsequently amended section 40A to remove the references to interested parties and the requirement to notify changes of interested parties. This was done in response to concerns that had been raised by stakeholders about the practicality of the term interested parties. The licence holder now only requires to provide notification in respect of connected persons.

#### *Anti-social behaviour reports*

8.30 It is no longer necessary for the chief constable to provide an anti-social behaviour report in respect of every application. Instead, a report will only be required if the Licensing Board requests one (which they may do following public objections or representations concerning a premises) or if the Chief constable chooses to provide one.

8.31 It became clear during the implementation of the 2005 Act, that the 2005 Act procedure was unnecessarily onerous and bureaucratic. Using regulatory powers, Scottish Ministers made transitional modifications that reduced the requirement for the Chief constable to provide a report on antisocial behaviour and the Criminal Justice and Licensing (Scotland) Act 2010 amended the 2005 Act to established a similar situation after transition. This ensured unnecessary costs are not entailed for the production of reports which are not required.

8.32 The anti-social behaviour report should detail all cases of anti-social behaviour identified, by the police, as having taken place on, or in the vicinity of the premises within one year of the date of the request as well as all complaints or other representations made to the police concerning anti-social behaviour on, or in the vicinity of the premises within one year of the date of the request. The Chief constable is required to provide the report within 21 days of receipt of the request.

8.33 If a Licensing Board requests an anti-social behaviour report from the Chief constable then it must suspend consideration of the licence application until it receives the report. On receipt of the report, the Licensing Board must provide the applicant with a copy of the report and then resume consideration of the application and determine it in accordance with section 23 of the 2005 Act.

8.34 On receipt of a notice of objection or representations in relation to a premises licence application, unless the Board considers them to be frivolous or vexatious, it is required to send a copy to the applicant and to consider the information contained therein when determining the licence application.

8.35 It is pleasing to see that many Licensing Boards provide helpful information (on the licensing pages of their respective local authority websites) for those who wish to object to a premises licence application or make representations in favour or against the license application. For example City of Glasgow Council has a page

(Alcohol Licences) on its website which signposts people to a range of information about the alcohol licensing system. One such link is to a page entitled “I’d like guidance on making an objection or representations” where information on the following can be found:

- when can I make an objection?
- what information should an objection or representation against an application contain?
- what information should a representation in support of an application contain?
- what is the deadline for submitting an objection or representation?
- how do I submit my objection or a representation?
- what happens if I submit an objection or representation?

#### *Determination of premises licence application*

8.36 Section 23 of the 2005 Act sets out the procedures a Licensing Board must follow when determining a premises licence application. The Criminal Justice and Licensing (Scotland) Act 2010, the Police and Fire Reform (Scotland) Act 2012 and the Air Weapons and Licensing (Scotland) Act 2015 (“the 2015 Act”) have all amended this section.

8.37 Section 23(5) lists the grounds for refusal of a premises licence application. The key amendment (and majority of changes) to this provision since the 2005 Act was implemented, relate to the insertion of a new ground for refusal for a premises licence application by the 2015 Act. When a Licensing Board is determining an application and the Board considers that having regard to the licensing objectives, the applicant is not a fit and proper person to be a holder of a premises licence, then this is a ground for refusal. Where the Board refuses a licence on the fit and proper person ground, or where granting a licence would be inconsistent with one or more of the licensing objectives, the Board must state the licensing objective that the ground relates to.

8.38 In relation to the determination of a premises licence applications, the 2015 Act amends section 23 to clarify that any conviction notice supplied by the chief constable and any antisocial behaviour report by the chief constable supplied to the Board, is relevant to the specific consideration of the new fit and proper test as well as to consideration of the existing ground for refusal that the granting of the application would be inconsistent with one or more of the licensing objectives.

#### *Fit and proper person test*

8.39 The 2005 Act as implemented did not contain a “fit and proper person test” but rather focussed on the use of relevant offences and foreign offences to assess the suitability of new applicants and existing licence holders, as well as providing the ability for people to object based on matters connected to the licensing objectives.

8.40 Subsequent to the implementation of the 2005 Act, a range of stakeholders expressed the view that limiting consideration to relevant offences was unduly constraining to Licensing Boards who may have no choice but to grant licences to applicants that they consider to be a risk to the public.

8.41 This 2015 Act amendment provides greater scope to present information to Boards, and also provides Boards with greater powers to tackle crime, particularly serious organised crime, by allowing the consideration of a wider range of information including police intelligence and any associations with those deemed to be unsuitable.

*Applicant's duty to notify Licensing Board of convictions*

8.42 The 2005 Act places a duty on anyone applying for a premises licence to notify, no later than one month after the date of the conviction, the Licensing Board of any convictions obtained whilst their application is pending. A person who, without reasonable excuse, fails to do so commits an offence. A person found guilty of such an offence is liable on summary conviction to a fine not exceeding level 2 (£500) on the standard scale.

8.43 The Licensing Board is required to suspend consideration of the application and give notice of the conviction to the Chief constable.

8.44 Within 21 days of the receipt of a notice from a Licensing Board the Chief constable must respond to the Licensing Board either with:

- (a) a notice stating that the Chief constable is unable to confirm the existence of the conviction or that the conviction does not relate to a relevant or foreign offence, or
- (b) a notice confirming the existence of the conviction and that it relates to a relevant or foreign offence.

If the Chief constable proposes to give a notice under subsection (b) above and considers that having regard to the conviction specified in the notice it is necessary for any of the licensing objectives that the application be refused then the Chief constable may include a recommendation to that effect.

8.45 On receipt of this notice from the Chief constable, the Licensing Board must resume their consideration of the licence application and determine it in line with section 23 of the 2005 Act.

*Further application after refusal of premises licence application*

8.46 Under the 2005 Act, where a Licensing Board has refused an application for a premises licence, a subsequent licence in respect of the same premises cannot be made within a year of that refusal. However the 2005 Act permits Licensing Boards, at the time of the initial refusal, to dispense with the one year limit, or where the limit has not been dispensed with, nonetheless to consider granting a re-application within the one year period where there has been a material change of circumstances.

*Issue of licence and summary*

8.47 Section 26(1) of the 2005 Act requires Licensing Boards, where they grant an application for a premises licence, to issue the applicant with a licence and a summary of the licence. Section 26(2) sets out the minimum information which must be contained in the licence (including: the name and address of (i) the holder of the licence, and (ii) the premises manager in respect of the premises to which the licence relates, and the date on which the licence takes effect). The Premises



Licence (Scotland) Regulations 2007 (SSI 2007 No. 452) as amended prescribe the form and content of the premises licence, the summary premises licence and the Disabled Access and Facilities Statement.

*Notification of change of name or address*

8.48 Section 48 of the 2005 Act makes provision for the notification of certain changes to be made to the Licensing Board by the premises licence holder. The Criminal Justice and Licensing (Scotland) Act 2010, the Police and Fire Reform (Scotland) Act 2012 and the Air Weapons and Licensing (Scotland) Act 2015 have made some textual changes to section 48 as enacted.

8.49 Section 48 places a duty on the holder of a premises licence to notify the relevant Licensing Board of any change in:

- the licence holders name and address,
- the name and address of the premises manager specified in the licence, or
- the name or address of any person who is a connected person in relation to the licence holder.

The premises licence holder must notify any such changes no later than one month after the change has happened. A notification of change must be accompanied by the premises licence unless that is impracticable, in which case a statement of reasons for non-production of the premises licence must be provided.

8.50 This notification process is meant to cover only actual name changes i.e. for example, where the licence holder is a company and changes its name, or the premises manager is a woman who changes her name on marriage. A change in the identity of the premises licence holder is provided for in the provisions on transfer of premises licences. If there is a new premises manager, this must be provided for by seeking a variation of the licence so as to add the new premises manager's name.

8.51 A premises licence holder who fails, without reasonable excuse to notify a Licensing Board commits an offence. A person guilty of such an offence is liable on summary conviction to a fine not exceeding level 2 on the standard scale (£500).

8.52 On receipt of a notification of change of name or address, a Licensing Board must give a copy of the notice to the chief constable.

*Licensing Board's duty to update premises licence*

8.53 The aim of section 49 of the 2005 Act is to ensure that the information contained in a premises licence is kept up to date. A Licensing Board is required to make appropriate changes to the information in a premises licence when it receives the notices of change of name or address and when it varies, transfers, confirms or reviews a premises licence. If necessary a Licensing Board is required to issue a new summary of the licence.

8.54 Following amendments made by the Criminal Justice and Licensing (Scotland) Act 2010 and the Police and Fire Reform Act 2012, where a Licensing Board issues a new summary of the licence then it must send a copy to the chief constable. Where the Licensing Board is not in possession of a premises licence and:

- the licence has ceased to have effect under any provision in the 2005 Act, or
- the Board requires the licence for the purposes of making the changes described above.
- the Licensing Board may require the licence holder to produce the licence to it within 14 days from the date on which the requirement is notified.

8.55 A licence holder who fails, without reasonable excuse, to produce the licence to the Licensing Board within the required timeframe commits an offence. A person found guilty of such an offence is liable, on summary conviction, to a fine not exceeding level 2 on the standard scale (£500).

### **Conditions of premises licences**

#### *Mandatory conditions*

8.56 All premises licences are subject to mandatory conditions set out in schedule 3 of the 2005 Act, unless schedule 3 provides otherwise. The application of these mandatory conditions is intended to ensure national consistency on those matters specified in schedule 3. The national mandatory licence conditions for premises licences issued under the 2005 Act on enactment related to the following areas:

- compliance with the operating plan;
- the premises manager;
- authorisation of sales of alcohol
- training of staff
- pricing of alcohol
- irresponsible drinks promotions
- provision of non-alcoholic drinks
- payment of annual or recurring fees

8.57 A number of amendments have been made to schedule 3 as it was enacted by subordinate and primary legislation. These are briefly set out below.

#### *Licensing (Mandatory Conditions) (Scotland) Regulations 2007 (SSI. 2007/457)*

- added two new mandatory conditions to schedule 3 relating to notices on the admission of under-18s and the provision of baby changing facilities.

#### *Licensing (Mandatory Conditions No. 2) (Scotland) Regulations 2007 (SSI. 2007/546)*

- amended schedule 3 in two instances: imposed a training requirement ( in relation to the keeping of training records); and imposed restrictions on the areas within premises in which alcohol for consumption off the premises may be displayed.

#### *Licensing (Mandatory Conditions) (Scotland) Regulations 2009 (SSI. 2009/270)*

- amended the mandatory condition which restricts the display of alcohol for consumption off the premises by exempting from these restrictions visitor

attractions that mainly provided information about and promoted the history and attributes of a particular alcoholic drink,

*Alcohol etc (Scotland) Act 2010*

- made a number of amendments to the mandatory condition which restricts the display of alcohol for consumption off the premises; and in relation to the display of branded non-alcoholic products (products that bear a name or image of an alcoholic product such as football tops, slippers, tea towels etc.)
- inserted a new mandatory condition (section 6B) relating to the minimum price of a packages containing more than one alcoholic product.
- amended the pricing of alcohol mandatory condition to provide that that in respect of sales of alcohol for consumption off the premises, the 72 hour restriction on varying prices is only maintained in relation to the price of individual products.
- amended the irresponsible drinks promotion mandatory condition in two ways which resulted in “quantity discount” and similar promotions not being permitted for off-sales; and drinks promotions encouraging persons to buy or consume larger measures only applying to on-sales of alcohol.
- Inserted a new mandatory condition that there must be an age verification policy in relation to the sale of alcohol on the premises. This section requires that all premises have an age verification policy with the age set at a minimum of 25.

*Alcohol Minimum Pricing (Scotland) Act 2012*

- Inserted a new paragraph 6A into schedule 3 and this mandatory condition is that alcohol must not be sold on the premises at a price below its minimum price.

8.58 The current national mandatory licence conditions for premises licences issued under the 2005 Act as amended relate to the following areas:

- compliance with the operating plan;
- the premises manager;
- authorisation of sales of alcohol
- training of staff
- pricing of alcohol
- irresponsible drinks promotions
- provision of non-alcoholic drinks
- age verification policy
- payment of annual or recurring fees
- notices – admission of person under age of 18
- baby changing facilities
- display, or promotion of the sale of alcohol for consumption off the premises

*Local conditions*

8.59 The 2005 Act provides a power for Boards to impose additional licence conditions to the mandatory conditions discussed above. This power could be used in circumstances where additional conditions were needed for the purposes of any of the five licensing objectives established by the 2005 Act and where some other form of activity not covered by schedule 3 was being undertaken on the premises. However, the legislation also provides that a Board may only impose additional licence conditions which do not run counter to the effect of national conditions, and which do not attempt to alter or add to those conditions to make them more onerous or restrictive.

8.60 For example, Fife Licensing Board comment in its statement of licensing policy that:

- “On any day when licensed hours extend beyond 2.00 a.m., whether by virtue of the Operating Plan, general extension or extended hours application, in premises used as nightclubs or to which the mandatory late night conditions apply, the Board will consider whether or not to impose the local conditions set out in Appendix 4(a). If applicants consider that any of the conditions should not apply to their premises they should be in a position to demonstrate to the Board why the condition is unnecessary.”

8.61 Examples of the local conditions set out at Appendix 4(a) include:

- “There shall be a 01:15 a.m. curfew with no admittance or re admittance to the premises by the public, patrons or prospective patrons after 01:15 a.m.
- The licence holder shall arrange for litter patrols in the vicinity of the premises at the terminal hour.
- Random searches will be used to check patrons for knives and other potential weapons, particularly when entering the premises”.

8.62 For example in its statement of licensing policy, North Lanarkshire Council states:

- “The Board generally imposes the “local conditions” detailed in Appendix D when it is indicated in an operating plan that children (as defined in the legislation) are to be admitted to licensed premises. The Board, however, consider individual representations and may after considering those representations decide either to delete some of the conditions or indeed add further conditions.

Examples of the local conditions to be found at Appendix D include:

- Children must not be permitted to operate any amusement with prizes or video machines which are in the licensed premises.
- Non-glass drinking vessels must be available for children.
- A minimum of two baby’s high chairs must be provided for very young children.

### *Variation of conditions*

8.63 Prior to the Alcohol etc (Scotland) Act 2010, a Board could only impose conditions in a premises licence when it granted a licence under section 27(6) of the 2005 Act or if it reviewed a premises licence under sections 36-40 of the 2005 Act. In those circumstances it could only do so on a case by case basis.

8.64 The Alcohol etc (Scotland) Act 2010 inserted a new section 27A into the 2005 Act which enables Boards to vary the conditions of premises licences in respect of all the premises in its area or vary a category or group of licences in respect of matters prescribed by the Scottish Ministers. Examples of the matters that could be prescribed include a requirement for shatter proof glasses in all premises of a particular description, CCTV in all premises in a particular town that sell alcohol for consumption off the premises, or a requirement for a specific number of door staff in city centre establishments.

8.65 A Board is only be able to exercise the power in section 27A if the Board considers it necessary or expedient for the purposes of any of the licensing objectives. Prior to making any such variation, a Board must do a number of things, namely:

- publish a notice of any proposed variation in the manner prescribed in regulations made by the Scottish Ministers.
- give notice of the proposed variation to premises licence-holders whose licences the proposed variation would apply to and to certain other persons including the local authority, relevant health board and the chief constable.
- ensure the notice states that any persons may make representations to the Board about the proposed variation and set out the date by which such representations must be made.
- requires that if a Board receives any representations, then it must hold a hearing in relation to the proposed variation.

### **Duration of a premises licence**

8.66 Premises licences issued under the 2005 Act remain in effect indefinitely as long as the premises in question continue to be used for the purpose or purposes for which the licence was granted. However, the licence can be revoked if conditions are breached and the licence also ceases to have effect if the holder dies, becomes incapable, or insolvent unless a transfer is made under section 34. A licence holder may also choose to surrender a licence.

### **Variation of a premises licence**

8.67 Provision is made within the 2005 Act, for a premises licence holder to apply, to the Board which originally granted the licence, for variations to the terms and conditions of the premises licence. The legislation also explains what is meant by a variation in relation to a premises licence for the purposes of the 2005 Act; namely a variation of:

- any of the conditions to which the licence is subject (other than those to which the licence is subject by schedule 3 (mandatory conditions)),
- any of the information contained in the operating plan contained in the licence,
- the layout plan contained in the licence, or
- any other information contained or referred to in the licence, and includes an addition, deletion or other modification.

8.68 For the purposes of the 2005 Act, a “minor variation” means—

- any variation of the layout plan, if the variation does not result in any inconsistency with the operating plan,
- where, under the operating plan contained in the licence, children or young persons are allowed entry to the premises, any variation reflecting any restriction or proposed restriction of the terms on which they are allowed entry to the premises,
- any variation of the information contained in the licence relating to the premises manager (including a variation so as to substitute a new premises manager), and
- any other variation of such description as may be prescribed for the purposes of this subsection (29(6)).

8.69 The Licensing (Minor Variations) (Scotland) Regulations 2011 (SSI 2011/151) specify a number of variations which are to be treated as minor variations for the purposes of 29(6), namely:

- where the name of the premises is disclosed in the premises licence, any change in that name;
- a temporary or permanent reduction in the licensed hours which does not result in the premises opening any earlier or closing any later than stated in the premises licence and operating plan;
- in relation to the access of children or young persons onto the premises any variation to the operating plan so as to —
  - ⇒ increase the minimum age at which children or young persons may be allowed onto the premises;
  - ⇒ reduce the times at which children or young persons are allowed onto the premises;
  - ⇒ restrict the access of children or young persons to certain parts of the premises;
- any reduction in the capacity of the premises whether resulting from a variation to the layout plan or otherwise;
- any variation resulting in the cessation of the provision of live or recorded music at a decibel level exceeding 85 decibels;
- any variation to provide that, when the premises are fully occupied, more customers are likely to be seated than standing.

*Determination of a variation of a premises licence application*

8.70 If the application is for a minor variation then in line with section 30(2) of the 2005 Act, a Board must grant the application. If the application relates to a major

variation of the premises licence then section 30(3) places a duty on Boards to hold a hearing to consider the application. The legislation also requires that a Board's decision must be based on the statutory grounds for refusal which are set out in subsection 30(5). These are similar to the grounds for refusal of an application for a premises licence discussed above. Boards can also make their own additional variations to the licence conditions where the Boards grants the variation applied for.

*Further application after refusal of application for variation*

8.71 The position here is the same as that outlined above in relation to a premises licence application. In essence, a premises licence holder who has had an application for a variation refused is prevented from re-applying for the same variation within a year of the initial refusal. Section 32(3), however, permits Boards to dispense with the one year limit or, where the limit has not been dispensed with, nonetheless to consider granting a re-application within the one year period where there has been a material change of circumstances.

**Transfer of a premises licence**

8.72 The 2005 Act provides that an application to transfer a premises licence can be submitted to a Licensing Board by either the premises licence holder or the proposed transferee.

*Premises licence holder application*

8.73 Section 33 of the 2005 Act as enacted has been amended by the Criminal Justice and Licensing (Scotland) Act 2010, the Police and Fire Reform (Scotland) Act 2012 and the Air Weapons and Licensing (Scotland) Act 2015. The key amendments are similar to those discussed above under a premises licence application. These relate to a chief constable being able to recommend that an application be refused if this is necessary for the purpose of any of the licensing objectives and the introduction of the "fit and proper" person test as a ground for refusal of an application.

8.74 A premises licence holder may apply to the appropriate Board for the transfer of the licence to the person named in the application - i.e. "the transferee". The transferee cannot be an individual under 18 years of age. On receipt of the application the Board must give notice of it and a copy of the application to the chief constable.

8.75 The steps the chief constable is required to undertake on receipt of this notice are not dissimilar to those undertaken in relation to a premises licence application. In essence, within 21 days the chief constable needs to respond to the Board by way of a notice. The notice either states that the transferee (or where the transferee is neither an individual or council) any connected person has been convicted of any relevant offence or foreign offence or it specifies any convictions for the aforementioned offences.

8.76 If for the purposes of any of the licensing objectives, the chief constable considers that the transfer of the premises application licence should be refused the chief constable may include such a recommendation. As a result of the Air Weapons and Licensing (Scotland) Act 2015 amendments, the chief constable can also

provide any information they consider relevant to the Board's consideration of the application in relation to a transferee, a connected person in relation to the licence holder or an interested party in relation to the licensed premises, if the application for the transfer were to be granted.

8.77 The procedure to be adopted by a Board on receipt of a chief constable's notice depends on the content of that notice. Where:

- the transferee has not been convicted of any relevant or foreign offence;
- the chief constable has not recommended, for the purposes of any of the licensing objectives, that the application be refused; and
- the chief constable has not provided any information in relation to the transferee, where the transferee is neither an individual nor a council, a connected person, or any person who would be an interested party in relation to the licensed premises if the transfer of the licence to the transferee were to be granted

then the Board must grant the application. In all other cases the Board must hold a hearing to consider and determine the application.

8.78 Where a Board is required to hold a hearing then the Board must have regard to the information contained in the chief constable's notice discussed above and if satisfied that a ground for refusal of the application applies, the Board should refuse the application. The grounds for refusal in this instance are:

- that having regard to the licensing objectives, the transferee is not a fit and proper person to be the holder of a premises licence,
- that it is otherwise necessary to refuse the application for the purposes of any of the licensing objectives.

*Transfer on application of person other than licence holder*

8.79 In terms of section 34 of the 2005 Act, an application for the transfer of a premises licence can be made by the proposed transferee (who cannot be a person under 18 years of age) rather than the premises licence holder. Such applications can only be made following certain events and by certain persons.

8.80 Section 34(3) describes the events as:

- the premises licence holder, being an individual who:
  - (i) dies, or
  - (ii) becomes incapable within the meaning of section 1(6) of the Adults with Incapacity (Scotland) Act 2000;
- the premises licence holder, being an individual, a partnership or a company, becomes insolvent,
- the premises licence holder, being a person other than an individual, a partnership or a company, is dissolved, and
- the business carried on in the licensed premises to which the licence relates is transferred (whether by sale or otherwise) to another person.

8.81 The License Transfer (Prescribed Persons) (Scotland) Regulations 2007 (SSI 2007 No.34) makes provision as to who may apply to a Board for a transfer of a



premises licence following the occurrence of each of the events listed at paragraph 91. Namely:

- Death: any executor or personal representative of the licence holder;
- Incapacity: (a) any person who has been granted a power of attorney by the licence holder; or  
(b) any person authorised to act on behalf of the licence holder by virtue of the Adults with Incapacity (Scotland) Act 2000;
- Insolvency: any person acting as an insolvency practitioner within the meaning of section 388 of the Insolvency Act 1986 in relation to the licence holder;
- Dissolution: any person responsible for administering the dissolution of the licence holder.
- Transfer of business: any person to whom the business is transferred.

8.82 An application for a transfer of a premises licence under section 34 must be made to the appropriate Board within 28 days of the occurrence of one of the events discussed at paragraph 91. The procedures for dealing with an application made under section are the same as those discussed above for section 33 applications.

8.83 Section 35 makes provision for the scenario where a person applying for the transfer of a premises licence can apply at the same time for a variation to the terms and conditions of the premises licence to transfer of a premises licence also to apply at the same time for a variation to the terms and conditions of the premises licence. The text above in relation to the application to vary a premises licence and the determination of an application for a variation of a premises licence will apply to applications for variations under this section.

8.84 If the proposed transfer of the premises licence depends on a variation being obtained to the licence then the person seeking the transfer is required to make this clear. In such cases a Board must determine the application for variation prior to determining the application for transfer. If the variation is refused there is no need to proceed with the transfer application.

### **Review of a premises licence**

8.85 Sections 36 to 40 of the 2005 Act make provision for the review of a premises licence. A number of amendments have been made to the 2005 Act as enacted by the Criminal Justice and Licensing (Scotland) Act 2010 and (the majority) by the Air Weapons and Licensing (Scotland) Act 2015.

#### *Application for a review*

8.86 Any person can submit a “premises licence review application” to the relevant Board regarding a licensed premises on any of the ground for review. The Air Weapons and Licensing (Scotland) Act 2015 amended section 36 of the 2005 Act by adding a third ground for review. The grounds of review are:

- (1) are that one or more of the conditions to which the premises licence is subject has been breached, or
- (2) any other ground relevant to one or more of the licensing objectives or

- (3) not a “fit and proper person”

8.87 Depending on which ground for review is noted on the application, certain information must also be provided:

- (1) the condition or conditions alleged to have been breached.
- (2) the licensing objective or objectives to which the alleged ground of review relates.
- (3) a summary of the information on which the applicant's view that the alleged ground applies is based.

8.88 A Licensing Standards Officer (LSO) is only able to apply for a review on the ground that there has been a breach of licence conditions if the LSO has issued a written warning about the breach and the LSO is not satisfied with the action taken by the licensed premises holder in response to the written warning.

8.89 The Air Weapons and Licensing (Scotland) Act 2015 further amended section 36 to clarify that any person who makes a premises licence review application may include any information in that application that the person considers relevant to the Licensing Board's consideration of the alleged ground of review. This could include information relating to the licence holder, connected persons in relation to the licence holder or an interested party in relation to the licensed premises.

8.90 A Licensing Board may reject a premises licence review application if the Board considers the application:

- is vexatious or frivolous, or
- does not disclose any matter relevant to any ground for review.

If a Licensing Board rejects an application on one of the grounds mentioned above then it must give notice of the decision, and the reason for it to the applicant. Provision is also made for a Board to recover, from the applicant, any expenses incurred by the Board in considering a vexatious or frivolous application.

#### *Review of premises licence on Licensing Board's initiative*

8.91 Section 37 allows for Licensing Boards to initiate reviews of premises licences themselves. The grounds for review are the same as those for applications under section 36 (discussed above). Where a Licensing Board proposes to initiate a review of a premises licence, the Board must provide a written report - known as a review proposal - setting out the grounds that it considers merit such a review of the premises licence. An Air Weapons and Licensing (Scotland) Act 2015 amendment provides that a Board's proposal may include information that the Board considers relevant to its consideration of the alleged ground of review, in relation to the licence holder, connected persons in relation to the licence holder or interested parties in relation to the licenced premises.

#### *Review Hearing*

8.92 Section 38 of the 2005 Act requires a Licensing Board to hold a review hearing and determine an application for a review of a premises licence made under section 36 (or a review proposal under section 37). As discussed above, the Board

does not need to hold a review hearing if it considers the application is frivolous or vexatious or if it is not relevant to the grounds for review.

8.93 In terms of notification of a review, the Licensing Board is required:

- in the case of a premises licence review application to give notice of the hearing to the applicant, and
- give notice of the hearing and a copy of the premises licence review proposal or application to the licence holder and any LSO for the area in which the licenced premises are located (unless in the case of a premises licence review the LSO is the applicant)

8.94 As discussed earlier in the guidance, where an LSO receives a copy of a premises licence review proposal or application, the LSO must prepare and submit a report on the proposal or application to the Board before any hearing takes place. The Licensing Board must take account of this report at the hearing. Additionally a Licensing Board is empowered to request information, the attendance at a hearing of any person and the production of documents.

8.95 A Licensing Board has a range of sanctions that it may elect to impose on reviewing a premise licence. These are set out at section 39 of the 2005 Act as amended by the Air Weapons and Licensing (Scotland) Act 2015. These steps are to:

- issue a written warning to the licence holder,
- make a variation of the licence; may only apply for a period decided by the Board,
- suspend the licence for whatever period the Board may decide,
- revoke the licence.

Section 39 also provides that where a Licensing Board is satisfied at a hearing that the licence holder fails the “fit and proper” test then the Licensing Board must revoke the premises licence. Subject to the revocation of a licence being recalled, a revocation takes effect at the end of the period of 28 days beginning with the day the Board made the decision to revoke the premises licence.

8.96 The 2005 Act as enacted has been amended by the Criminal Justice and Licensing (Scotland) Act 2010 and the Air Weapons and Licensing (Scotland) Act 2015 in relation to a Licensing Board giving notice of a decision made at a premises licence review hearing. The 2010 Act inserted a new provision (section 39A Notification of determinations) into the 2005 Act and this provision was subsequently amended by the 2015 Act.

8.97 The rationale for the 2010 Act amendment was to seek to improve the transparency of the premises licence review process provided for in the 2005 Act. It ensures that

- adequate notification of a licensing board’s decision following a review hearing is given to the licence holder and to the person who applied for a review.

- when a licensing board takes action against a licence holder following a review hearing, the licence holder is able to request a statement of reasons from the board –as already happened in the case of a premises licence application.
- a statement of reasons can be requested by a person who applies for a review of the licence, whether or not any action is taken by the board following the review hearing.

The 2015 Act textual amendments were a result of the introduction of the fit and proper person test as a ground for refusal.

8.98 The 2005 Act provides (section 40) a mechanism by which a licence holder can apply to the Licensing Board to have any variation of their premises licence or the suspension of their premises licence removed. If the Board feels that the sanction in question is no longer necessary then, in the case of these two sanctions only, it may remove the relevant sanction.

### **Recall of revocation of licence**

8.99 The 2015 Act inserted section 39B which provide for the recall of a revocation of a licence under section 39(2A). This amendment and the amendment which inserted 28 days are linked to the “fit and proper person”, also introduced by the 2015 Act. As noted during the parliamentary passage of the then Air Weapons and Licensing (Scotland) Bill, the bill on introduction had provided for the immediate revocation of a premises licence on the grounds that, having regard to the licensing objectives, the licence holder is not a fit-and-proper person to be the holder of a premises licence.

8.100 Concerns had been raised been raised that without alternative disposals available to it, the board might be reluctant to find that a person is not fit and proper to hold a premises licence. To address these concerns, two amendments were brought forward at Stage 2 of the parliamentary process. One amendment provided that a revocation under the licensing board’s powers of review would take effect at the end of a period of 28 days beginning on the day on which the board makes the decision. The rationale being that this provided a short period of grace in which the licence holder may take action to address the problems that led to the board making the findings.

8.101 The second and related amendment inserted a new section (section 39B) into the 2005 act. This section provides that when a licensing board has taken steps to revoke a premises licence on the ground that the licence holder is not a fit-and-proper person, the board must recall the revocation if the relevant application is made within that 28-day period and the board ultimately grants the relevant application. These provisions enable Boards to take robust action when a licence holder is found not to be a fit-and-proper person and they offer reasonable traders the opportunity to take prompt action to address the board’s concerns and retain their licence.

## **Conviction of licence holders etc. for relevant or foreign offences**

8.102 Relevant and foreign offences are discussed above. A premises licence holder who is charged with relevant offences is required to notify the court of the fact that they hold a premises licence. Failure to do so, within the timescales set out in section 41, and without reasonable excuse means the person is committing an offence. A person found guilty of such an offence is liable on summary conviction to a fine not exceeding level 2 on the standard scale (£500).

8.103 The notification required under section 41 enables the clerk of the court to comply with the duty imposed on them by section 42 of the 2005 Act – namely to give notice of the conviction to the Licensing Board. The duty only applies if the clerk is aware that the person convicted holds a premises licence.

## **Provisional and temporary premises licences**

### *Provisional premises licence*

8.104 A premises licence application can be made in relation to premises which are being constructed or converted for use as licensed premises. A premises licence granted for such premises is referred to as a “provisional premises licence”. Section 45 of the 2005 Act modifies certain provisions of the 2005 Act as they apply to applications for provisional premises licences. For example, the name of the premises manager need not be provided on the provisional premises licence application.

8.105 A provisional premises licence has no effect until it is confirmed. The Criminal Justice and Licensing (Scotland) Act 2010 amended the 2005 Act as enacted to increase the 2 year period in which a premises licence must be confirmed to 4 years. If the licence is not confirmed within this period it will be automatically revoked. The 4 year period can be extended if the construction or conversion work is delayed for reasons outwith the licence holder’s control.

8.106 Section 46 of the 2005 Act sets out the procedure for the confirmation of provisional premises licences. The licence holder has to apply for confirmation to the Licensing Board before the end of the 4 year period beginning when the licence was issued. Confirmation would, in practice, be sought when the construction or conversion work is completed and the premises are ready for use.

8.107 Applications for confirmation of provisional premises licence must be accompanied by:

- the provisional premises licence,
- the operating plan for the premises to which the licence relates (which must confirm the name of the premises manager),
- the layout plan for the premises, and
- the certificates required by section 50(3) [i.e. planning, building and food hygiene].

8.108 On receipt of an application, a Licensing Board must confirm the premises licence where, during the period of the provisional licence, there has been no

variation to the operating plan or layout plan (other than a variation approved by the Board already or classed as a minor variation) for the premises to which the licence relates. When confirming a premises licence, the Board may, to ensure consistency with any statement of licensing policy or any supplementary statement of licensing policy published since the licence was issued, vary any licence condition.

#### *Temporary premises licence*

8.109 Section 47 of the 2005 Act covers the scenario where premises which already have a premises licence are undergoing reconstruction or conversion work. It may be that the licence holder wishes to move into temporary premises. The 2005 Act enables the licence holder to apply to the Licensing Board for a premises licence covering the temporary premises, i.e. a temporary premises licence.

8.110 Section 47 as enacted was amended by the Criminal Justice and Licensing (Scotland) Act 2010 and the Police and Fire Reform (Scotland) Act 2012. These amendments require a Licensing Board to send a copy of the temporary premises licence to the Chief constable. The policy rationale here being it is important for the police to be made aware of the licensing conditions attached to each licence in order for the conditions of that licence to be properly enforced.

8.111 A temporary licence has effect for a period, not longer than 2 years beginning with the date of its issue, as a Licensing Board may determine. The temporary premises licence is subject to the same conditions to which the premises licence is subject to at the time the temporary licence is issued, subject to any exceptions or modification which the Licensing Board may provide for.

### **Premises licences – miscellaneous matters**

#### *Duty to keep, display and produce premises licence*

8.112 The 2005 Act provides that a premises licence holder is under a duty to ensure that the premises licence or a certified copy is held on the premises to which it relates either by the licence holder or by the premises manager. A summary of the licence must be displayed prominently on the premises.

8.113 It is an offence to fail to comply with these requirements or to fail to produce the licence or a certified copy to a police constable or a Licensing Standards Officer on request. A person who fails, without reasonable excuse, to comply with a requirement made under section 52 commits an offence. A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 (£1,000) on the standard scale.

#### *Theft, loss etc. of premises licence or summary*

8.114 Provision is made within the 2005 Act for a premises licence holder to apply to the Licensing Board for a copy of a premises licence or a summary if the licence or summary has been lost, stolen, damaged or destroyed. If lost or stolen, the theft or loss must have been reported to the police by the premises licence holder.

8.115 If the relevant Licensing Board is satisfied that the premises licence or summary licence has been lost, stolen, damaged or destroyed, and the licence holder has made the necessary report to the Police then the Licensing Board must

issue to the licence holder a replacement licence or, as the case may be, a replacement summary. The “replacement” document should be in the form in which the document existed immediately before it was lost, stolen, damaged or destroyed, and should be “certified” by the Licensing Board as a true copy.

### **Notifications of determinations**

8.116 The 2005 Act places a duty on the Licensing Board to notify its decisions on applications for premises licences, applications for variations of a premises licence, transfer applications, reviews, applications for a temporary licence, and applications for provisional premises to the applicant and other specified persons (i.e. the Chief constable and in the case of the grant or refusal of a premises licence application any person who gave a notice of objections or representations under section 22 (10) of the 2005 Act.

8.117 It is open to any of the aforementioned parties, within 14 days of receiving notice of the Board’s decision, to ask the clerk of the Licensing Board for a statement of reasons for the grant or refusal of the application. The Licensing (Procedure) (Scotland) Regulations 2007 (SSI 2007/453) sets out the format (at Schedule 4) of the statement of reasons which the clerk of the Board requires to issue within 14 days of the receipt of the request for a statement of reasons. Any statement of reasons issued must be sent to the person who asked for it and any other person to whom the Board gave notice under subsection (1).

## 9. OCCASIONAL LICENCES

### Introduction

9.1 This Chapter provides guidance on occasional licences which are licences which authorise the sale of alcohol. Occasional licences can be granted by Licensing Boards on application from a premises licence holder, a personal licence holder and a representative of any voluntary organisation. For example, for a premises licence holder this would be to authorise the sale of alcohol in the course of catering for an event taking place out with their licensed premises. Voluntary organisations may also apply for an occasional licence authorising the sale of alcohol at an event connected with the organisation's activities.

9.2 An occasional licence may not exceed a period of 14 days. The Licensing (Fees) (Scotland) Regulations 2007 (SSI 2007/553) provides that the fee payable in respect of an occasional licence application is £10. Occasional licences are distinct from premises licences (see Chapter 8, for more information on a premises licence) and where an occasional licence has effect in relation to a premises, a premises licence is not necessary. Licensing Boards will wish to note that the Air Weapons and Licensing (Scotland) Act (section 75) amended the 2005 Act such that those in possession of an occasional licence issued under section 56 of the 2005 Act will no longer be exempt from public entertainment licensing requirements (set out in the Civic Government (Scotland) Act 1982).

### Procedure

#### *Notification of application*

9.3 Licensing Boards are required to consider applications for occasional licences in line with the provisions set out at Part 4 of the 2005 Act and the Licensing (Procedure) (Scotland) Regulations 2007 (SSI 2007/453). The regulations cover, amongst other matters, procedures and timescales in connection with the processing of applications for occasional licences.

9.4 The legislation requires that prior to determining an occasional licence application a Licensing Board must within 7 days of receiving it give notice of it, together with a copy of the application to the chief constable and the Licensing Standards Officer. On the day of notification, or as soon as reasonably practical thereafter, to these parties, a Licensing Board must publish details of the application on its website for a continuous period of 7 days. Inverclyde Licensing Board is an example of one Licensing Board which has a dedicated page on its website where interested parties can find information about occasional licence applications and objection forms can also be downloaded.

9.5 The Licensing Standards Officer may, within 21 days of receipt of notice of an application, prepare and submit a report setting out their comments on the application, which may include recommendations for additional conditions to be attached by the Licensing Board.

9.6 The Criminal Justice and Licensing (Scotland) Act 2010 amended the 2005 Act to enable the fast tracking of some occasional licences where there is very



limited notice of the need for such a licence e.g. a funeral. This amendment reduces the length of time a Licensing Board is required to wait for comments on an occasional licence application from the Licensing Standards Officer from 21 days to a period of not less than 24 hours. This applies where the Licensing Board is satisfied that the application *requires* to be dealt with quickly and the shortened time period is not being requested in order to pressurise the Licensing Board into granting a licence.

#### *Objections and representations*

9.7 Section 58 of the 2005 Act allows any person (including Police Scotland) to make objections and representations to Licensing Boards in connection with any application made to the Licensing Board for an occasional licence under section 56 of the 2005 Act. For example, Police Scotland may wish to raise objections due to concerns about the scale, location or timing of the event. Any notice of objection or representation must be made to the Licensing Board within the 7 day period the occasional licence application has been published on the Licensing Board website.

9.8 Any person, by giving notice to the Licensing Board, may object to an occasional licence application on any ground relevant to one of the grounds for refusal or make representations to the Licensing Board in support of the occasional licence application, or as to conditions which the persons considers should be imposed.

9.9 Licensing Boards are also required by section 58 to give the occasional licence applicant notice of any objections or representations and to take account of them in determining the application. Section 58 also permits Licensing Boards to reject any frivolous or vexatious objection or representation and sets out how a Licensing Board may recover from the person who gave the notice any expenses incurred by it in considering the notice.

9.10 Licensing Boards may wish to highlight to event organisers – perhaps through information on their websites - that due to the possibility of police intervention and/or public representations, that event organisers should not rely on giving the minimum amount of notice. Event organisers will wish to be aware of the importance of early engagement with for example local police licensing officers to discuss proposals for their event.

#### *Determination of occasional licence application*

9.11 The Criminal Justice and Licensing (Scotland) Act 2010 amended the 2005 Act in relation to the delegation of the functions of Licensing Boards to extend the ability to delegate approval of occasional licences applications to the Clerk of the Licensing Board or a member of support staff where no objections or representations are lodged.

9.12 Where no report from a Licensing Standards Officer, or notification of objection or representation under the relevant provisions of the 2005 Act have been received by a Licensing Board, then section 59 of the 2005 Act provides that an occasional licence application *must* be granted *unless* the application requires to be refused under:

- section 56(6A) of the 2005 Act – where the occasional licence application would result in the occasional licence limit being exceeded then the Licensing Board must refuse the application. For example, the occasional licence limit for voluntary organisations is set out at section 56(6) of the 2005 Act.
- section 64(2) of the 2005 Act - a Licensing Board must refuse any occasional licence application seeking a “24 hour licence” unless it is satisfied that there are exceptional circumstances which justify allowing the sale of alcohol on the premises during such a period.
- Section 65(3) of the 2005 Act – a Licensing Board must refuse an occasional licence application where the off sale hours proposed in the application are such that alcohol would be sold for consumption outside before 10am and/or after 10pm.

9.13 In any other case, for example where a representation has been received, section 59(3) of the 2005 Act provides that the Licensing Board must consider whether any of the grounds for refusal applies and:

- if none of them applies then the application *must* be granted; or
- if any of them applies, the application *must* be refused.

The Licensing Board may hold a hearing for the purposes of determining any application under section 59(3) of the 2005 Act. Where the Licensing Board does not hold a hearing for that purpose, it must ensure that, before determining the application, the applicant is given an opportunity to comment on any notice of objection, representation or the Licensing Standards Officer’s report.

9.14 The grounds for refusal are:

- that the premises to which the application relates are excluded premises
- that the application must be refused under section 56(6A), 64(2) or 65(3) of the Act;
- that the Licensing Board considers the granting of the application would be inconsistent with one or more of the licensing objectives;
- that, having regard to:
  - the nature of the activities proposed to be carried on in the premises to which the application relates;
  - the location, character and condition of the premises; and
  - the persons likely to frequent the premises;

the Licensing Board considers that the premises are unsuitable for use for the sale of alcohol.

9.15 In determining any application the Licensing Board must take into account any report from a Licensing Standards Officer under section 57(3) of the Act.

9.16 Whether the Licensing Board grants or refuses an occasional licence, they must give notice of the grant or refusal to the applicant, chief constable, any Licensing Standards Officer for the area and any person who may have given any notice of objection or representation in respect of the application. Any person who receives such notice may request, from the Clerk of the Licensing Board, a statement of reasons to be given to them by the Licensing Board.

#### *Conditions and occasional licences*

9.17 Schedule 4 to the 2005 Act establishes the national mandatory licence conditions for occasional licences issued under this statute, ensuring national consistency on those issues provided for. Licensing Boards may also impose other conditions – in addition to the mandatory conditions - as they consider necessary or expedient for the purposes of any of the licensing objectives. In particular, those are conditions requiring anything to be done, or prohibiting or restricting the doing of anything, in connection with either:

- the sale of alcohol on the premises in respect of which an occasional licence has effect; or
- any other activity carried on in such premises

9.18 For example, Clackmannanshire Licensing Board's statement of licensing policy 2018 comments that:

- "In the event that an applicant seeks a licence for an eighteenth birthday party, the Board if minded to grant the application will impose additional conditions regulating entry and the sale of alcohol to reduce the risk of harm caused to young persons in attendance through consumption of excess alcohol. It will generally be recommended that the Board impose a condition requiring the employment of SIA licensed stewards for these types of events. Applicants should have regard to these considerations when applying for occasional licences for such events and should ensure that the organisers are aware of the Board's likely requirements."

9.19 South Ayrshire Licensing Board is one example of a Licensing Board's statement of licensing policy which sets out, at Appendix 4, thirteen conditions which may be attached to an occasional licence. For example, condition 2 is that no under eighteens to be allowed in the main Bar area. The licensing objectives being promoted here are "preventing crime and disorder" and "protecting children from harm".

9.20 A Licensing Board may not impose a condition which:

- is inconsistent with any mandatory or prescribed condition;

- would have the effect of making any such condition more onerous or more restrictive; or
- relates to a matter (such as planning, building control or food hygiene) which is regulated under another enactment.

### **Repeated occasional licence applications**

9.21 The occasional licensing system is intended to provide flexibility in the system regulating the sale of alcohol that otherwise would result in more onerous requirements falling on those wishing to, on a temporary basis, sell alcohol. Occasional licences are not intended as a substitute for premises licences.

9.22 With this in mind, Licensing Boards will wish to consider utilising appropriate processes which are capable of identifying instances where it appears there is an attempt to operate premises under a series of consecutive occasional licences, rather than obtaining an appropriate premises licence. If such circumstances are identified, Licensing Boards may wish to consider it good practice to ask the applicant to explain why an application for a premises licence is not being made.

9.23 It is for the Licensing Board to determine what the process for this would be. For example one Licensing Board – South Lanarkshire Licensing Division Number 1 (Clydesdale area) – has set out in its statement of licensing policy 2018 the approach it will take:

- “Repeated applications for an Occasional Licences for the same unlicensed premises and which are:-
  - Not for detailed specific events; and/or
  - For activities that have been occurring (either in identical or largely similar terms) on the premises regularly for period of at least three months;

will not generally be considered to be suitable for the grant of an Occasional Licence and will not be granted by the Board under delegated authority but will require a hearing before the Board. The Board expects such premises to be operating under a premises licence.”

9.24 A Licensing Board may also look to the duration of occasional licences for a single premises over a 12 month period and suggest a policy whereby the Licensing Board becomes directly involved in the consideration of further occasional licences at that premises. For example, one Licensing Board – Perth & Kinross – has commented in its statement of licensing policy 2018 that:

- “The Board considers it reasonable for occasional licences covering up to 30 days (including into the following mornings) to be granted in any one calendar year for a single premise. Where more than 30 days are sought, the Board expects a premises licence application to be submitted. Failure to do so may result in all further occasional licence applications being submitted to the Board for consideration rather than being dealt with under delegated powers. This does not apply to places such as village halls where different organisations use the same premise”.

## Extension of licensed hours

9.25 The licensed hours for occasional licences require to be set out in the application for the licence and incorporated into the licence if granted. Section 67 of the 2005 Act provides Licensing Boards with a power to grant general extensions to licensed hours in connection with special events of local or national significance. However, licensed premises are not obliged to remain open for the period of any such extension. Section 68 of the 2005 Act which makes provision for extended hours applications does not apply to occasional licences.

## Members' clubs

9.26 By virtue of section 56(1) of the 2005 Act, the usual position is that an occasional licence may not be issued in respect of a premises which is already licenced. However, there is an exception to this in respect of a club falling within the description of regulation 2 of the Licensing (Clubs) (Scotland) Regulations 2007 (SSI 2007/76). The fact a premises licence is in effect in respect of such a club does not prevent an occasional licence being issued in respect of the club. This means, for example, that a members club which under its premises licence is normally only allowed to supply alcohol to its members and their guests, may during the period covered by the occasional licence admit members of the public and sell alcohol to them.

9.27 When an occasional licence has effect in terms of the premises, the conditions of the premises licence temporarily do not apply (see regulation 3(3) of SSI 2007/76) and the conditions of the occasional licence apply instead. This means that sales of alcohol are permitted on the club premises to persons who are not members or accompanied by a member. Such occasional licences could for example be used for community events. When the occasional licence ceases to have effect then the conditions attached to the premises licence once more come into effect.

9.28 Licensing Boards are restricted in the number of occasional licences they can issue in respect of a members' club. Regulation 3(2) of SSI 2007/76 provides that:

- a Licensing Board may issue in respect of those *premises* in any period of 12 months—
  - (a) not more than 4 occasional licenses each having effect for a period of 4 days or more, and
  - (b) not more than 12 occasional licences each having effect for a period of less than 4 days,provided that, in any period of 12 months, the total number of days on which occasional licences issued in respect of the premises have effect does not exceed 56.

## Voluntary organisations

9.29 An application for an occasional licence can also be made by a representative of a voluntary organisation. Paragraph 5 of schedule 4 (*occasional licences: mandatory conditions*) to the 2005 Act applies only to occasional licences

issued to voluntary organisations and ensures that alcohol may only be sold at events run in connection with the organisations' activities.

9.30 Licensing Boards are restricted in the number of occasional licences they can issue in respect of voluntary organisations. Section 56(6) of the 2005 Act provides that:

- a Licensing Board may issue in respect of that *organisation* in any period of 12 months—
  - (a) not more than 4 occasional licenses each having effect for a period of 4 days or more, and
  - (b) not more than 12 occasional licences each having effect for a period of less than 4 days,

provided that, in any period of 12 months, the total number of days on which occasional licences issued in respect of the organisation have effect does not exceed 56.

9.31 Many voluntary organisations will not have commercial backgrounds or ready access to legal advice. They will include, for example, individuals acting on behalf of charities, community and voluntary groups, schools, churches and hospitals all of which may stage public events at which the sale of alcohol may take place. It is critical that Licensing Boards ensure that local publicity about the system of occasional licences is clear and Licensing Boards should strive to keep the arrangements as manageable and user-friendly as possible for these groups.

## 10. Personal Licenses

### Introduction

10.1 This Chapter provides information on personal licences. Part 6 of the 2005 Act sets out the legislative framework which applies to personal licences.

10.2 Any person aged 18 years or over may apply for a personal licence provided they possess a relevant training qualification and have not been convicted of any relevant offence or forfeited a licence in the past 5 years. The Air Weapons and Licensing (Scotland) Act 2015 amended the 2005 Act to provide for an exception to the aforementioned 5 year period. If a personal licence is revoked for failure to comply with the training requirement (see below), the licence holder will not have to wait 5 years to reapply for a personal licence.

10.3 Application forms and associated guidance notes can be downloaded from Licensing Boards' website pages. A personal licence allows the individual to train staff, apply for occasional licences and to authorise or supervise the sale of alcohol. Once granted a personal licence will have effect for a period of 10 years unless it is surrendered or revoked by the Licensing Board.

10.4 Section 9 of the 2005 Act requires a Licensing Board to keep a public register containing information relating to licences issued by the Licensing Board and decisions taken by it. The Licensing Register (Scotland) Regulations 2007 (SSI 2007/33) make specific provision as to the personal licence information that should be entered in the public register.

10.5 An individual may hold only one personal licence at a time. Licensing Boards may not issue a personal licence to any person who already holds such a licence and any subsequent personal licence issued would be void. The 2005 Act does however allow for an existing personal licence holder to apply for the renewal of their licence and so no person should apply for a new personal licence on the basis that their current licence is reaching the ten year point.

10.6 The Licensing (Fees) (Scotland) Regulations 2007 (SSI 2007/553) as amended provide that the fee payable in respect of a personal licence application and a personal licence renewal application is £50. Licensing Boards can determine the fee charged for a replacement personal licence subject to the general rule that fees should be set at a level which allows the Licensing Board to recover their costs.

10.7 Personal licences granted in England and Wales are not transferrable to Scotland and vice versa as the licensing and legal systems are different. Within Scotland, a personal licence granted by one Licensing Board may be used within another Licensing Board's local authority area.

### *Premises Manager*

10.8 Each premises must have a "premises manager" who is named on the premises licence as the person responsible for running that premises. In terms of the mandatory premises licence condition set out at Schedule 3 of the 2005 Act, a

premises manager is required to hold a personal licence (see Chapter 8 for more information on premises licences).

## **Grant and Renewal**

### *Notification*

10.9 Prior to considering a personal licence application, Licensing Boards are required by the 2005 Act to notify and provide a copy of the application to the chief constable and (following an amendment to the 2005 Act by the Air Weapons and Licensing (Scotland) Act 2015) to the Licensing Standards Officer for their locality.

10.10 This is an important information gathering process for Licensing Boards as the chief constable is required to confirm to the Licensing Board, within 21 days of the date of receipt of the notification, whether or not the applicant has been convicted of a relevant offence or foreign offence.

10.11 Section 129 of the 2005 Act states that for the purposes of the Act, a “foreign offence” means any offence: under the law of any place other than Scotland; and which is similar in nature to any relevant offence. Section 129 also provides the Scottish Ministers with a power to prescribe by regulations what offences are to count as a “relevant offence” in the 2005 Act. The Licensing (Relevant Offences) (Scotland) Regulations 2007 (SSI 2007/513) specify those offences which are to be relevant offences for the purposes of the 2005 Act (regulation 2 and the Schedule).

10.12 Additionally the chief constable has the opportunity to recommend to the Licensing Board that the personal licence application should be refused on grounds relating to the 5 licensing objectives (inserted by the Criminal Justice and Licensing (Scotland) Act 2010) and/or to provide any further information to the Licensing Board that the chief constable considers relevant to their consideration of the application (inserted by the Air Weapons and Licensing (Scotland) Act 2015).

10.13 The notification process also provides the Licensing Standards Officer, with an opportunity to pass within 21 days any information in relation to the applicant that s/he considers would be relevant to the Licensing Board’s consideration of the application. For example, this could include reference to previous conduct by the applicant that was inconsistent with the 5 licensing objectives.

### *Determination of personal licence application*

10.14 Section 74 sets out the procedure that Licensing Boards must undertake when considering personal licence applications. Licensing Boards can delegate the determination of a personal licence application to: any member of the Board; any committee established by the Board; the clerk of the Board or a member of support staff *unless* the applicant has been convicted of a relevant or foreign offence.

10.15 A number of amendments have been made to section 74 since the 2005 Act was implemented. The key changes have been made by the Air Weapons and Licensing (Scotland) Act 2015. The changes made - along with the changes mentioned above – are linked to the re-introduction of a “fit and proper” test into the alcohol licensing regime.



10.16 The introduction of this test allows greater scope to present information to Licensing Boards which in turn will aid them when making decisions about applicants, licence holders and connected persons. It also provides Licensing Boards with greater powers to tackle crime, particularly serious organised crime, by allowing the consideration of a wider range of information including police intelligence and any associations with those deemed to be unsuitable.

10.17 In essence if the conditions set out at section 74(2) and section 74(3) are all met, in relation to the applicant, then a Licensing Board must grant the application. If any of these conditions are not met, in relation to the applicant, then the Licensing Board must refuse the application.

10.18 Provision is also made within section 74 for a Licensing Board to hold a hearing to determine whether or not a licence application will be granted. Whether or not a hearing will be held is generally dependent on the conditions at sections 74(2) and (3) being met and the content of the notice(s) above) submitted to the Licensing Board by the chief constable and/or the Licensing Standards Officer.

10.19 A Licensing Board *must* hold a hearing to determine a personal licence application where the conditions in 74(2) and (3) have all been met but the chief constable's notice contains a recommendation that s/he considers that it is necessary for the purposes of any of the licensing objectives that the personal licence application be refused.

10.20 There are two situations set out in section 74 where a Licensing Board *may* hold a hearing to determine a personal licence application provided all the conditions set out in sections 74(2) and (3) are met. These are:

- a notice from the chief constable specifying any convictions of the applicant for a relevant or foreign offence but the notice does not contain a recommendation that for the purposes of the licensing objectives the application should be refused; or
- a notice from the chief constable does not contain a recommendation that for the purposes of the licensing objectives the application should be refused but either the chief constable and/or the Licensing Standards Officer provides information that they consider may be relevant to consideration by the Licensing Board of the application.

10.21 Where a hearing is held, then the Licensing Board must have regard to the notices and information submitted by the chief constable and/or the Licensing Standards Officer when considering and determining a personal licence application. If the Licensing Board is satisfied that a ground for refusal applies, it should refuse the application, or if not so satisfied, grant the application.

The grounds for refusal are -

- that having regard to the licensing objectives, the applicant is not a fit and proper person to be the holder of a personal licence,

- that it is otherwise necessary to refuse the application for any of the purposes of the licensing objectives.

10.22 There is a further occasion provided by section 74 when a Licensing Board *may* hold a hearing to consider and determine a personal licence application. This relates to an amendment to the 2005 Act made by the Criminal Justice and Licensing (Scotland) Act 2010. The amendment enables a Licensing Board to refuse the application *or* hold a hearing to decide whether or not to grant the application, *if* the applicant already holds a personal licence *or if* a previous personal licence held by the applicant had been surrendered or expired in the previous three years before a new application was made.

10.23 If a hearing is held, the Licensing Board can grant or refuse the personal licence application. In reaching a view, the Licensing Board are required to have regard to the circumstances in which the personal licence previously held expired, or was surrendered.

10.24 An applicant whose application for a personal licence has been refused has a right of appeal to the Sheriff.

*Issue of a personal licence and changes made to a personal licence*

10.25 Where a Licensing Board grants a personal licence application, it must issue a personal licence to the applicant in the prescribed form. The Personal Licence (Scotland) Regulations 2007 (SSI/2007/77) sets out the form and content of the personal licence.

10.26 When issuing personal licences, Licensing Boards may use the unique local authority identifiers as a prefix to the Licence number they issue for each personal licence. In cases where a local authority area covers a number of licensing divisions (each with its own Licensing Board), it would be good practice to adopt unique referencing numbering for each licensing division to identify the Licensing Board area for which licences are issued.

10.27 Where certain changes have been made to the terms or effect of a personal licence, (for example, where it has been renewed, suspended or a change of details has been notified), the Licensing Board *must* make the necessary amendments to the licence. The Licensing Board may require the personal licence holder to present the licence for amendment within 14 days. Failure by the licence holder to comply with this obligation, without reasonable excuse, is an offence. A person guilty of such an offence) is liable on summary conviction to a fine not exceeding level 2 on the standard scale (£500).

*Renewal of personal licence*

10.28 Personal licences are generally valid for ten years with the possibility of renewals for further ten year periods. Licensing Boards must notify personal licence holders, of licences granted by them, not later than 9 months before the licence expiry date that the licence will cease to have effect unless renewed.

10.29 Section 78 sets out the steps an individual must take to apply for the renewal of a personal licence. Applications for renewal require to be made to the Licensing Board which originally granted the licence. Applications for renewal can only be lodged with the relevant Licensing Board within a two-month period beginning three months before the personal licence's expiry.

10.30 A Licensing Board requires to process a personal licence renewal application in broadly the same manner as it is required to process a personal licence – i.e. akin to the process outlined in the *Determination of personal licence application* section above.

#### *Notification of Licensing Board determinations*

10.31 Once a Licensing Board has granted or refused a personal licence or personal licence renewal application then it is required to notify both the applicant and the chief constable. Either of these parties can contact the Clerk to the Licensing Board and ask the Board to give a statement of reasons for the grant or refusal of the application. The Licensing Board must issue such a statement to both parties.

#### **Replacement of a personal licence**

10.32 Section 92 provides for the situation where a Licensing Board receives an application for a replacement personal licence from an individual they issued a personal licence to. If the Licensing Board is satisfied that the original personal licence has been lost, stolen, damaged or destroyed and the applicant has reported the loss or theft to the Police then the Licensing Board *must* issue a replacement personal licence. A replacement personal licence is a copy of the personal licence held by the applicant in the form it existed immediately prior to the loss and is has been certified by the Licensing Board to be a true copy.

#### **Duties placed on personal licence applicants/holders**

10.33 Part 6 places a number of duties on personal licence applicants/holders.

##### *Licensing Qualification*

- Section 74 lists certain conditions that must be met before a Licensing Board can consider a personal licence application. One of these conditions is that an applicant must have a licensing qualification.

##### *Notification of offences*

- Section 75 places a duty on a personal licence applicant to notify the Licensing Board, of any relevant or foreign offence that the applicant has been convicted of in the period between making their application and it being determined by the Licensing Board. The notification must take place no later than one month after the date of the conviction.

- An individual who:
  - without reasonable excuse, fails to notify the Licensing Board commits an offence. An individual guilty of such an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale (£2,000).

#### *Surrender of void personal licence*

- Section 76 makes provision for the issuing of a personal licence to an applicant by the Licensing Board. This section provides that a person who holds a void personal licence must surrender it to the Licensing Board. A personal licence is void if, at the time it is issued by the Licensing Board to an individual, that individual already holds a personal licence.
- An individual who:
  - without reasonable excuse, fails to surrender a void licence to the Licensing Board; or
  - passes off a void personal licence as a valid personal licence knowing that the licence is voidcommits an offence. An individual guilty of such an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale (£2,000).

#### *Duty to notify court of personal licence*

- Section 80 provides that if a personal licence holder is charged with a relevant offence the person must notify the court of the existence of the licence and produce the licence to the court.
- An individual who:
  - without reasonable excuse, fails to comply with these requirementscommits an offence. An individual guilty of such an offence is liable on summary conviction to a fine not exceeding level 2 on the standard scale (£500).

#### *Duty to notify Licensing Board of convictions*

- Section 82 provides that if a personal licence holder is convicted of a relevant offence or foreign offence, s/he must, within one month, notify the Licensing Board which issued the licence and, if different, the Board for the area in which the licence holder is working, of the conviction. Details are given of the form the notice should take and what actions a Licensing Board should take if they are aware that the personal licence holder is working in licenced premises in another Board area.
- A licence holder who:
  - without reasonable excuse, fails to comply with these requirementscommits an offence. An individual guilty of such an offence is liable on summary conviction to a fine not exceeding level 4 on the standard scale (£2,500).

#### *Licence holder's duty to undertake training*

- Section 87 makes it mandatory for all personal licence holders to undertake prescribed training every five years and to provide the relevant Licensing Board with evidence that they have undertaken this training (see paragraph 10.31 below). Failure to undertake the necessary training will result in a personal licence being revoked.

#### *Updating of personal licence*

- Section 88 requires a licence holder to notify the relevant Licensing Board of any change of name or address within one month and s/he must enclose the personal licence (or a statement of reasons for failure to produce the licence) with such notice.
- A licence holder who:
  - without reasonable excuse, fails to comply with these requirements commits an offence. An individual guilty of such an offence is liable on summary conviction to a fine not exceeding level 2 on the standard scale (£500).

#### *Surrender of void replacement personal licence*

- Section 92 requires that a person who holds a void replacement licence must surrender it to the Licensing Board. A replacement licence is void, if when issued, the personal licence it in respect of which it was issued is not lost, stolen, damaged or destroyed.
- A person who
  - without reasonable excuse, fails to comply with these requirements; or
  - passes off a void replacement personal licence as a valid licence, knowing that the licence is voidcommits an offence. A person guilty of such an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale (£2,000).

#### *Duty to produce licence*

- Section 93 applies where the personal licence holder is working on licensed premises. A constable or Licensing Standards Officer may require the holder to produce his or her personal licence.
- A licence holder who:
  - without reasonable excuse, fails to comply with these requirements commits an offence. An individual guilty of such an offence is liable on summary conviction to a fine not exceeding level 2 on the standard scale (£500).

### **Training qualifications – personal licence holder**

10.34 Alcohol licensing qualifications support those working in the licensed trade in Scotland. They allow individuals to show that they can work responsibly and that they understand how the licensing process applies to their jobs.

10.35 As discussed above, certain conditions must be met before a Licensing Board can determine a personal licence application. One of these conditions is that the applicant hold a licensing qualification, that is accredited by the Scottish Ministers. Further information can be found in the updated '[Licensing \(Scotland\) Act 2005: liquor personal licence holder training accreditation](#)' document, published by the Scottish Government in December 2022.

10.36 Under the 2005 Act, all personal licence holders must complete "refresher" training within five years of the date that their licence was issued (and each subsequent five years thereafter) and provide evidence of having done so to the Licensing Board which issued the personal licence no later than 3 months after the expiry of the five year period. Should a personal licence holder fail to undertake the necessary training they will have their personal licence revoked.

10.37 A duty is also placed on Licensing Boards to notify, within the required timescale, holders of personal licences granted by them of the refresher training requirements. Please see the updated '[Licensing \(Scotland\) Act 2005: liquor personal licence holder training accreditation](#)' document, published by the Scottish Government in December 2022.

### **Court's duty to notify Licensing Board of Convictions**

10.38 Section 81 provides that where an individual is convicted of a relevant offence, the clerk to the Court must notify the relevant Licensing Board of the conviction as soon as is reasonably practical after the conviction. This is subject to the clerk being aware the individual concerned holds a personal licence.

### **Licensing Board receives conviction notification**

10.39 Section 83 sets out the procedure to be followed by a Licensing Board when a personal licence holder has been convicted of a relevant of foreign offence. The procedure involves notifying the chief constable who is required to respond within 21 days. Depending on the content of the notice sent by the chief constable, a Licensing Board may:

- take no further action in relation to the conviction;
- hold a hearing where the chief constable and licence holder are given an opportunity to be heard;
- if satisfied it is necessary for the purposes of any of the licensing objectives the Licensing Board can make an order to revoke, suspend, endorse the a personal licence;
- where at the hearing the Licensing Board is satisfied that having regard to the licensing objectives, the licence holder is not a fit and proper person to be a holder of a personal licence then the Licensing Board must revoke the personal licence.

- When an order is made, the Licensing Board must notify the licence holder concerned, the chief constable; and if different, the Licensing Board which issued the personal licence. The licence holder has a right of appeal to a Sheriff against orders made under section 83(9) or (9A).

### **Conduct inconsistent with licensing objectives**

#### **Power of chief constable to report such conduct to the Licensing Board**

#### **Power of Licensing Standards Officer to report such conduct to the licensing Board**

10.40 Section 84 sets out the procedure that a Licensing Board must follow in the course of reviewing a premises licence under section 33 of the 2005 Act. If the Licensing Board finds a personal licence holder was acting on the premises in question in a manner that was not consistent with the licensing objectives then:

- a hearing must be heard by the relevant Licensing Board;
- the licence holder and any other persons the Licensing Board consider are appropriate are given an opportunity to be heard;
- if satisfied it is necessary for the purposes of any of the licensing objectives the Licensing Board can make an order to revoke, suspend, endorse the a personal licence;
- where at the hearing the Licensing Board is satisfied that having regard to the licensing objectives, the licence holder is not a fit and proper person to be a holder of a personal licence then the Licensing Board must revoke the personal licence;
- When an order is made, the Licensing Board must notify the parties listed at section 84(8). The licence holder has a right of appeal to a Sheriff against orders made under section 84(7) or (7A).

10.41 Section 84A enables the chief constable to report a personal licence holder to the Licensing Board for actions which are inconsistent with any of the licensing objectives. Where this is done the Licensing Board *must* then hold a hearing to consider what action if any should be taken against the personal licence holder.

10.42 Section 84B provides Licensing Standards Officers with a specific power to report conduct of a personal licence holder, who is or was working in licensed premises in their area, which is inconsistent with the licensing objectives, to the relevant Licensing Board. Where the Licensing Board receives such a report it *may* hold a hearing but is under no obligation to do so. If a Licensing Board elects to hold a hearing, to consider what action if any should be taken against the personal licence holder, the process followed will be similar to that set out at paragraph 10.40.

## Endorsements

10.43 Section 85 provides for the expiry of endorsements of a personal licence after 5 years. An endorsement for the purposes of this section is an endorsement of a personal licence by a Licensing Board as a result of

- an order made by the Licensing Board receiving a notice of conviction;
- the Licensing Board finding in the course of a review hearing that the licence holder whilst working in a licenced premises acted in a manner which was inconsistent with any of the licensing objectives.

10.44 A personal licence holder may apply to the relevant Licensing Board, once the endorsement has expired, to have it removed. When a Licensing Board receives such an application it must remove the endorsement if it has expired. An expired endorsement is to be disregarded whether or not it has been removed from the licence.

10.45 Section 86 provides that when a personal licence holder receives 3 endorsements to their licence under sections 83 and 84 then the Licensing Board which issued the personal licence *must* hold a hearing to consider what action is taken against the licence holder.

- at any hearing a Licensing Board may give the licence holder and any other person(s) as the Licensing Board considers appropriate an opportunity to be heard; and
- if the Licensing Board considers it necessary to do so for the purposes of any of the licensing objectives make an order;
- an order can be made: suspending the licence for any period not exceeding six months or revoking the licence.
- the Licensing Board must give the licence holder notice of the order and of the reasons for making it;

The licence holder has a right of appeal to the Sheriff against any order made.



## 11. Control of Order

### Introduction

#### General

11.1 Part 7 of the Act concerns the control of order in connection with licensed premises. Part 7 introduces two mechanisms for the purposes of the control of order: exclusion orders and closure orders (including emergency closure orders). Licensing Boards have functions as regard closure orders, but no direct role as regards exclusion orders. However, in so far as it may be useful for Licensing Boards to have an understanding of exclusion orders, this Chapter of the Guidance provides an overview of the operation of exclusion orders.

#### Closure Orders and Emergency Closure Orders

11.2 Section 97 to 101 of the Act concern 'closure orders' and 'emergency closure orders'. These are orders which require a licensed premises to be closed for such period as may be specified in the order (section 97(3) of the Act).

##### *Closure Orders*

11.3 Licensing Boards may make a closure order under section 97(1) of the Act. Licensing Boards can only do so on the application of a senior police officer<sup>3</sup>. The form of such an application is set out in Parts A and B of schedule 1 of the Licensing (Closure Orders) (Scotland) Regulations 2007 (SSI 2007 No. 35) (the 'Closure Order Regulations').

11.4 Before it can grant an application, the Licensing Board must be satisfied that closure of the premises is necessary in the interests of public safety by reason of the likelihood of disorder on, or in the vicinity of, the premises. That request would normally result in a hearing at which the licence holder can make submissions concerning the proposed "Closure Order" and it is a matter for the Licensing Board to decide whether to grant the Order or not.

11.5 A closure order made by a Licensing Board is to be in the form set out in Part C of schedule 1 of the Closure Order Regulations. A closure order comes into force in relation to a licensed premises when a constable gives notice of the order to a 'responsible person' (section 97(6) of the Act). The period for which the closure order has effect will be specified in the order. For these purposes a 'responsible person' is defined in section 101 of the Act as:

- in the case of a premises in respect of which a premises licence has effect:
  - the premises licence holder, or
  - the premises manager,
- in the case of premises in respect of which an occasional licence has effect, the person who holds the occasional licence, and

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<sup>3</sup> A senior police officer for these purposes means a constable of, or above, the rank of superintendent (section 147(1) of the Act).

- in either case, any person working at the premises in a capacity (whether paid or unpaid) which authorises the person to close the premises.

11.6 Additionally, a constable of, or above, the rank of inspector must terminate a closure order if the constable is satisfied that it is no longer necessary in the interests of public safety for the premises to be closed (section 98(1) of the Act). The constable, must ensure that notice of the termination is given to the Licensing Board which made the closure order (section 98(2)(b) of the Act)<sup>4</sup>.

11.7 In respect of control of order, it is clear that good practice is essential to ensure the mechanisms within the 2005 Act can be used appropriately. Good practice should involve an effective working liaison and system of communication between the police, Licensing Standards Officers and managers of licensed premises. Many Licensing Boards' Statements of Licensing Policy emphasise the importance of good working relationships with partner agencies such as Police Scotland and in a similar vein many Licensing Boards encourage licensees to proactively engage with Police Scotland.

11.8 For example in relation to "Preventing Crime and Disorder", West Lothian Licensing Board comments in its statement of licensing policy that:

- "The Board expects premises licence holders to co-operate and liaise with Police Scotland where required to ensure that consistency with this licensing objective is upheld in the operation of the premises at all times. Applicants are encouraged to discuss crime prevention procedures in their premises with Police Scotland".

11.9 It is recognised that a great deal will depend on the willingness of licensees, premises managers and premise users to engage in a partnership approach. Those licensees who fail to take a socially responsible attitude are more likely to place themselves at a greater risk of police action under these powers than those who actively cooperate.

11.10 Section 12A of the 2005 Act imposes a duty on every chief constable to send a report to the Licensing Boards in the chief constable's police area. The report should, amongst other matters, set out the chief constable's views on the policing issues relating to the 2005 Act during that year and the following year. For example, the Annual Licensing Report 2020-21 submitted by Chief constable Iain Livingstone QPM to the Clackmannanshire Licensing Board stated that:

- "During 2020/2021 there has been no necessity to apply for a closure order nor implement an emergency closure order in the Clackmannanshire area".

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<sup>4</sup> Notice must also be given to a responsible person (section 98(2)(a) of the Act).

### *Emergency closure orders*

11.11 Where time is of the essence it is possible for emergency closure orders to be made under section 97(2) of the Act. An emergency closure order can be made by a constable of, or above, the rank of inspector. In such cases, the constable makes the closure order rather than the Licensing Board (and therefore the constable does not need to have applied to the Licensing Board under section 97(1) of the Act for an order to be made by the Licensing Board). The constable can make the order if they reasonably believe that:

- (a) there is, or is likely imminently to be, disorder on, or in the vicinity of, any licensed premises,
- (b) closure of the premises is necessary in the interest of public safety, and
- (c) the risk to public safety is such that it is necessary to do so immediately and without making an application under section 97(1) of the Act (i.e. an application to the Licensing Board for a closure order).

Under regulation 5 of the Closure Order Regulations, when an emergency closure order is made under section 97(2) of the Act, the officer who has made the order must give notice of the order to the Licensing Board in the area of which the premises in question are situated. This notice must be given as soon as practicable after the order has been made. An emergency closure order is to be in the form set out in Part 1 of schedule 2 of the Closure Order Regulations. The period of closure specified in an emergency closure order cannot exceed 24 hours, however that period can be extended under section 99 of the Act.

Section 99(1) of the Act, contains a power for a constable of or above the rank of Inspector to extend the original emergency closure order period by a further period not exceeding 24 hours. The constable must reasonably believe that the following conditions are met in relation to the premises:

- that there continues to be, or is likely to continue to be, disorder on, or in the vicinity of, the premises,
- that extending the original closure period is necessary in the interests of public safety, and
- the risk to public safety continues to be such that it is necessary to extend the closure period immediately and without making an application under section 97(1) of the Act (i.e. an application to the Licensing Board for a closure order).

11.12 An extension of an emergency closure order has no effect unless a constable has given notice of the extension to a responsible person before the expiry of the period during which the original emergency closure order has effect. Such notice is to be in the form set out in Part 2 of schedule 2 of the Closure Order Regulations. As mentioned above in respect of closure orders, who is a responsible person is set out in section 101 of the Act.

11.13 Regulation 5 of the Closure Order Regulations requires that the Licensing Board in the area of which the premises in question is located must be notified when the period of an emergency closure order is extended under section 99(1) of the Act. A constable of, or above, the rank of inspector must terminate an emergency closure order if the constable is satisfied that it is no longer necessary in the interests of

public safety for the premises to be closed (section 98(1) of the Act). The constable must give notice to a responsible person (section 98(2)(a) of the Act) and the Licensing Board in the area of which the premises is situated (regulation 5 of the Closure Order Regulations).

11.14 Emergency closure orders may only be made where it is necessary in the interests of public safety. These powers should not be used where it has been possible to anticipate the disorder arising, for example, in connection with intelligence about likely future disorder at a football fixture or in connection with a demonstration. In those circumstances the appropriate course then is for the police to apply to the Licensing Board for a closure order in respect of the premises under section 97(1) of the Act.

11.15 Licensing Boards may wish to be aware that emergency closure orders are likely to be used as a last resort. Decisions to close licensed premises may have an impact on the business involved, and possibly on the livelihoods of licence holders, managers, and members of staff or may disrupt an event that has been planned for a considerable period of time.

11.16 Any decision to deploy the powers available to make an emergency closure order under the Act in respect of premises to which a premises licence relates will in most cases lead to a review of the licence by the Licensing Board. This will involve a hearing to determine whether or not it is necessary for the promotion of the licensing objectives to exercise its powers to take any steps in relation to the licence including its revocation.

11.17 A decision by the Licensing Board to proceed on that basis will therefore involve police attendance at the hearing and the preparation of material relating to the review.

### **Voluntary co-operation**

11.18 On many occasions, other options will be available to the police, some of which are discussed below.

11.19 Licensing Boards may wish to be aware that the police, whenever possible, may seek the voluntary co-operation of licensees, premises users, and named premises managers in resolving incidents of disorder or potential disorder rather than move directly to a closure order.

11.20 If police officers are aware that any premises are showing signs of problematic behaviour relating to disorder, excessive drunkenness or noise which is disturbing local residents, they may decide to provide early warnings and reminders to premises licence holders, and named premises managers of their responsibilities and duties under licensing law; and of the police powers of closure.

11.21 Where, despite warnings, licensed premises exhibit problems over a period of time, but no single instance is sufficient in itself to justify closure action, the police may seek a review of the premises licence under Part 3 of the Act.

11.22 Where the police attend an incident, following complaints about disorder, or attend at the request of the licensee or Licensing Standards Officer, and a constable of or above the rank of Inspector reasonably believes that closure is necessary under the terms of the Act, police officers may choose to advise the licence holder, and named premises manager, and premises user immediately. Police officers may then give the licence holder, manager, or premises user an opportunity to close the premises voluntarily, on police advice, until the following day. If police advice is disputed or rejected, it may become necessary for action to be taken to make a closure order. When giving advice to close voluntarily, police officers may wish to make clear that they are not engaging in a negotiation. The view of the constable of or above the rank of Inspector will be final.

11.23 However, even if the licensee, or named premises manager is willing to close voluntarily, it will remain open to the constable of or above the rank of Inspector to decide to serve a closure order, if he or she judges that to be the right course of action in all the circumstances. It is recognised that circumstances could arise which necessitate such action.

11.24 Against this background, Licensing Boards and police officers may wish to be aware that a decision not to make a closure order or to agree to voluntary closure will not prevent a later decision by the police to seek a review of the premises licence by a Licensing Board, if that course of action is judged appropriate. Section 36 of the Act allows any person to apply to the appropriate Licensing Board for a review of the licence on any of the grounds specified in that section. Police officers may wish to be aware of this mechanism as this may be the appropriate avenue for them in the first instance where they are aware of problems that may arise with a licensed premises which are not imminent. This may reduce the need for a closure order.

### **In the vicinity of licensed premises**

11.25 A closure order made by the Licensing Board or an emergency closure order made by a constable of or above the rank of Inspector may be made on grounds of disorder on or in the vicinity of the premises. A question therefore arises as to how far from the premises incidents can take place which can be considered to be "in the vicinity" of a particular premises. Whether or not an incident was "in the vicinity" of the licensed premises is ultimately a matter of fact to be decided by the courts. However, there should be a causal connection between any disorder or likely disorder and the closure of the licensed premises. Premises cannot be closed under these provisions unless "closure is necessary in the interests of public safety". Accordingly, closure of those particular premises must directly impact on the danger to the public safety being caused by the disorder, or likely disorder, taking place or expected imminently to take place on, or in the vicinity of, the premises. The disorder and the necessity for closure of the premises must therefore be connected. This issue also arises in the context of any extension of a closure order.

11.26 Some licensees, premises users, and named premises managers of licensed premises may consider it unfair that they should be held accountable for incidents taking place outside their immediate control. However, as explained in paragraph 11.2 of this Guidance, closure orders are not designed as penalties but as a means of ensuring public safety.

## **Likely disorder**

11.27 A further question arises when any future disorder is likely to take place and would justify a closure order being made. Section 97 of the Act requires that the disorder should be likely (or in the case of emergency closure orders, likely imminent). As noted in the geographical context, there also has to be a causal connection between the likely disorder and the need to close the particular licensed premises involved. As regards emergency closure orders, any expected incident must be imminent, in which case closure of the licensed premises should diminish the probability that disorder will take place.

## **Length of emergency closure order**

11.28 An emergency closure order cannot have effect for more than 24 hours (section 97(5) of the Act). This does not mean that the length of the closure should automatically be set for 24 hours on every occasion. The criteria for making an emergency closure order places an obligation on the constable of or above the rank of inspector to close the premises for the period they estimate it would take to end the threat to public safety, or as the case may be, the nuisance to the public. In practice, therefore, closure orders could last between 30 minutes and 24 hours depending upon the circumstances of each case.

11.29 If, for example, a closure is made at 9 pm on a Monday evening because of disorder caused by gangs fighting in a public house, closure might only be appropriate for up to the time when the premises licence requires the premises to close, perhaps midnight. This could be because the constable of or above the rank of inspector reasonably believes that there is a threat of gang members (those not arrested) returning to the premises before closing time but after the police have left. However, if the threat is not expected to have subsided by closing time, it may be appropriate to impose a closure for a period extending into the following day.

11.30 Any extension under section 99(1) of the Act to an emergency closure period may be for a further period of only up to 24 hours from the end of the original closure period.

11.31 There is no appeal mechanism for licensees against the imposition of an emergency closure order.

## **Enforcing a closure order**

11.32 The Act does not require the licence holder or the police to clear the premises of customers following the service of a closure order, however, it is assumed that normally premises would empty, as it would be an offence under section 97(7) of the Act for a responsible person to allow any licensed premises to be open in breach of a closure order. The closure relates to the premises. If an individual who is drunk or disorderly is asked to leave by a responsible person or a constable and then refuses to leave, they commit an offence (section 116 of the Act). Where a constable is asked for assistance to remove such a customer, the officer is under a statutory duty to provide that assistance (section 116(4) of the Act).

11.33 Licensing Boards may wish to be aware that the police may propose a phased emptying of larger premises for the purpose of safe dispersal, for example, to keep disorderly gangs separate or because it is in the interests of public safety to keep law-abiding customers inside for a temporary period while those involved in antisocial behaviour outside are dispersed by the police.

11.34 The police officers involved should recognise that closing premises will sometimes involve putting a potentially volatile and disgruntled group of customers onto the streets. In this context, where possible, it is good practice to ensure that other licensed premises nearby are warned of the action being taken and of licence holders' and others' obligations not to allow disorderly conduct on their premises. As stated above, under the Act, police officers are under a duty, when requested by a licence holder or other person as referred to above, to assist in ensuring that drunken or disorderly persons are expelled from licensed premises, and police officers should therefore offer assistance when necessary in preventing the entry of troublemakers to other licensed premises who might be seeking to cause new problems elsewhere.

11.35 Additional police assistance may be required to clear the resulting crowd, particularly where large capacity venues are involved. The availability of that assistance is likely to be taken into consideration before any decision is made to make a closure order.

#### **Antisocial Behaviour etc. (Scotland) Act 2004**

11.36 Licensing Boards may wish to be aware that Antisocial Behaviour may also be tackled under section 26 of the Antisocial Behaviour etc. (Scotland) Act 2004 a senior police officer (officers of or above the rank of Superintendent) can authorise service of a closure notice in respect of a premises. The effect of such an authorisation is that a constable will serve on the relevant premises a closure notice. A closure notice prohibits access to the premises by any person other than a person who habitually resides in the premises or the owner of the premises. Failure to comply with the notice amounts to an offence.

11.37 A senior police officer (officers of or above the rank of Superintendent) may, in a case involving antisocial behaviour) only authorise service of a closure notice where that officer has reasonable grounds for believing that at any time during the immediately preceding 3 months a person has engaged in antisocial behaviour on the premises; and that the use of the premises is associated with the occurrence of relevant harm; and is satisfied that –

- the local authority for the area in which the premises are situated has been consulted; and
- reasonable steps have been taken to establish the identity of any person who lives on, has control of, has responsibility for or has an interest in the premises.

(Relevant harm is defined at section 40 of that Act as significant and persistent disorder or significant, persistent and serious nuisance to members of the public).

## Exclusion Orders

11.38 Licensing Boards may wish to be aware of exclusion orders, to which sections 94 to 96 of the Act relate. Section 94(2) of the Act provides that, where a person is convicted of a violent offence committed on, or in the immediate vicinity of, any licensed premises, the court by or before which the person is convicted of the offence may, in addition to any sentence imposed or other disposal in respect of the offence, make an order prohibiting the person from entering:

- (a) the licensed premises concerned, and
- (b) such other licensed premises (if any) as the court may specify in the order, except with the appropriate consent.

This formal exclusion order process is of course separate from any informal arrangement which is made between a licensed premises, or a set of licensed premises such as in a local Pubwatch scheme, to bar a particular individual.

11.39 The Act also provides that the premises licence holder for the licensed premises concerned may themselves, by summary application to the sheriff made no later than 6 weeks after the date of the conviction, seek an order prohibiting the person convicted from entering the licensed premises concerned. Section 94(4) of the Act sets out those conditions that must be considered by the sheriff.



## **12. Sale and Supply of Alcohol to Children and Young Persons**

### **Introduction**

12.1 This chapter provides information about the sale and supply of alcohol to children and young persons. For the purposes of the 2005 Act, “child” means a person under the age of 16 and “young person” means a person aged 16 or 17.

12.2 As discussed in Chapter 2, for the purposes of the 2005 Act, one of the five licensing objectives is “protecting children and young persons from harm”. The term “young persons” was added to this objective by the Air Weapons and Licensing (Scotland) Act 2015. The broadening out of this objective gives Licensing Boards greater scope to protect young persons.

12.3 “Harm” in the context of the 2005 Act is the harm that children and young persons suffer through their own drinking. This may take place within licensed premises, or through alcohol obtained from off-sales premises, either by the young person themselves or by someone else. Children and young people are particularly vulnerable to the effects of alcohol – the earlier a young person begins to drink alcohol, the more likely they are to drink in ways that can be risky later in life.

12.4 It is clear that children and young persons need protection from environments which are unsuitable and potentially harmful. They need to be prevented from being placed in a position where it is easy for them to circumvent the law and obtain alcohol. There are a number of ways in which the 2005 Act seeks to ensure that the licensing system protects children and young people.

### **On-sales premises**

12.5 Children and young persons can be impacted by the drinking behaviours they observe in adults as well as being exposed to the marketing and promotion of alcohol within a licensed premises. It is a matter for Licensing Boards to decide what environments may be suitable for access for children and young persons. For example Orkney Islands Area Licensing Board Statement of Alcohol Licensing Policy states “The Board requires applicants who submit operating plans including children and young persons to ensure that they are not given access to premises when activities such as adult entertainment are taking place”.

12.6 As discussed at Chapter 8 (premises licence) the purpose of a licence applicant having to submit an operating plan and a lay-out plan is to provide a Licensing Board and the local community with a clear indication, at the time of the application, of what activities will be undertaken on the premises. The Premises Licensing (Scotland) Regulations 2007 (SSI 2007/452) stipulates that a layout plan must show:

- any area on the premises set aside specifically for the use of children and young persons; and
- any area on the premises to which children and young persons will have access.

12.7 The form of an operating plan is set out at schedule 5 to the 2007 Regulations. The form contains a section relating to on-sales where children and young persons will be allowed to access the premises. The applicant is required to provide a statement which covers the following points:

- the terms under which they will be allowed entry;
- the ages of children or young persons to be allowed entry;
- the times during which children and young persons will be allowed entry;
- the parts of the premises to which children and young persons will be allowed entry

12.8 Falkirk Licensing Board statement of licensing policy says: “Where an application for a new or provisional premises licence or a non-minor variation to a premises licence is made, the Board may, prior to determining the application, wish to visit the premises. This will usually be the case where either or both of the following apply: objections or representations have been received; the variation seeks an increase in the access for children and young persons”.

12.9 Argyll and Bute Licensing Board’s statement of licensing policy says “The Board will impose appropriate conditions on a premises licence or in granting an occasional licence where children and young persons are to be allowed entry. Conditions will seek to ensure the safety and wellbeing of children and young persons on the premises”.

### **Off-sales premises**

12.10 An applicant for a licence which authorises off-sales only does not require to provide a Licensing Board with the information outlined at paragraphs 5 and 6.

12.11 “The Scottish Schools Adolescent Lifestyle and Substance Use Survey (SALSUS): alcohol report 2018” shows that 13 and 15 year old who have ever had a drink, were most likely to get alcohol:

- from their home (37% for 13 year olds; 28% for 15 year olds);
- from a friend (25% for 13 year olds; 34% for 15 year olds); or
- from a relative (31% for 13 year olds; 31% for 15 year olds).

Direct purchase from a licensed premises was rare:

- from a shop – 4% for 13 year olds, 7% for 15 year olds;
- from an off-licence – 2% for 13 year olds, 3% for 15 year olds;
- from supermarket, pub, club – 3% for 13 year olds, 4% for 15 year olds.

12.12 This would suggest that measures such as the introduction of an age verification policy (Challenge 25) and test purchasing have helped to significantly reduce underage sales in shops and pubs. However, the figures highlight that a

significant percentage of 13 and 15 year olds are obtaining their alcohol from relatives, friends or the home (whether with or without parental/ carer permission).

12.13 For example Clackmannanshire Licensing Board's statement of licensing policy states that one of the factors the Board will consider in relation to considering licence applications against the protecting children and young people from harm objective is: "appropriate measures (e.g. good quality staff training, age verification policy) to ensure children do not purchase or consume alcohol on the premises (unless such consumption is permitted by a young person in terms of the restricted provisions of Section 105(5) of the Act".

12.14 This is more difficult to control, however, improvements are possible. A good example of trying to reduce proxy purchasing of alcohol is the award-winning campaign, "[You're Asking For It](#)". The campaign was created in 2015 by the Scottish Alcohol Industry Partnership in collaboration with Police Scotland, North Lanarkshire Council and the Scottish Government. This coalition of partners worked together to design and deploy a creative campaign to assist retailers eliminate incidences of an adult knowingly purchasing alcohol for a minor to consume. Several test campaigns lead to an enhanced trial across the entire local authority area of North Lanarkshire in 2017. These proved the effectiveness of the campaign. The campaign has run in different parts of Scotland since but was halted due to. The campaign evolved and from 16th May 2022 (soft launch) to 14th August 2022 the 'It will cost you' integrated campaign ran nationally throughout Scotland. This was the first time the campaign had been delivered as a national campaign. The campaign was run as a partnership between the Scottish Alcohol Industry Partnership, Police Scotland and Community Alcohol Partnerships. It was coordinated by a Steering Group involving representatives from these organisations plus the Scottish Government.

## Offences

12.15 Part 8 of the 2005 Act covers Offences, a number of which relate to children and young persons:

- sale of alcohol to a child or young person (section 102)
- allowing the sale of alcohol to a child or young person (section 103)
- sale of liquor confectionary to a child (section 104)
- supply of alcohol to a child (section 104A)
- supply of alcohol to a young person (section 104B)
- purchase of alcohol by a child or young person (section 105)
- consumption of alcohol by a child or young person (section 106)
- unsupervised sale of alcohol by a child or young person (section 107)
- delivery of alcohol by or to a child or young person (section 108)
- sending a child or young person to obtain alcohol (section 109)
- duty to display notice (section 110)

12.16 The majority of these offences have been in place since the 2005 Act was implemented. Minor amendments have been made to these sections by the Criminal Justice (Scotland) Act 2010 (repeal of the word knowingly; where criminal conduct has been allowed to take place in terms of the listed offences, an offence

will be committed whether or not the person involved has knowledge of the conduct taking place) and The Licensing (Amendment) (EU Exit) (Scotland) Regulations 2019.

12.17 Sections 104A and 104B, which created new offences of supplying alcohol to children or young people for consumption in a public place, were inserted into the 2005 Act by the Air Weapons and Licensing Scotland Act 2015.

## 13. Other Offences

### Introduction

13.1 Part 8 of the 2005 Act sets out offences relating to children and young people (covered in chapter 12 of this guidance), drunken and disorderly conduct and miscellaneous offences. Other offences are set out at sections 1 and 141 respectively. This chapter does not deal with offences relating to the rights of entry and inspection or non-compliance with administrative requirements with which Licensing Boards will be well versed.

### Prohibition of unlicensed sale of alcohol

13.2 The 2005 Act makes provision for regulating the sale of alcohol, and for regulating licensed premises and other premises on which alcohol is sold. Section 1 establishes that a licence is required to sell alcohol unless the premises are exempt as defined in section 124 or to trade. Examples of “exempt” premises are, “an aircraft, a hovercraft or a railway vehicle while engaged on a journey” and “a vessel while engaged on an international journey”.

13.3 Anyone who sells alcohol or allows alcohol to be sold in breach of the conditions described in section 1 commits an offence. Section 195(2) of the Criminal Justice and Licensing Act 2010 repeals the word “knowingly” from a range of offences in the 2005 Act (including this offence). Where criminal conduct has been allowed to take place in terms of the listed offences, an offence will be committed whether or not the person involved has knowledge of the conduct taking place. A person guilty of such an offence is liable on summary conviction to a fine not exceeding £20,000, imprisonment for a period not exceeding 6 months or both.

#### *Drunkenness and disorderly conduct*

13.4 A number of offences fall under this heading:

- Drunk person entering or in premises on which alcohol is sold (section 111)
- Obtaining of alcohol by or for a drunk person (section 112)
- Sale of alcohol to a drunk person (section 113)
- Premises manager, staff etc. not to be drunk (section 114)
- Disorderly conduct (section 115)
- Refusal to leave premises (section 116)

*Drunk persons entering or in premises on which alcohol is sold*

13.5 Section 111 makes it an offence for:

- a drunk person to attempt to enter (unless they reside in the premises) any premises in which alcohol is lawfully sold.
- a person, whilst on premises in which alcohol is lawfully sold, to be drunk and incapable of taking care of himself or herself.

A person committing an offence under this section can be arrested without warrant by the police. A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 1 on the standard scale (£200).

*Obtaining of alcohol by or for a drunk person*

13.6 Section 112 makes it an offence for any person to buy or attempt to buy alcohol for someone who is drunk or to help a drunk person to obtain or consume alcohol. The offences only apply where the alcohol is to be consumed on premises in which alcohol is lawfully sold. A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale (£1,000).

*Sale of alcohol to a drunk person*

13.7 Section 113 makes it an offence for the premises manager and any other person working on the premises, in which alcohol is lawfully sold, to sell alcohol to someone who is drunk. A person guilty of a such an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale (£1,000).

13.8 In seeking to promote each of the licensing objectives, many Licensing Boards' Statements of Licensing Policy contain information regarding "control measures" which the Licensing Board and the Licensing Standards Officer encourage license holders to put in place. For example Highland Licensing Board's current statement of licensing policy provides examples of control measures such as:

In the interest of protecting and improving public health:

- making available information promoting moderate drinking, awareness of units of alcohol and recommended guidelines;
- having a policy to deal with patrons who have consumed excessive alcohol (where not already required by the local condition on staff duty of care).
- ensuring staff awareness of offences such as sale of alcohol to a drunk person

*Premises manager, staff etc. not to be drunk*

13.9 Section 114 makes it an offence for the premises manager and anyone else who working on the premises, in which alcohol is lawfully sold, to be drunk on the premises. A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale (£1,000).

*Disorderly conduct*

13.10 Section 115 makes it an offence for any person while drunk: to behave in a disorderly manner or to annoy others with offensive language on premises in which alcohol is lawfully sold. A person guilty of behaving in a disorderly manner is liable on summary conviction to: (a) a fine not exceeding level 3 on the standard scale

(£1,000), (b) imprisonment for a term not exceeding 60 days, or (c) both. A person guilty of annoying others with offensive language is liable on summary conviction to a fine not exceeding level 3 on the standard scale (£1,000).

13.11 It is also an offence for the premises manager and anyone else working on premises, in which alcohol is lawfully sold, to allow disorderly conduct on the premises. Provision is made for a “due diligence” defence for a person charged with this offence. It will be a defence where: the accused or an employee or agent of the accused, can prove that they took all reasonable precautions and exercised due diligence not to commit the offence; or that there were no lawful and reasonably practical means by which the accused could prevent the conduct giving rise to the offence. A person found guilty of this offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale (£1,000).

#### *Refusal to leave premises*

13.12 Section 116 makes it an offence for a disorderly person to refuse to leave premises, in which alcohol is legally sold, when asked or for any person to refuse to leave licensed premises at closing time when asked. Certain authorised persons are allowed to use reasonable force to remove from any premises on which alcohol is sold a person who is behaving in a disorderly manner but refuses to leave when asked. “Authorised persons” are the premises manager and anyone else who works on the premises who has been authorised by the premises manager for the purposes of this section.

#### *Miscellaneous Offences*

13.13 A number of offences fall under this heading:

- Offences relating to sale of alcohol to trade (section 117)
- Prohibition of unauthorised sale of alcohol on moving vehicles (section 118)
- Delivery of alcohol from vehicles etc. (section 119)
- Prohibition of late-night deliveries of alcohol (section 120)
- Keeping of smuggled goods (section 121)

#### *Offences relating to sale of alcohol to trade*

13.14 Section 117, as enacted, made it an offence for a person to sell alcohol to trade otherwise than from premises used exclusively for the purpose of selling to trade. The Criminal Justice and Licensing Act 2010 amended this section to correct an unintended consequence – i.e. if, for example, a restaurant owner wished to buy alcohol for their restaurant from a supermarket instead of the wholesaler, the restaurant owner would, under the 2005 Act as enacted, be committing an offence. The amendment means it is no longer an offence for a licensed premises to sell to the trade. A person guilty of an offence under section 117 is liable on summary conviction to a fine not exceeding level 5 on the standard scale (£5,000).

13.15 The sale of alcohol, no matter what the quantities, to trade does not require to be carried out under and in accordance with an alcohol licence. Wholesalers who sell alcohol to non-trade as well as trade will require a premises or occasional licence and any non-trade sales will be bound by the terms of the specific alcohol licence.

*Prohibition of unauthorised sale of alcohol on moving vehicles*

13.16 Section 118 deals with, for example, “party buses” and “stretch limousines” that provide alcohol. It makes it an offence for any person to sell alcohol on any vehicle whilst it is moving unless authorised to do so. As mentioned above, section 195(2) of the Criminal Justice and Licensing Act 2010 repeals the word “knowingly” from certain offences in the 2005 Act (including this offence). In terms of the 2005 Act, “vehicle” means a vehicle intended or adapted for use on roads. A person guilty of an offence under this section is liable on summary conviction to: (a) a fine not exceeding £20,000, (b) imprisonment for a term not exceeding 3 months, or (c) both.

*Delivery of alcohol from vehicles etc.*

13.17 Section 119 deals with deliveries of alcohol (does not include any alcohol being delivered to a trader for the purposes of that person's trade) and requires that all such deliveries and carrying of alcohol in vehicles is properly and clearly recorded. Offences are committed where:

- the quantity, description and price of the alcohol sold and name and address of the person to whom the alcohol is to be delivered is not recorded in a day book nor in a delivery book or invoice carried by the person delivering the alcohol prior to despatch by the person who sold the alcohol;
- a person carries in a vehicle in use for the delivery of alcohol, following a sale of alcohol by them and the quantity, description and price of the alcohol was not entered in the day book and delivery book/invoice;
- a person delivers the alcohol to an address not entered in the day book and delivery book/invoice;
- a person refuses to allow a constable or a Licensing Standards Officer to examine any vehicle or any day book and delivery book/invoice.

A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale (£1,000).

*Prohibition of late-night deliveries of alcohol*

13.18 Section 120 applies where alcohol is sold on any relevant premises for the consumption off the premises. For the purposes of Part 8 of the 2005 Act “relevant premises” means: any licensed premises; any exempt premises on which alcohol is sold; and any premises used for the selling of alcohol to trade. Offences are committed where:

- a responsible (see section 122 for a definition) person delivers or allows the alcohol to be delivered to any premises (other than licenced premises) between the hours of midnight and 6am.

As mentioned above, section 195(2) of the Criminal Justice and Licensing Act 2010 repealed the word “knowingly” from certain offences in the 2005 Act (including these offences). A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale (£1,000).

*Keeping of smuggled goods*

13.19 Section 121 makes it an offence to keep or allow to be kept on any licensed premises any goods which have been imported without payment of duty or which



have otherwise been unlawfully imported. A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale (£1,000). A power is also granted to the courts to order the forfeiture or destruction of such goods.

### **Offences by bodies corporate etc**

13.20 Section 141 deals with offences committed by companies, partnerships and other bodies. It effectively provides for certain persons responsible for the management or control of these bodies to share criminal responsibility for offences committed with their consent or connivance or due to their neglect.

### **Defence of due diligence**

13.21 Section 141B of the 2005 Act provides a defence to certain offences where the person accused had no knowledge that the offence was being committed and exercised all due diligence to prevent the offence being committed. This provision was inserted into the 2005 Act by the Criminal Justice and Licensing (Scotland) Act 2010.

### **Vicarious liability of premises licence holders and interested parties**

13.22 This is a technical area and it might be helpful to say a few words about the policy rationale for inserting section 141B into the 2005 Act. This was discussed during the Stage 2 consideration of what was then the Criminal Justice and Licensing (Scotland) Bill ("the Bill").

13.23 The Scottish Government considers that those who operate licensed premises must carry a high degree of responsibility for the operation of their premises and the actions of their staff. No licence holder should be able to evade responsibility by staying away from their premises without fear of being convicted of an offence arising from an act or omission by a member of their staff while they are absent.

13.24 As discussed during Stage 2 of the Bill, that problem was addressed in the 2005 Act, which ensures that there is a person directly responsible for the sale of alcohol on a licensed premises in the form of a designated premises manager, who must hold a personal licence.

13.25 However, it is also the case that for a significant proportion of the licensed trade, the operational structure is that head office dictates the policies that must be pursued on individual premises. Often, managers have no freedom about what signage is used or what products are placed on offer. Therefore, whether or not the manager is the designated premises manager, how the premises operate is dictated from elsewhere. In effect, the licence-holding company can simply continue by sacking managers and not being held responsible for their actions.

13.26 At the time the Bill was progressing through Parliament, the licence holder could escape punishment by claiming ignorance of the conduct in question and could not be held to account for failures to introduce adequate management systems and

staff training. Section 141B, which was drafted in consultation with the police, ensures that premises licence holders can be held liable for a number of offences committed by members of their staff. Section 141B also ensures that premises licence holders are correctly afforded a defence of due diligence, where they can demonstrate the consistent steps that they took to prevent those offences from being committed.

## 14. Excluded and Exempt Premises

### Introduction

14.1 As outlined at Chapter 8 a premises licence is tailored to the individual premises by means of an operating plan, licensing objectives risk assessment and a layout plan. For the purposes of the 2005 Act, “premises” means any place and includes a vehicle, vessel or moveable structure. Some premises are excluded from holding a licence and some premises are exempt from holding a licence.

14.2 The Criminal Justice and Licensing (Scotland) Act 2010 made minor amendments to sections 127 (trains) and 128 (ferries) of the 2005 Act by repealing the word “knowingly” from the offences set out in those sections. Where criminal conduct has been allowed to take place in terms of the listed offences, an offence will be committed whether or not the person involved has knowledge of the conduct taking place.

### *Excluded premises*

14.3 Section 123 provides that certain premises are excluded from the alcohol licensing regime and consequently the sale of alcohol would not be permitted on these premises. Motorway service stations are prohibited from holding a premises licence. Premises used as a petrol station, or parts of a premises used as a petrol station, are prohibited from holding a premises licence. Premises are used as a petrol station if they are used for the:

- retail sale of petrol
- retail sale of diesel
- sale of motor vehicles
- maintenance of motor vehicles

14.4 However, in certain circumstances a Licensing Board may be prepared to consider a premises licence application.

14.5 For example in its statement of licensing policy, Midlothian Licensing Board state:

- “An application for a premises licence must be refused if the subject premises are ‘excluded premises’. Excluded premises are defined as motorway service stations and, with certain qualifications, garage premises or petrol/derv filling stations. These premises are not excluded if the applicant can demonstrate that local residents are reliant to a significant extent for the premises to be a principal source of petrol/derv or groceries.
- “In determining such an application the Board will expect the applicant to provide sufficient information to enable it to consider the locality in which the premises are situated, the other sources of petrol or derv and/or groceries in the locality and the extent to which the persons resident in the locality are, or are likely to become, reliant to a significant extent on the premises as a principal source of petrol or derv, or groceries.

14.6 Licensing Board clerks will be familiar with the 2011 BP Oil (UK) Limited v City of Edinburgh Licensing Board and City of Glasgow Licensing Board case. A link to the judgement is provided on the [Scottish Courts and Tribunals Service](#) website. This case law is important in assisting Licensing Boards in their use of provisions in section 123.

*Exempt premises*

14.7 As mentioned in Chapter 13 Other Offences Section, the 2005 Act makes provision for regulating the sale of alcohol, and for regulating licensed premises and other premises on which alcohol is sold. Section 1 establishes that a licence is required to sell alcohol unless the premises are exempt as defined in section 124 or to trade. Section 124 covers the following premises:

- an examination station at an airport designated for the purposes of this section in an order made by the Scottish Ministers,
- an approved wharf at a port or hoverport so designated,
- an aircraft, a hovercraft or a railway vehicle while engaged on a journey,
- a vessel while engaged on—
- →an international journey, or
- →a journey (other than an international journey) forming part of a ferry service, and
- premises which are occupied (whether indefinitely or temporarily) for the purposes of the armed forces of the Crown, except while being used for other purposes.

14.8 Under section 124, the Scottish Ministers may designate an airport, port or hoverport as exempt premises. No ports or hoverports are presently so designated. The Licensing (Designated Airports) (Scotland) Order 2007 [SSI 2007/97] exempts from the requirement of the 2005 Act those airports which handle a significant amount of international traffic. Aberdeen, Edinburgh, Glasgow, Glasgow Prestwick, Inverness and Sumburgh airports are so designated.

14.9 It is however important to note that the exemption only applies to premises in the “examination station” of the airport, that is the area beyond the security controls to which only passengers arriving or departing have access (airside). Premises before security controls (landside) will be subject to the provisions of the 2005 Act and an application in respect of them will need to be made to the Licensing Board in the same way as for other premises.

## **Annex A Coronavirus Legislation**

### **Coronavirus (Scotland) Act 2020**

1. The aim of the Coronavirus (Scotland) Act 2020 (“the 2020 Act”) was to respond to the emergency situation caused by the coronavirus pandemic. The Coronavirus (Scotland) Bill was introduced to the Scottish Parliament on 31 March 2020 and followed the parliament’s emergency bill procedure. All three stages of the Bill took place on 1 April and following agreement of the Parliament, the Bill completed the parliamentary process on 1 April 2020. Royal Assent was granted on 6 April 2020 and the alcohol licensing provisions came into force on 7 April 2020.

### **Licensing (Scotland) Act 2005: temporary modifications**

2. The alcohol licensing regime as set out in the Licensing (Scotland) Act 2005 (“the 2005 Act”) contains a considerable number of strict timescales and deadlines with little or no discretion available to the relevant authorities if they are not adhered to. Schedule 5 contains temporary modification to the law in relation to alcohol licensing Coronavirus (Scotland) Act 2020 (legislation.gov.uk). The Scottish Government considers the alcohol licensing provisions in the 2020 Act to be a pragmatic response to the coronavirus outbreak.

#### **The temporary modifications cover:**

##### *Requirement to hold a hearing*

Paragraph 1 of schedule 5 of the 2020 Act sets out modifications to the operation of provisions in section 133 of the 2005 Act relating to requirements falling on Licensing Boards to hold hearings.

##### *Premises Licences*

Paragraph 2 sets out modifications to the operation of provisions in the 2005 Act relating to premises licences.

##### *Personal Licence holders*

Paragraph 3 sets out a number of modifications to the operation of provisions in the 2005 Act relating to personal licence holders.

##### *Licensing Boards etc.*

Paragraph 4 modifies the operation of a number of provisions in the 2005 Act relating to Licensing Boards.

##### *Modification of duties of Licensing Standards Officers*

Paragraph 5 sets out a number of modifications to the operation of provisions in the 2005 Act relating to Licensing Standards Officers.

##### *Notification by the Chief constable*

Paragraph 6 modifies the operation of a number of provisions in the 2005 Act relating to the Chief constable of Police Scotland being required to respond within 21 days to a notice from a Licensing Board. The purposes of the response is to provide information to Licensing Boards in respect of various licensing matters.

### *Interpretation*

Paragraph 7 has the effect of modifying section 147 (interpretation) of the 2005 Act as if there were inserted a definition of “coronavirus” into that Act.

### *Modification of the Licensing (Procedure) (Scotland) Regulations 2007*

Paragraph 8 modifies the operation of the Licensing (Procedure) (Scotland) Regulations 2007 (SSI 2007/343).

### Licensing (Scotland) Act 2005: extension and expiry of temporary modifications

Section 12 of the 2020 Act as enacted, provided that, amongst other provisions, the temporary modifications to the alcohol licensing regime would expire on 30 September 2020, unless the Scottish Parliament approved regulations providing for its effect to continue to 31 March 2021. The 2020 Act also provided that the Scottish Parliament could approve regulations allowing one further extension until 30 September at which point any remaining provisions in the Act would expire.

The Coronavirus (Scotland) Acts (Amendment Of Expiry Dates) Regulations 2020  
SSI 2020/299

The Coronavirus (Scotland) Acts (Amendment Of Expiry Dates) Regulations 2021  
SSI 2021/152

Coronavirus (Extension and Expiry) (Scotland) Act 2021

The Coronavirus (Scotland) Acts (Amendment Of Expiry Dates) Regulations 2022  
SSI 2022/113

The 2020 and 2021 regulations extended the temporary modifications made to the 2005 Act by the 2020 Act to 31 March 2021 and 30 September 2021.

As mentioned above, section 12 of the 2020 Act provided that the temporary modifications to the alcohol licensing regime would expire on 30 September 2021. The Coronavirus (Extension and Expiry) (Scotland) Act 2021 (“the 2021 Act”) extended the majority of the alcohol licensing provisions until 31 March 2022.

The temporary modification which allowed for licensing board meetings to be held in private for a reason relating to Covid expired on 30 September 2021 made to Paragraph 12(2) of schedule 1 to the 2020 Act which provided that a Licensing Board does not have to meet in public if it cannot do so as a result of the coronavirus outbreak was expired by the 2021 Act and did not continue to be the law after 30 September 2021.

The 2021 Act also allowed secondary legislation to be used to extend Part 1 (which includes the unexpired alcohol licensing provisions) of the 2020 Act further, to 30 September 2022. The Parliament agreed to this by approving the 2022 regulations.

### Coronavirus (Recovery and Reform) Scotland Act 2022

A non-emergency Bill was introduced to the Scottish Parliament on 25 January 2022 following on from a 12 week public consultation. The purpose of the Bill is to embed reforms in Scotland’s public services and justice system that, though necessitated by the Covid pandemic, have delivered improvements for service users and improved

efficiency. The Bill will also help build resilience against future public health threats. The Bill was passed by the Scottish Parliament on 28 June 2022, with Royal Assent being granted on 10 August 2022.

*Alcohol licensing: section 23 how hearings may be held*

This section makes similar provision to alcohol licensing as is made for civic licensing by section 21 of the Act, replicating the temporary modifications to the 2005 Act made by paragraph 1 of schedule 5 of the Coronavirus (Scotland) Act 2020. A new section 133A is inserted into the 2005 Act, giving a Licensing Board the ability to hold a licensing hearing through remote facilities, as well as in person, or through a mixture of both (often called a “hybrid” format). Subsection (2) of section 133A defines “remote facilities” for these purposes, a definition which would include telephones and video conferencing software. Subsection (1A) of section 133A ensures that any views which participants at a licensing hearing may offer with regard to the appropriate format for the hearing must be taken into account by a Licensing Board, prior to finalising its decision on the format. This applies to anyone who notifies the Board of their intention to participate, such as the licence holder or an objector.

Equivalent provision is then made for Licensing Board meetings by amendments to paragraph 12 of schedule 1 of the 2005 Act. In addition, because the existing paragraph 12(2) requires that Licensing Board meetings are held in public, a new paragraph 12(2A) is inserted in order to clarify that this requirement for public access is complied with, where a remote or hybrid meeting is held, by the Board enabling the public to observe the meeting remotely – for example through the public provision of a web link to the meeting.

The Coronavirus (Scotland) Acts (Saving Provision) Regulations 2022

- Part 4 of these Regulations makes saving provision in respect of the expiry of section 6 and schedule 5 of the first Scottish Act, insofar as they modified the Licensing (Scotland) Act 2005 (“the 2005 Act”).
- Regulations 5 and 6 make general saving provision relating to the first Scottish Act for the purpose of supporting the subsequent particular saving provision, set out in regulations 7 to 10, which relate to the modifications of the 2005 Act. Regulation 7 saves the modification to section 45 (provisional premises licence) of the 2005 Act made by paragraph 2(5) of schedule 5 of the first Scottish Act. Section 45 provides that a Licensing Board can grant a provisional premises licence, which if not confirmed within 4 years is treated as revoked. The modification is saved only in respect of an application to extend the 4 year period which was made before the end of September 2022.
- Regulation 8 saves the modification to section 54 (dismissal etc. of premises manager) made by paragraph 2(6) of schedule 5 of the first Scottish Act. Where one of the events mentioned in section 54(2) of the 2005 Act occurs, the premises licence holder must notify the Licensing Board within 7 days, and must apply to substitute another person as the premises manager within 6 weeks. Paragraph 2(6) of schedule 5 modified these requirements to increase the 7 day period to 28 days and increase the 6 week period to 3 months. The modification is saved only in relation to a section 54(2) event occurring before the end of September 2022.

- Regulation 9 saves the modification to section 77 (period of effect of personal licence) made by paragraph 3(2) of schedule 5 of the first Scottish Act. A personal licence may be extended for 10 years if a renewal application is granted. The modification is saved only where an application has already been made but has not yet been determined, and the licence has expired, but remains in effect immediately before the end of September because of the effect of the modification.
- Regulation 10 saves certain modifications to sections 9A (annual functions report) and 9B (annual financial report) made by paragraph 4(2) and (3) of schedule 5 of the first Scottish Act. Sections 9A and 9B provide respectively that Licensing Boards must prepare and publish annual functions reports and annual financial reports within 3 months of the end of the financial year. The modifications are saved to allow the Board to be able to delay publication until the 31 December 2022.



## Annex B Index of defined expressions

The expressions in the left-hand column of the table are defined or otherwise explained by the provisions of the 2005 Act specified in the right-hand column.

<b>Expression</b>	<b>Interpretation provision</b>
alcohol	section 2
alcoholic drink	section 147(1)
applicant	section 147(1)
area	section 147(1)
capacity (in relation to licensed premises)	section 147(1)
certified copy (of premises licence or summary)	section 55
chief constable	section 147(1)
child	section 147(1)
closure order	section 97(3)
community council	section 147(1)
connected person	section 147(3)
council	section 147(1)
emergency closure order	section 97(4)
excluded premises	section 123(2)
exclusion order	section 94(6)
exempt premises	section 124
expiry date (of a personal licence)	section 77(7)
extended hours application	section 68(3)
foreign offence	section 129(2)
interested party	section 147(5)
layout plan	section 20(2)(b)(ii)
licensed hours	section 62(1)
licensed premises	section 147(1)
licensing objectives	section 4(1)
statement of licensing policy	section 6(1)
licensing qualification	section 91(1)
licensing register	section 9(1)
liquor confectionary	section 147(1)
locality	section 7(2)
operating plan	section 20(4)
occasional licensing	section 56(1)
occasional licence application	section 56(4)
off-sale hours	section 62(2)(a)(ii)
on-sale hours	section 62(2)(a)(i)

<b>Expression</b>	<b>Interpretation provision</b>
personal licence	section 71
personal licence application	section 72(2)
personal licence renewal application	section 78(4)
premises	section 147(1)
premises licence	section 17
premises licence application	section 20(3)
premises licence review	section 36(2)
premises licence review proposal	section 37(2)
premises licence variation application	section 29(3)
premises manager	section 19(1)
prescribed	section 147(1)
provisional premises licence	section 45(5)
provisional premises licence application	section 45(2)
railway vehicle	section 147(1)
relevant council	section 147(1)
relevant health board	section 147(1)
relevant offence	section 129(1)
review hearing	section 38(2)
sell (and related expressions)	section 147(1)
selling to trade	section 147(2)
senior police officer	section 147(1)
strength of alcohol	section 147(1)
subject premises	section 147(1)
supplementary statement of licensing policy	section 6(2)
temporary premises licence	section 47(4)
variation (of a premises licence)	section 29(5)
variation – minor (of such a licence)	section 29(6)
vehicle	section 147(1)
vessel	section 147(1)
young person	section 147(1)



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# **THE ABERDEENSHIRE LICENSING BOARD**

## **REPORT TO THE ABERDEENSHIRE LICENSING BOARD – 22nd February 2023**

### **CONSULTATION ON RESTRICTING ALCOHOL ADVERTISING AND PROMOTION**

#### **1 Executive Summary/Recommendations**

- 1.1 The Scottish Government are consulting on proposals on restricting alcohol advertising and promotion. This is as a result of data, as explained in the consultation, that shows that in Scotland, enough alcohol was sold so that everyone over 16 could drink 18 units of alcohol every week, which is 28% more than the UK Chief Medical Officers low risk guidelines of 14 units a week. The consultation is wide ranging but focusses on marketing of alcohol including on television, in public spaces, social media or promotion at sports, events as well as through branded merchandise.
- 1.2 **The Licensing Board is recommended to:**
- 1.2.1 **Consider the consultation in Appendix 1 to this report and consider whether to respond to the consultation.**
- 1.2.2 **Should the Board be minded to respond, to provide comments for inclusion in the response to the Scottish Government.**
- 1.2.3 **Delegate the preparation and submission of the finalised response on behalf of the Board to the Head of Legal and People following consultation with the Chair and Vice Chair so that the response can be submitted to the Scottish Government by the deadline in early March 2023.**

#### **2. Background / Discussion**

- 2.1 The Scottish Government has published a consultation document on proposals to restrict alcohol advertising and promotion. This is published online [here](#) and is replicated in Appendix 1 for ease of reference. Many of the proposals will or may have an impact on both the licensed premises that are licensed by the Board, and some of the events where occasional licences are granted which is why it is appropriate for the Board to consider responding to the consultation.
- 2.2 Appendix 2 narrates the questions being posed in the consultation along with officer comments where there is a direct impact on the work of the licensing service and explains the potential consequences.
- 2.3 The Board are encouraged to provide views on all elements of the proposal which will be collated together with officer comments for submission to the Scottish Government. The deadline for submission is prior to the next meeting of the Licensing Board therefore a delegation to the Head of Legal and People following consultation with the Chair and Vice Chair to agree the final response ensures timely submission.

- 2.4 The Monitoring Officer within Business Services have been consulted in the preparation of this report and had no comments to make and are satisfied that the report complies with relevant legislation.

### **3 Implications and Risk**

- 3.1 An integrated impact assessment is not required as the Board are considering the impact of proposals made by the Scottish Government, who will collate impacts and produce an Equalities Impact Assessment.
- 3.2 There may be resource implications for the Licensing Team if proposals are adopted which would have an impact on the number of variation applications however this is as yet unknown. Officers will assess the implications of any proposals following the consultation by the Scottish Government.

**Ritchie Johnson**

**Director of Business Services**

Report prepared by Lauren Cowie, Principal Solicitor (Governance)

Date 15<sup>th</sup> January 2023

**Appendix 1 – Scottish Government Consultation**

**Appendix 2 – Questions and proposed response**



## Appendix 2

### Questions and proposed response

1. Do you think we should prohibit alcohol sports sponsorship in Scotland?

Yes, No, Maybe

2. If sports alcohol sponsorship were to be prohibited, what types of marketing do you think should be covered by a prohibition?

Illustrative examples include:

- prohibiting the use of alcohol brands on clothing worn by players or staff
- prohibiting alcohol being advertised on pitch side hoarding, pitches, trophies, tunnels or interview boards
- prohibiting players or staff from featuring in alcohol adverts in print or online
- prohibiting online content from linking the sports team, players or competition to an alcohol brand or vice versa.

3. What, if any, sporting activities or events do you think should be excepted from a prohibition on alcohol sports sponsorship?

4. Do you think we should prohibit alcohol events sponsorship in Scotland?

5. If alcohol events sponsorship were to be prohibited, what types of marketing do you think should be covered by a prohibition?

6. What, if any, events do you think should be excepted from a prohibition on alcohol events sponsorship and why?

7. If alcohol sponsorship restrictions are introduced, do you think there should be a lead-in time for these? How long might this be and how would it work?

8. Do you think we should prohibit alcohol marketing outdoors, including on vehicles and in public spaces in Scotland?

9. What do you think should be covered by a prohibition on alcohol marketing outdoors, on vehicles and in public spaces?

10. What, if any, exceptions do you think there should be to prohibiting alcohol marketing outdoors, including on vehicles and public spaces in Scotland?

11. Do you think we should further restrict the visibility of alcohol in retail environment giving reasons for your response? For example by; • restricting window displays of alcohol, • restricting the use of mixed alcohol and non-alcohol aisles, • prohibiting aisle-end displays of alcohol, • redefining the alcohol display area, and/or • covering alcohol behind till areas similar to tobacco

*The Aberdeenshire Licensing Board's policy includes provisions, having regard to the promoting and improving public health licensing objective, to*

1. *Include having dedicated shelves or sections devoted exclusively to low alcohol products.*
2. *In the case of premises selling other goods as well as alcohol this will mean:-*



- a. *Not displaying alcohol alongside confectionary or other goods likely to be of interest to children.*
- b. *Not having alcohol promotions displayed at places within the premises where it is likely to trigger impulse purchases by customers who would have otherwise not have purchased alcohol, for example at the end of an aisle.*

*The policy is currently undergoing review and specific questions have been asked in public engagement on the impact of this. This has had limited impact to date on those premises within Aberdeenshire who had a licence including end of aisle promotions prior to the adoption of the policy, but for new premises this is brought to the attention of any applicant and many accept the position and amend their applications accordingly to reduce end of aisle displays. This cannot be enforced retrospectively on existing licences unless this is a choice that they make. This emphasises that whilst changes can be made going forward, it would take legislative change to ensure that this can be enforced across Scotland and the implications of what this would mean for existing premises licences, and any variation thereof would need to be carefully considered in terms of lead in time for Councils and their statutory consultees to ensure that this is appropriately resourced.*

12. Do you think we should consider structural separation of alcohol in Scotland to reduce the visibility of alcohol in off-trade settings (e.g. supermarkets)?
13. How do you think structural separation of alcohol in Scotland could operate? (e.g. with barriers, closed display cases) – *If this was to be brought in then the majority premises licence in Scotland would require a premises licence variation which would be costly for premises licence holders and would have a serious resource impact on local authorities and statutory partners e.g. Police Scotland.*
14. Do you think that we should prohibit the sale of alcohol-branded merchandise in Scotland?
15. Do you think that we should prohibit the free distribution of alcohol-branded merchandise in Scotland?
16. What if any exceptions do you think there should be to prohibiting the sale or distribution of alcohol branded merchandise?
17. What, if any, other restrictions do you think should be considered on the use of alcohol brands on non-alcohol products?
18. Do you think any potential alcohol marketing restrictions should also apply to no or low drinks products between 0% ABV and 1.2% ABV where these carry the same brand name or identifiable brand markings, as alcohol drinks over 1.2% ABV?
19. Do you think we should prohibit advertising of alcohol in newspapers and magazines produced in Scotland?
20. What, if any exceptions do you think there should be to prohibiting alcohol advertising in newspapers and magazines produced in Scotland?

21. Do you think we should restrict alcohol branded social media channels and websites in Scotland?
22. What if any exceptions do you think there should be to prohibiting alcohol branded social media channels and websites in Scotland?
23. Do you think we should restrict paid alcohol advertising online in Scotland? Examples include adverts, appearing on websites, via pop ups, on social media platforms, on search engines or influencer advertising?
24. What types of paid alcohol advertising do you think should be covered by any restrictions?
25. What if any exceptions do you think there should be to restricting paid alcohol advertising online?
26. Do you think we should restrict alcohol companies from sharing promotional content on social media (e.g. filters, videos or posts) whether this is produced by them or by consumers?
27. What, if any, exceptions do you think there should be from restricting alcohol companies from sharing promotional content on social media (e.g. filters, videos or posts) whether this is produced by them or by consumers?
28. Do you think we should explore prohibiting alcohol advertising on television and radio completely e.g. Norway or Sweden?
29. Do you think we should introduce a watershed for alcohol advertising on TV and radio like Ireland and if so how would this work?
30. Do you think alcohol advertising should be restricted in cinemas?
31. If alcohol advertising was restricted in cinemas, what, if any exceptions, e.g. products, times of day or movie ratings, do you think should be considered?
32. Do you think that content of alcohol marketing in Scotland should be restricted more to factual elements?
33. Do you think we should only allow alcohol marketing to include elements set out in a list like Estonia? This would mean all other elements not on the list would be banned from adverts?
34. Do you think that content restrictions like the Estonian model should be applied to all types of alcohol marketing?
35. How do you think that any future alcohol marketing restrictions in Scotland should be monitored and enforced?
36. Do you think that Scottish Government should require the alcohol industry to provide information and data on alcohol marketing campaigns in Scotland?

37. Do you think that Scottish Government should require the alcohol industry to provide local alcohol sales data in Scotland?
38. Do you think the Scottish Government should look to introduce a comprehensive package of restrictions across a number of marketing channels? If so, what do you think this should include?
39. What if any additional marketing methods or channels not covered in the consultation would you like Scottish Government to consider restricting and why?
40. What further evidence on alcohol marketing would you like the Scottish Government to consider?
41. If you sell, distribute, advertise or manufacture alcohol or represent those who do, how do you think the potential restrictions in this consultation paper would impact you and the wider alcohol sector?



# **Consultation on Restricting Alcohol Advertising and Promotion**

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## Ministerial foreword

Scotland has a deep, longstanding and troubled relationship with alcohol. In 2020, Scots bought enough alcohol for everyone aged over 16 to drink 18 units of alcohol every week, 28% more than the UK Chief Medical Officers' lower-risk guidelines of 14 units per week. High levels of consumption cause a range of harms. An average of 700 people are hospitalised and 24 people die each week from illnesses caused by drinking alcohol. Each one of these deaths is tragic and entirely preventable.



**Maree Todd, MSP**  
Minister for Public Health,  
Women's Health and Sport

Alcohol-related harm is one of the most pressing public health challenges that we face in Scotland. We have taken a number of actions to prevent and reduce this, including our world-leading minimum unit pricing policy, the reduction of the drink-drive limit and the multi-buy discount ban.

Restricting alcohol marketing is identified as one of the World Health Organization's three 'best buys', the most cost-effective measures that WHO recommends to prevent and reduce alcohol-related harm. Many of our European neighbours have already taken action to do this including Ireland, France and Norway. This consultation sets out a potential approach for Scotland.

Alcohol is marketed through an integrated mix of strategies including advertising on TV, on billboards outdoors, through sports and events sponsorship as well as through branded merchandise and online.

Alcohol marketing is seen by, and appealing to, large volumes of children and young people in Scotland. International evidence shows that seeing alcohol marketing is associated with an increased likelihood that children and young people will start to drink alcohol or, if they already drink alcohol, drink more. This is harmful to them in both the short and long term.

It is also likely that alcohol marketing influences heavy drinkers and acts as an incentive to drink, which can make abstinence more challenging for those in recovery. This is in addition to the likely impact marketing has on our wider society, by normalising alcohol and presenting it as fun, sociable, commonplace, and even part of a healthy lifestyle.

Young people in Scotland, and people in recovery and their families, have told us directly that they see a lot of alcohol marketing and want us to take action to restrict this. This consultation sets out a range of potential proposals to reduce and restrict alcohol marketing including prohibiting alcohol advertising outdoors, phasing out alcohol sponsorship and reducing the promotion of alcohol in-store.

By restricting alcohol marketing in Scotland we hope to reduce the appeal of alcohol to our young people. This will support a reduction in consumption of alcohol and subsequently improve their health and health prospects as adults. It will also reduce the potential triggering effect that alcohol marketing can have on heavy drinkers and those in recovery or treatment. Restricting alcohol marketing will also support our ambition to change our troubled relationship with alcohol. Your responses will help shape our next steps.

# 1. Why do we need to take action?

- 1.1 In 2020, [Scots bought enough alcohol for everyone aged over 16 to drink 18 units of alcohol every week](#). This is equivalent to around 23 bottles of spirits, or around 90 bottles of wine, per adult each year; which is 28% more than the [UK Chief Medical Officers' low-risk guidelines of 14 units per week](#).
- 1.2 In 2021, [1,245 people in Scotland died from illnesses that can only be caused by drinking alcohol](#). That is an average of 24 people dying every week. Each one of these deaths is tragic and entirely preventable.
- 1.3 In addition to deaths wholly caused by alcohol, some deaths are partly attributable to alcohol consumption. [Analysis](#) found there were 3,705 deaths attributable to alcohol consumption in 2015. Of these, 1,048 (28%) were due to cancers, 544 deaths were from heart conditions and strokes, and 357 deaths were from unintentional injuries such as falls.
- 1.4 In the 2020/21 financial year, there were [35,124 alcohol-related hospital admissions \(stays\) in general acute hospitals in Scotland](#). That is nearly 700 hospital admissions every week.
- 1.5 There is a stark social gradient to alcohol harms. [In the 10% most deprived areas of Scotland, rates of alcohol-specific deaths and alcohol-related hospital stays were eight times higher than in the 10% least deprived areas](#).
- 1.6 Wider harms related to drinking can include [someone committing, or being a victim of a crime; or a child being neglected or distressed because of drinking in the family](#).
- 1.7 In taking action to prevent and reduce alcohol-related harms, [we take a whole population approach which aims to reduce alcohol consumption and therefore the risk of alcohol-related harms across the population. Although we recognise that there is no safe level of regularly drinking alcohol](#), we are looking to embed lower and safer consumption levels throughout the population. This is in line with the [UK Chief Medical Officers' lower-risk drinking guidelines](#).
- 1.8 We follow the recommended international evidence-based approach. The World Health Organization (WHO) points to [three 'best buys'](#) as the most effective measures to prevent and tackle alcohol-related harm – reducing the Affordability, Availability and Attractiveness of alcohol. Building on this, the WHO launched its new [SAFER initiative](#) – a package of five evidence-based, high impact strategies which WHO recommends governments should prioritise to tackle alcohol-related harm.
  - **Strengthen** restrictions on alcohol availability.
  - **Advance** and enforce drink driving countermeasures.
  - **Facilitate** access to screening, brief interventions, and treatment.
  - **Enforce** bans or comprehensive restrictions on alcohol advertising, sponsorship, and promotion.
  - **Raise** prices on alcohol through excise taxes and pricing policies.



- 1.9 Measures introduced by the Scottish Government reflect this approach, including the introduction of minimum unit pricing (MUP), lowering the drink-drive limit and facilitating the alcohol brief intervention programme.
- 1.10 [Marketing is ‘the business activity that involves finding out what customers want, using that information to design products and services, and selling them effectively.’](#) This is often defined by reference to the four P’s – Product, Place, Price, and Promotion. This consultation is largely focused on Promotion which covers a wide range of activity used to communicate with consumers and promote alcohol products or brands. This includes advertising on television, in public spaces, via social media, as well as promotion via sports and events sponsorship as well as through branded merchandise.
- 1.11 The consultation also includes consideration of Place, [a product’s distribution strategy with a focus on ensuring it is easily accessible to potential buyers](#), in the section on placement of alcohol products in retail outlets.
- 1.12 We know that alcohol marketing like any other form of marketing, aims to make the product look as attractive and appetising as possible, in order to encourage consumers to purchase it. Fundamentally, marketing is about persuasion and aiming to direct people into desired action. [Without branding and other marketing strategies, alcohol products in each beverage sub-sector are essentially variations of the same thing.](#)
- 1.13 Marketing does not occur in only one area of our lives but is visible in the information we see on our billboards, that we read in our newspapers, that we see during our television programmes. It is on the adverts on our search engines and the information before the feature film in the cinema. [Marketing strategies do not rely on the reach and persuasion of one single activity but involve a range of activities interwoven to interact and complement each other, and maximise the likelihood of reaching and persuading consumers.](#)
- 1.14 This means that we need to consider the areas where Scotland can implement restrictions including on advertising in outdoor and public spaces, alongside areas where we can work with the UK Government to take action such as on television and radio.
- 1.15 It is only by tackling this interconnected nature of marketing activities that we will be able to make a difference in the volume and range of alcohol marketing that is seen across Scotland. This consultation sets out the areas where we could take action and seeks views on each.
- 1.16 [The purpose of taking action to restrict alcohol marketing is threefold and summarised by the WHO](#) as:
- to prevent young people from being exposed to alcohol marketing (which is known to influence the decision to start consuming alcohol and to increase alcohol use)
  - to reduce the presence of alcohol cues that can induce reactivity and craving in alcohol-dependent persons
  - to prevent influence on social norms relating to consumption in general, given the negative public health, economic and social consequences of alcohol use.

- 1.17 Although the proposed actions outlined in the consultation are population-wide and are intended to have an impact on everyone in Scotland, there is a focus on reducing the impact of alcohol marketing on children and young people. The strongest academic evidence<sup>1</sup> underpins the impact alcohol marketing has on children and young people and is set out through the consultation. This is the basis on which a number of other European countries have taken action to restrict alcohol marketing.
- 1.18 Taking action to reduce the exposure children and young people have to alcohol marketing aims to reduce the attractiveness alcohol has to them. [There is a connection between children and young people seeing alcohol marketing and drinking; seeing it leads young people to start drinking earlier, to drink more if they are already drinking, and to drink at heavy or problematic levels.](#) Reducing the appeal that alcohol has to children and young people will reduce the range of alcohol harms specific to them (such as effects on their physical development and mental health), and prevent the harms linked to continuing to drink into adulthood. Therefore much of the discussion in this consultation concerns children and young people, but the intended impacts on people in recovery and the adult population generally are discussed where the proposed actions are particularly relevant to them.
- 1.19 'Children and young people' will be used throughout the consultation to refer generally to those under 18 years old; however in some academic evidence the impact of alcohol marketing on those aged 18-25 years old may also be included.
- 1.20 Taking action to restrict alcohol marketing also aims to reduce the appeal that alcohol has to higher-risk drinkers and those in those in recovery from problematic drinking. [There is evidence that those who drink heavily have increased susceptibility to alcohol marketing and that this can translate into drinking behaviours. For those in recovery, alcohol marketing can be a trigger which threatens their recovery and can be responsible for relapse.](#) Although there is less research on this group, compared to children and young people, any relevant research is set out in this consultation.
- 1.21 There is limited academic evidence on the impact alcohol marketing has on the adult population, and as such this is a secondary focus of this consultation. It is likely that alcohol marketing also makes alcohol more attractive to adults generally and influences consumption. Alcohol marketing normalises alcohol and creates and sustains expectations about alcohol as positive, aspirational, commonplace, and even part of a healthy lifestyle. [It can have a number of impacts on behaviour including encouraging someone to try an alcoholic product for the first time, encouraging someone to buy more or more frequently, capturing market share from competitors or enticing previous consumer to return. Studies indicate that the way alcohol is portrayed within alcohol adverts acts as a cue for drinking and influences consumption.](#)

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1 Anderson P, de Bruijn A, Angus K, Gordon R, Hastings G. Impact of alcohol advertising and media exposure on adolescent alcohol use: a systematic review of longitudinal studies, *Alcohol & Alcoholism* 2009; Vol. 44 pp. 229-243 ;  
Smith L A, Foxcroft D R. The effect of alcohol advertising, marketing and portrayal on drinking behaviour in young people: systematic review of prospective cohort studies. *BMC Public Health* 2009; 9:51; Jernigan D, Noel J, Landon J, Thornton N, Lobstein T. Alcohol marketing and youth alcohol consumption: a systematic review of longitudinal studies published since 2008. *Addiction* 2016; DOI: 10.1111/add.13591  
Scientific Opinion of the Science Group of the European Alcohol and Health Forum (2009) Does Marketing Communication Impact on the Volume and Patterns of Consumption of Alcoholic Beverages, Especially by Young People

- 1.22 The Scottish Government may not have the powers to implement all of the restrictions outlined in this consultation. Some proposed restrictions may require the UK Government to take action or devolve powers to the Scottish Ministers. This consultation does not mean the actions outlined will take place – of course, the proposals discussed are subject to the outcomes of this consultation. However, gaining your views on these measures is of value to the overall consideration of alcohol marketing restrictions and the further development of policy proposals.
- 1.23 It is also important to be aware that pricing is outside the scope of the consultation given Scottish Government’s wider work on MUP and [restricting multi-buys](#).

## 2. How is alcohol harmful to children and young people?

- 2.1 Alcohol consumption during any stage of childhood can have a harmful effect on a child's development. [Children and young people](#) are more vulnerable than adults to the acute and intoxicating effects of alcohol due to their physical immaturity and lower levels of tolerance, especially when combined with the increased impulsivity and greater propensity for risk-taking behaviour associated with adolescence.
- 2.2 [Binge drinking and heavy alcohol use in young people is associated with a range of adverse short-term consequences including vomiting, injuries, mental health problems and self-harm](#). Children and young people who drink heavily may experience adverse effects on the brain, liver, bone, growth and endocrine development.
- 2.3 Drinking alcohol at a young age can cause children and young people to suffer from the [same chronic health harms as adults do but at a younger age](#). There were [three alcohol-specific deaths in those under 25 in 2020](#).
- 2.4 There are a variety of other less obvious alcohol-related harms which have a particular impact on children and young people in Scotland including poorer mental health and wellbeing, and the impact underage drinking can have on a young person's education.
- 2.5 We know that there is a link between young people's mental health and wellbeing and alcohol consumption. The [2018 SALSUS report](#) showed that pupils (13 and 15 year olds) with poorer mental health and wellbeing were more likely to have drunk alcohol in the last week than those with better mental health and wellbeing.
- 2.6 [In 2021](#), there were 73 suicides among 15-24 year olds compared with 54 in 2015. [Evidence](#) has suggested that drinking prior to age 14 has been shown to be associated with a number of risks, [including suicidal thoughts and attempts](#).
- 2.7 Underage drinking can also harm a young person's ability to learn or participate in school effectively. The [2018 SALSUS survey](#) showed that pupils who had ever been excluded from secondary school were more likely to have drunk alcohol in the last week than those who had not. This also highlighted a strong correlation between those who drank alcohol and those who were more likely to truant. There is [evidence](#) of a link between binge drinking in adolescence and lower educational attainment in adulthood.
- 2.8 Evidence also shows that the consumption of alcohol by young people and offending are closely linked. In 2017, a [survey](#) of young people in custody in Scotland showed that over half of those surveyed (56%) reported being drunk at the time of their offence. In comparison, [the 2019 Prison Survey](#) (for adults) showed that 40% of those who took part reported being drunk at the time of their offence. This reflects [previous evidence](#) demonstrating that young people who drink frequently or binge drink are more likely to be involved in fights, to sustain injuries from fighting and to commit violent offences.

## Harms to children and young people - longer term harms

- 2.9 People who start drinking as children and young people, and continue into adulthood, are exposed to the toxic effects of alcohol for a longer period of time than if they started as adults. [Long-term alcohol consumption increases the risk of a range of chronic diseases](#) such as cancer, liver cirrhosis, heart disease and stroke. [Development of these conditions](#) is linked to current and past alcohol consumption, and with certain types of cancer, risk increases with any amount of alcohol consumed on regular basis.
- 2.10 [Evidence](#) indicates that drinking behaviours adopted in the formative teenage years track strongly into adult life. Those who [binge drink in adolescence are more likely to be binge drinkers as adults](#). Early age of drinking onset is [associated](#) with an increased likelihood of problematic drinking or dependence in adolescence and adulthood, and also with dependence at a younger age. Vulnerability to alcohol abuse and dependence is [greatest among adolescents who begin drinking before the age of 15](#).
- 2.11 The range of significant harms that children and young people experience due to alcohol underline why the [UK Chief Medical Officers advise that no alcohol should be consumed under the age of 18](#).

### 3. Rationale for intervention – How will restricting alcohol marketing prevent and reduce alcohol-related harms?

#### Children and Young People

- 3.1 Despite alcohol being a health harming and age-restricted product, children and young people are readily exposed to alcohol marketing in Scotland. Although the current self-regulatory system has been in place, and strengthened, over a number of decades, there is little evidence that this is working in terms of reducing young people's exposure and providing adequate protection.
- 3.2 A survey of over [3,000 young people aged 11-19 years old in the UK](#) found that half of the sample recalled seeing 32 instances of alcohol marketing in the last month, effectively one piece of alcohol marketing every day. Within the under 18 demographic, one third of those sampled recalled 54 or more instances of alcohol marketing – almost twice a day. This is simply far too high.
- 3.3 This [exposure is cumulative](#); it is made up of exposure to a range of different market channels. Looking at specific channels, the [survey](#) conducted over April – May 2017, found that 42.9% had seen an alcohol advert on television in the last week, 27.9% on a billboard, 27.3% on social media, 30.7% in the form of sponsorship and 18.8% in newspapers or magazines. This reflects the dynamic nature of '360-degree' marketing campaigns and how they reach young people in a multitude of formats.
- 3.4 It is likely that seeing alcohol marketing increases knowledge and awareness of alcohol brands over time. [Nine in ten under 18's in the UK recognise at least one alcohol brand, with recognition increasing with age from 82% of 11-12 year olds to 91% of 13-15 year olds and 97% of 16-17 year olds.](#)
- 3.5 [Studies in the UK have shown that children as young as ten](#) can readily identify alcohol brands, logos and characters from alcohol advertising. In a [survey](#) within primary schools in the north of England and in Scotland, nine out of ten children recognised a particular beer brand.
- 3.6 Two youth led projects in Scotland, facilitated by the [Children's Parliament](#) and [Young Scot](#), specifically considered alcohol marketing. The Children's Parliament project on an alcohol-free childhood involved children aged 9-11 in workshops in their schools and found that:

*“Children demonstrate awareness and knowledge of alcohol branding and advertising, with some children clearly identifying and referencing certain brands, logos and advertising strategies in their discussions and artwork...When talking about her illustration of a bottle of alcohol in her fridge at home, one child noted that she had chosen to label the bottle with the word ‘fancy’ as it was a type of alcohol she knew. The child had adopted the word seen in a billboard campaign to advertise a popular brand of vodka and had taken care to emulate the same font-style used in the advert.”*



- 3.7 This demonstrates another aspect of exposure to alcohol marketing; that children do not just see it; they also understand it and their thinking may be influenced by it. [Children and young people can link alcohol brands to particular drinking occasions and settings, in line with the marketing strategies of these brands](#). For example, [Scottish children aged 14 to 17 linked a particular brand of beer with watching football, a rum brand with holidays and a cider brand with drinking outdoors and barbeques](#).
- 3.8 The [Young Scot Health Panel](#), made up of young people aged from 14 to 25, found that *“all panel members had been exposed to alcohol marketing in one form or another, and had high brand recognition, despite most of the group being under the legal drinking age.”*
- 3.9 Although the alcohol industry may not intend for children and young people to see and interact with marketing content, there is likely to be an inevitable spillover effect from campaigns that target new legal drinkers or young adult drinkers.

### What impact does exposure to alcohol marketing have on children and young people?

*“It’s harmful. It’s just telling children to buy it even though they’re not old enough. It’s not a good message for children”* ([Children’s Parliament](#)).

*“(brand name deleted) vodka is cool”* ([Female, 13, C2DE, drinker](#)).

*“I prefer (brand name deleted) to (brand name deleted). It’s just because most people would probably rather drink that one and be seen with it, it’s got a better image. I’ve seen them advertised, the X, the adverts are good, dead funny”* ([Female, 14, ABC1, drinker](#)).

- 3.10 Academic studies from different countries have followed young people over time, tracking their exposure to alcohol marketing and their subsequent alcohol consumption. A number of systematic reviews<sup>2</sup> of these studies assert that there is a strong relationship between children and young people seeing or interacting with alcohol marketing and then starting to drink alcohol, or if they already drink alcohol, drink more. A range of alcohol marketing channels were studied including outdoor advertising, print advertising, cinema advertising, television advertising, online advertising, in-store advertising, sponsorship and ownership of branded clothing and merchandise.
- 3.11 Researchers [recently concluded](#) that a causal link might exist between exposure to alcohol marketing and consumption amongst young people, using the Bradford Hill criteria (a set of criteria academics use to assess the strength of causality).

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<sup>2</sup> Anderson P, de Bruijn A, Angus K, Gordon R, Hastings G. Impact of alcohol advertising and media exposure on adolescent alcohol use: a systematic review of longitudinal studies, *Alcohol & Alcoholism* 2009; Vol. 44 pp. 229-243 ; Smith L A, Foxcroft D R. The effect of alcohol advertising, marketing and portrayal on drinking behaviour in young people: systematic review of prospective cohort studies. *BMC Public Health* 2009; 9:51; Jernigan D, Noel J, Landon J, Thornton N, Lobstein T. Alcohol marketing and youth alcohol consumption: a systematic review of longitudinal studies published since 2008. *Addiction* 2016; DOI: 10.1111/add.13591 Scientific Opinion of the Science Group of the European Alcohol and Health Forum (2009) Does Marketing Communication Impact on the Volume and Patterns of Consumption of Alcoholic Beverages, Especially by Young People.

- 3.12 In addition to the international evidence, [research carried out in Scotland](#) and the UK supports a link between exposure to marketing and consumption. A [survey carried out in the UK with over 3000 11-19 year olds](#) demonstrates that awareness of alcohol marketing is associated with increased alcohol consumption and a greater likelihood of higher-risk consumption for those who had started drinking. This is not limited to alcohol marketing and studies in children have shown that under [5 minutes of food advertising](#) increases children and young people's calorie consumption by 60kCal.
- 3.13 The overall effect of alcohol marketing is cumulative; [the amount and frequency of drinking by young people rises in line with the degree of exposure to alcohol marketing](#). This is why it is important that any potential restrictions reduce the total volume of marketing seen.
- 3.14 Being exposed to a piece of alcohol marketing does not necessarily cause immediate or short-term alcohol consumption of the product advertised amongst children and young people. It is [not a simple relationship](#).
- 3.15 The effect and impact of alcohol marketing on consumption is complex and multi-faceted, as well as cumulative. Marketing influences a network of indirect processes that work together to ultimately guide people towards a particular action and choice. Seeing alcohol marketing [likely influences pro-alcohol feelings and attitudes, and shapes positive associations and expectancies around alcohol in general](#), as well as around specific alcohol brands. [The more channels and content people are exposed to the more likely that they will be influenced](#).
- 3.16 [Academic evidence is clear](#) that in the alcohol context specifically, future attitudes are set in adolescence, a crucial period for identity and attitude forming. If pro – alcohol attitudes and drinking patterns are formed in adolescence then these build over time and [positively influence alcohol consumption decisions later in life](#). If drinking patterns are set at dangerous levels in childhood or in young adult stages then this will have an on-going effect on adult health. Alcohol marketing provides the building blocks for current and future behaviour by affecting how young people think and feel.
- 3.17 The way that pro-alcohol attitudes inform decisions to drink alcohol and drinking patterns likely involves complex psychological and cognitive processes over time. It is [theorised](#) that the way alcohol is marketed, in a desirable way with fun and sociable occasions depicted, influences young people to like the marketing, want to emulate it and may create positive expectancies around alcohol or positive ideas about the effects of drinking. [Children move through different stages of response to alcohol marketing from exposure, to noticing, remembering, liking and then participating](#).
- 3.18 [We know that children and young people find alcohol adverts and brands appealing](#). Seeing and liking alcohol marketing, and the product being displayed in a positive and attractive way, sets expectations of certain positive benefits from drinking e.g. having a good time with friends.
- 3.19 Multiple [studies](#), including in [Scotland](#), have shown a link between how much a young person likes an alcohol advert and their drinking behaviours. For example, [young people who had positive reactions to adverts were 40% more likely to be a higher-risk drinker](#).



- 3.20 Branding forms a crucial part of this, as it does in alcohol marketing campaigns. Underage adolescents in Scotland [demonstrate high levels of brand knowledge and preferences for certain brands, even before they have started to drink.](#)
- 3.21 [Young people perceive some brands as desirable with a positive image and others as undesirable. Some brands are seen positively to encapsulate maturity, masculinity or femininity and an acceptance amongst peers whilst others are seen negatively to encapsulate immaturity or embarrassment among peers.](#)
- 3.22 [Young people who have greater awareness and familiarity with brands or who have developed brand preferences are more likely to drink more alcohol.](#)
- 3.23 Advertising industry case studies of alcohol advertising campaigns bear this out with [internal documents](#) referencing aspirations of campaigns to increase sales, introduce consumers to the product and, in some cases, to recruit young heavier drinkers or “[the heavy-using loyalists of tomorrow](#)”.
- 3.24 The claim often made that alcohol marketing only influences switching between brands and does not have any influence on attitudes or feelings towards alcohol generally is not consistent with the academic evidence. Nor the direct feedback from children and young people in Scotland and around the world. [It is unlikely that alcohol marketing has one effect only i.e. switching between brands.](#)
- 3.25 The strength of this evidence is endorsed by the [World Health Organization](#) and has formed the foundation for the action a number of countries around the world have taken to restrict alcohol marketing.

### Higher-risk adult drinkers and those in recovery

*“I found it difficult seeing alcohol advertised everywhere: bus stops, TV, newspapers. Even now - I am in recovery and have been sober two and a half years - I find it triggering still. Tobacco adverts aren’t a thing anymore and nor should this. People with alcohol addiction aren’t given a fighting chance.”* [Millie, Alcohol Health Alliance survey respondent](#)

- 3.26 Higher-risk adult drinkers are those who drink at levels that are hazardous or harmful to their health, above the UK Chief Medical Officers’ low-risk drinking guideline of 14 units per week. In Scotland, [around one in four people drink at hazardous or harmful levels, and 1% \(around 38,000 people\) may be dependent on alcohol.](#)
- 3.27 Academic [evidence](#) demonstrates that advertising can affect behaviour by presenting cues – such as a picture of an alcoholic drink or a brand – that stimulate consumption. [Heavy and binge drinkers react more strongly – and differently – to these cues compared to lighter drinkers. The more someone drinks, the more likely they are to pay attention to alcohol cues, which in turn leads to increased cravings.](#)
- 3.28 Those in recovery from problematic drinking cannot easily exclude alcohol marketing from their lives. A recent [literature review](#) on the impact of alcohol marketing on higher-risk drinkers and those in recovery found that this can act as a ‘trigger’ or incentive to drink for those in treatment or recovery from alcohol dependence. This can make it difficult to abstain from alcohol consumption and can contribute to [relapse](#). Individuals can find it difficult to avoid alcohol imagery and adverts that promote consumption, when going about their daily lives.

- 3.29 Those in recovery report a need to use [strategies to avoid alcohol marketing](#) and certain environments with high visibility of alcohol, including in-store. [Alcohol marketing can lead to](#) negative emotions including loss, lack of belonging, anger, sadness, guilt and exclusion from the norm.
- 3.30 These results are consistent with research undertaken by [Scottish Families Affected by Alcohol and Drugs](#), and the [Alcohol Health Alliance](#) which found that people in recovery experience persistent and ubiquitous alcohol marketing messages in their daily lives. Excerpts from a survey undertaken as part of this work are set out below, and in other parts of this consultation.

*"I worked as a detox nurse for 20 years, all my patients struggled with alcohol adverts when trying to control or abstain from drinking."*

Fiona, [AHA Survey respondent](#)

*"There really is no escape from alcohol imagery. Waiting for the tube at 8am, I look at a 6-foot bottle of whisky. The side of a bus tells me there is an app that can get me 'booze in under 15 minutes'. Some of my favourite TV shows are sponsored by alcohol. I receive emails from supermarkets telling me how they have slashed their prices of spirits."* [Melissa, in recovery](#)

- 3.31 Dependent drinkers often have challenging and difficult recovery journeys, due to the addictive relationship they have with alcohol. Sustaining recovery is beneficial to the mental and physical health of the person drinking and their loved ones.

## Other adults within the population

- 3.32 Although there is limited research on the impact alcohol marketing has on adults in the general population, it is likely that alcohol marketing also makes alcohol more attractive to adults generally and influences consumption.
- 3.33 Adults in Scotland will likely be exposed to similar volumes of alcohol marketing as children and young people are. In many circumstances this could be higher. For example, a recent University of Stirling study analysed alcohol references within a televised Six Nations match in Scotland in 2020 and found an average of approximately 5 alcohol references per broadcast minute. This is the equivalent of one alcohol reference every 12 seconds. [A survey in Ireland found that 9 out of 10 adults recalled seeing alcohol marketing in the prior month, and at least half recalled seeing alcohol marketing approximately 2-3 times a day.](#)
- 3.34 Alcohol marketing by its nature involves featuring alcohol in a desirable way and reinforcing the idea of alcohol as a positive product. This means that the range of harms surrounding alcohol, including increased risks of cancer and heart disease, are not given the same attention and not front of mind for individuals. [Marketing contributes towards sustaining social norms around alcohol, that this is positive, normal and desirable. We know that social norms are amongst the most powerful drivers of behaviour, including drinking. Studies indicate that the way alcohol is portrayed within alcohol adverts acts as a cue for drinking and influences consumption.](#)
- 3.35 Although alcohol companies state that they use marketing techniques to retain consumers and inspire switching between brands and products, [research](#) demonstrates that campaigns also recruit new drinkers and increase overall alcohol consumption.

- 3.36 It is [very unlikely](#) that alcohol marketing only influences adults on switching between brands and that this does not influence increased consumption of alcohol. [It can have a number of impacts on behaviour including encouraging someone to try an alcoholic product for the first time, encouraging someone to buy more or more frequently, capturing market share from competitors or enticing previous consumers to return.](#)

## 4. What is the current regulatory system?

- 4.1 Alcohol marketing in the UK is largely self-regulated, by the alcohol and advertising industries, as well as co-regulated with Ofcom for broadcast advertising. Different industry-developed codes of practice apply to different media, with different bodies overseeing compliance.
- 4.2 The Advertising Standards Authority (ASA), funded by a levy on the advertising industry, operates codes, which apply to [broadcast](#) (e.g. television, overseen by Ofcom) and [non-broadcast](#) (e.g. print) marketing. For broadcast media, adverts need to be cleared before transmission to check compliance. Some of the rules that the ASA oversee are underpinned by law. For example, the [Communications Act 2003](#) prohibits alcohol advertising on video-sharing and on-demand services from encouraging immoderate consumption or being aimed specifically at persons under the age of eighteen.
- 4.3 For product naming, packaging and promotion, the Portman Group's [Code of Practice](#) is applicable. The Code operates alongside current existing legislation. The Code notes it is the responsibility of the producer to ensure a drink's packaging complies with food regulations and all other relevant regulations or legislation. A separate [Portman Group Code of Practice](#) is in place for sponsorship. It is important to note that the [Portman Group](#) is funded by the alcohol industry.
- 4.4 The Codes contain rules on the content of adverts specifically intended to protect children and young people. These include that alcohol marketing must not be likely to appeal particularly to people under 18 years, must not be targeted to people under 18 through the selection of media, and must not feature people drinking who seem to be under 25. There are no specific rules in place intended to protect higher-risk drinkers or those in recovery, although there are general rules around not encouraging immoderate consumption.
- 4.5 We know that, despite the Codes, children and young people in Scotland [see a high volume of alcohol marketing](#). This suggests that we need to go further to reduce the volume of alcohol marketing seen by children and young people.
- 4.6 One reason the rules may not be effective is that they are focused on the content of alcohol adverts and entail making subjective judgements. For example, although the current Codes prohibit advertising that is [particularly appealing](#) to under 18's, this is a high threshold to meet. When [young people are asked](#) whether alcohol adverts are appealing they often answer that these are, despite self-regulatory bodies decisions that these are not appealing. In theory, within this rule, a marketing campaign can appeal to children, but as long as it also appeals to adults it is permitted this is a high threshold to meet. It suggests that adverts are permitted to appeal to children and young people, so long as they don't appeal more to them than they do to over 18's.
- 4.7 Children often aspire to appear older than they are and may be drawn to products that suggest greater maturity to them. Marketing that is childish will not always appeal to children whereas [marketing which is aimed at adults will often appeal to those under 18](#).

- 4.8 Another reason that the current system may not be effective is that the Codes do not focus on reducing the volume of alcohol marketing that children and young people see. The system is focused on protecting children at events, and around media that is likely to be solely targeted at them (e.g. children's cartoon shows). This does not take account of the reality of how children and young people live their lives; that they will attend events and watch or interact with media that is not only for them.
- 4.9 For example, the current [CAP Code](#) rule prohibits alcohol advertising in public spaces if 25% or more of the audience are under 18. This does not prevent most, if any, alcohol outdoor advertising on billboards or public transport, because under 18's are less than 25% of the population overall. This means that children and young people are routinely exposed to outdoor alcohol advertising as they journey around their communities to school, swimming pools, shops and to see their friends.
- 4.10 This is also true of sports sponsorship, where the [Portman Group's Code of Practice on Alcohol Sponsorship](#) utilises the same 25% threshold rule. Although under 18's are less than 25% of the audience watching, for example a Scotland rugby match, this still means that thousands of children and young people see a high volume of alcohol marketing and branding in person and on television.
- 4.11 Both the ASA led system and the Portman Group systems have a largely complaints-led component to their monitoring and therefore depends on members of the public seeing and then subsequently knowing how to report marketing which may breach the rules.
- 4.12 The complaints-based system is also by its nature retrospective, meaning that marketing campaigns can continue to run despite being potentially in breach of the rules, until a decision is made. [Decisions can take months](#), meaning that campaigns could have finished by the time anything would be enforced or a campaign is made to stop running. For example, one regulatory body made a decision in February 2018 that a Christmas-themed alcohol campaign had breached their rules; however the campaign ran in November/December 2017 and had [finished by the time of the decision](#). This is in contrast with the Clearcast<sup>3</sup> system for television advertising where adverts must be pre-approved before they are allowed to be shown.
- 4.13 The [WHO](#) recommends that countries restrict alcohol marketing via a legal framework, with strong sanctions, as opposed to taking a self-regulatory approach. This consultation sets out potential areas of restriction which could be introduced via legislation rather than strengthened self-regulatory rules. This is because the consultation largely proposes potential introduction of tighter controls on the volume of alcohol marketing permitted rather than new rules relating to the content of alcohol marketing. Rules focusing on content of adverts are subjective and less effective in protecting children and young people, as set out above.

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<sup>3</sup> Clearcast is owned by the largest UK commercial broadcasters (but accepts other broadcasters as clients) and works to make sure advertisements comply with the UK Advertising Codes set by the Committee of Advertising Practice and the Broadcast Committee of Advertising Practice. Clearcast is not a regulator, does not create the rules of advertisement and cannot ban commercials.

## 5. Proposed restrictions

- 5.1 The range of harmful impacts that alcohol marketing can have are set out in the first section of this consultation. With these in mind, a range of potential areas of restriction are set out within this section, with views sought on each of these. Further development, and consultation, on the full detail of any proposed restrictions will take place in due course.
- 5.2 The strong academic evidence on the impact that alcohol marketing can have is not repeated throughout this section, as this applies generally to the various marketing tools and channels set out here. The primary rationale is that alcohol marketing overall, whichever particular marketing channel is being viewed, is harmful by increasing the appeal and attractiveness of alcohol amongst children and young people. Where there is further evidence on for a specific marketing channel it is added within the relevant section below.
- 5.3 It is crucial that any potential restrictions to reduce the volume of alcohol marketing are as comprehensive as possible. We know that it is the [cumulative nature of alcohol marketing that negatively influences children and young people](#) rather than individual channels or methods. We also know that, [when other countries have restricted individual channels of alcohol marketing, advertising activity has increased on non-restricted channels](#). This was also true of [tobacco marketing restrictions](#).
- 5.4 [Evidence from other European countries](#) also sets out that more comprehensive restrictions have proved to be more effective and easier to implement.
- 5.5 As previously mentioned, we will consider the areas where Scotland can implement restrictions on advertising within devolved powers. Some of the areas discussed in the consultation (e.g. TV and radio advertising) may require the UK Government to take action. Given the value of taking a comprehensive approach to restriction, there is value in gathering views on all the areas discussed in this paper.



## 6. Sport and events sponsorship



*"I remember at my brother's football match, there were alcohol advertisements all around the pitch."*  
(9-11 year old, [Children's Parliament](#))

- 6.1 There is a long-standing relationship between alcohol brands and sport in Scotland, particularly in football and rugby union. This normally consists of club or competition sponsorship as well as high profile sponsorship of major international sporting competitions such as the Six Nations and the UEFA European Championships. When hosted in Scotland these events reach larger and more captive audiences than other marketing channels can. Television audiences for [international rugby union](#) and [football matches](#) involving Scotland number in the millions, in addition to the thousands in the crowd watching in person.
- 6.2 [Research](#) considering 34 rugby and football teams/organisations in Scotland found that nearly four in ten of the teams audited (39%) had a sponsorship relationship with an alcohol producer or distributor. This included half of the football teams in the Scottish Premier League, nearly a third of the teams in the Scottish Championship and the three rugby organisations audited.
- 6.3 Sponsorship is a contractual arrangement between an alcohol company and a sports team, venue or competition. [This arrangement often includes a wide range of marketing activities](#) which are used to explicitly promote products. Specific activities in the sporting context including featuring alcohol brands on players clothing or displaying advertising on pitch borders. Sponsorship has also evolved to include social media and digital content. Examples include videos featuring players visiting distilleries and creating alcoholic products.
- 6.4 Cumulatively this marketing activity means that alcohol brands are highly visible to crowds attending as well as to anyone watching the broadcasts. [Researchers coded](#) televised broadcasts of sport in Scotland and found one alcohol marketing reference every 98 seconds in a live Scottish Premier League match, every 71 seconds in a live Scottish Cup Final and every 15 seconds in a live Six Nations match.

- 6.5 A recent [University of Stirling study](#) analysed alcohol references within four broadcast matches, hosted in France, Ireland and Scotland, at the 2020 rugby Six Nations Championship. This found that alcohol marketing was most frequent in the match played in Scotland, with an average of approximately five references per broadcast minute, one every 12 seconds. This contrasted with an average of one reference per broadcast minute in France, a country with comprehensive restrictions on alcohol marketing. The most frequent location of references in the match played in Scotland was on the stadium structure (36.2%), particularly static and electronic advertising hoarding on the upper tiers that was visible during large parts of the broadcast.

### What impact does this have?

- 6.6 Children and young people in Scotland form part of the in-person and televised audience for sporting events, meaning that through attendance at these events they can be heavily exposed to alcohol sports sponsorship.
- 6.7 A [2019 survey](#) found that 69% of young people surveyed in Scotland had seen alcohol sports or events sponsorship in the prior month. [Research with ten and eleven year olds in the UK](#) found that almost half of the Scottish children surveyed (47%) associated the Scottish national team with the beer brand sponsor at that time. Only 19% of the English children made the same association.
- 6.8 Sponsorship is a particularly potent form of alcohol marketing. People have particular connections with sports teams and players, as well as bands and celebrities. This allows alcohol brands to [capitalise on and transfer these emotional connections to their brand, thereby increasing the alcohol brands visibility, appeal and influence](#). This may create an appearance that the players or team are endorsing the products, children and young people or adults may [then want to purchase these products in order to emulate, or be similar to, their sporting heroes](#).
- 6.9 Project and [focus group](#) work with children and young people in Scotland and the UK further evidences how highly aware of alcohol sports sponsorship they are. One of the children involved in the [Children's Parliament](#) investigation on an alcohol-free childhood said "*the Champions League sponsor is (brand name deleted)... At the start of the match, they announce the sponsor and you can see the adverts all over the stadium.*" [Children and young people in Scotland](#) have considered alcohol sports sponsorship and made the below recommendations.

#### Young Scot Health Panel

##### Recommendations

- Prohibit alcohol-branded sports merchandise, including sponsorship on replica kits.
- Offer accreditation to sports venues which are more family-friendly. This entails reducing the alcohol advertising on display, placing limits on the number of alcoholic drinks a person can buy, and hosting at least six alcohol-free sporting events per year.
- During televised sporting events, footage of crowds should avoid close shots of people drinking alcohol.



## Children's Parliament

- Stop alcohol sponsorship of events at which children may be present. Investigators call on organisers of sports games, festivals and other events to have separate spaces for children and families, or to stop using alcohol sponsorship if any children may be present.

- 6.10 Alcohol sports sponsorship may also exclude or discourage those on a recovery journey for problematic drinking, from attending sporting events. [People in recovery in Scotland have highlighted places where alcohol is sold and promoted as being risky environments.](#)
- 6.11 It is clear that alcohol sponsorship is contributing to the high volume of alcohol marketing in Scotland. We want children and young people, as well as those in recovery and the wider population, to be able to attend and enjoy sporting events without seeing alcohol adverts or promotion. Sport should inspire good health and active participation rather than promote a health-harming and age-restricted product.
- 6.12 Many professional sports clubs in Scotland do not currently have an alcohol sponsor. A [recent study](#) found that half the Scottish Premier League football teams do not have an alcohol sponsor. Overall 93% of all sponsors in Scottish football and rugby are not alcohol producers or distributors. We know from the restrictions on tobacco sponsorship within sports that alternative sponsors can be found given adequate transition periods.
- 6.13 Examples from other countries with restrictions on alcohol sponsorship also demonstrate that sporting competitions remain financially viable and that major international events can still be successfully hosted. Both the football European Championships and World Cup were successfully hosted in France after sponsorship restrictions were imposed. [Similar concerns](#) were raised during the passage of the Irish legislation, which noted that other forms of sponsorship had already been found in sports that had already moved to remove alcohol links.

Question 1	Do you think we should prohibit alcohol sports sponsorship in Scotland?					
Please tick one	Yes		No		Don't Know	
Please provide your answer in the text box.						

- 6.14 As set out above, alcohol sports sponsorship is not a marketing channel in itself but is the term used to cover a contractual arrangement covering a range of marketing activities, aimed to promote that alcoholic product. Specific activities in the sporting context including featuring alcohol brands on physical items (players/officials clothing, equipment or trophies) or displaying advertising at various locations inside (pitch borders, tunnel, dug-outs, interview boards) and outside of stadiums. Special limited edition alcoholic products are also released to commemorate tournament wins or famous anniversaries.

- 6.15 The sponsorship arrangement can also be linked to hospitality arrangements within the stadium such as branded bars, glassware, signage and free tastings, in addition to that particular alcoholic drink being available to buy (where allowed), sometimes exclusively due to ‘pourage rights’.
- 6.16 Sponsorship has also evolved to include social media and digital content. Examples include content around competitions, branding accompanying team line ups or match results/commentary as well as videos featuring players visiting distilleries and creating alcoholic products.
- 6.17 One option for Scotland might be a prohibition on sponsorship, defined by reference to a list of prohibited marketing activities (e.g. a prohibition of alcohol brand logos on sports clothing, on players or managers featuring in adverts). The intention would be that this would create a more family friendly environment at both sporting and cultural events and weaken the link between influential figures and teams with alcohol brands.
- 6.18 If a prohibition on sponsorship was taken forward, there would also be potential cross-over with proposals in other areas e.g. a potential prohibition on advertising outdoors overlaps with a prohibition on advertising being featured in or around stadiums.

<b>Question 2</b>	<b>If sports alcohol sponsorship were to be prohibited, what types of marketing do you think should be covered by a prohibition?</b>
<p>Illustrative examples include:</p> <ul style="list-style-type: none"> <li>• prohibiting the use of alcohol brands on clothing worn by players or staff</li> <li>• prohibiting alcohol being advertised on pitch side hoarding, pitches, trophies, tunnels or interview boards</li> <li>• prohibiting players or staff from featuring in alcohol adverts in print or online</li> <li>• prohibiting online content from linking the sports team, players or competition to an alcohol brand or vice versa.</li> </ul>	
<p>Please provide your answer in the text box.</p>	

<b>Question 3</b>	<b>What, if any, sporting activities or events do you think should be excepted from a prohibition on alcohol sports sponsorship?</b>
<p>Please provide your answer in the text box.</p>	

## Events Sponsorship

- 6.19 Non-sporting events are also sponsored by alcohol companies and draw in high audiences in person and when televised. Examples include the Edinburgh Fringe Festival, the Royal Edinburgh Military Tattoo and music festivals for example TRSNMT and Glasgow Summer Sessions.
- 6.20 Although there is strong academic evidence looking at the nature and extent of sports sponsorship in Scotland, as well as the impact sports sponsorship has generally, the extent and impact of sponsorship of non-sporting events has not been researched.
- 6.21 Despite the lack of research, it seems likely that children and young people, as well as those in recovery, see examples of alcohol marketing at non-sporting events, as a result of sponsorship arrangements. Techniques are likely to mirror those used in sports sponsorship including alcohol branding being featured on stages at music festivals and shows, alcohol advertising being displayed on programmes and posters and online content featured by both parties.
- 6.22 In terms of impact, it could be that sponsorship of non-sporting events also allows alcohol brands to feature alongside fun and enjoyable activities. This could drive the visibility and appeal of alcohol and influence pro-alcohol attitudes in children and young people.
- 6.23 There is some [academic evidence](#) finding that those on a recovery journey for problematic drinking find places where alcohol is sold and promoted to be risky environments where they would rather avoid.
- 6.24 Due to the likely impact this has, it is therefore also worth considering alcohol sponsorship of non-sporting events and whether this should be an area of potential restriction.
- 6.25 Given the need for a comprehensive approach for restriction to be effective, not considering non-sporting events may also provide a loophole in any regulation and a potential lucrative channel for alcohol marketing, if others were prohibited.

Question 4	Do you think we should prohibit alcohol events sponsorship in Scotland?					
Please tick one	Yes		No		Don't Know	
Please explain your answer in the text box.						

Question 5	If alcohol events sponsorship were to be prohibited, what types of marketing do you think should be covered by a prohibition?					
Please provide your answer in the text box.						

Question 6	What, if any, events do you think should be excepted from a prohibition on alcohol events sponsorship, and why?					
Please provide your answer in the text box.						

6.26 The Scottish Government acknowledge it would be a significant undertaking if alcohol sponsorship was prohibited for all events, without an adequate lead-in time. This takes account of the commercial nature of sponsorship contracts whereby these are made for a number of years. We welcome views on whether a lead-in time would be appropriate as well as how, and for how long, this might operate.

Question 7	If alcohol sponsorship restrictions are introduced, do you think there should be a lead-in time for these? How long might this be and how would it work?					
Please tick one	Yes		No		Don't Know	
If you have any comments on the overall approach please record those here.						

## 7. Outdoor and public spaces marketing

*“From the start of the day when I’m at the bus stop, it’s there on the billboards as I get from A to B, it’s in the shops, most of them – it’s everywhere.”*

### [Person in recovery](#)

- 7.1 Outdoor marketing can reach large numbers of the population, which includes children and young people as well as those in recovery. This is not limited to those occasionally passing signs such as drivers or pedestrians but also those who live, study or work in close proximity to their location. People in Scotland, including children and young people as well as those in recovery, are exposed to outdoor advertising indiscriminately as they travel around their neighbourhoods, villages, towns and cities. They do not make a conscious decision or a choice to see outdoor advertising.
- 7.2 Outdoor advertising includes billboards, both digital and paper, as well as posters or signs. These types of adverts can be displayed in, on or near a range of settings, including:
- Public transport, stops and stations
  - Vehicles including buses and taxis
  - Leisure facilities (e.g. sports centres, parks, leisure centres)
  - Shopping centres and precincts
  - Licensed premises (pubs and restaurants)
- 7.3 This is a highly visible form of advertising. In 2019 more than six in 10 (63%) young people aged 11-19 surveyed [in Scotland](#) had seen alcohol billboard advertising. Although there are no specific studies on the percentage seen by the general population or those in recovery, this is likely to be similar to children and young people.
- 7.4 The [current self-regulatory Codes](#) governing outdoor alcohol marketing are largely permissive of outdoor and public spaces advertising. The rules tend to focus on places specific to children and young people like schools; ignoring the reality that children and young people travel around their communities for a variety of reasons. As they do so, they are exposed to alcohol marketing and advertising in public spaces.
- 7.5 Ireland has recently [passed legislation](#) to restrict the volume that children and young people see. This includes a [prohibition on alcohol advertising](#) in or on public services vehicles (rail, buses), at public transport stops or stations and Local Authority owned parks or open spaces as well as within 200 metres of a school, a creche or Local Authority playground.
- 7.6 Prohibited advertising includes the display of posters, billboards, hoardings, placards or other signage whether intended to be permanent or temporary. This also includes a prohibition of advertising in or on a sports area during a [sporting event](#).

- 7.7 [Other European countries such as Estonia and Lithuania](#), go even further and include recreational facilities like museums, theatres, libraries within prohibitions on alcohol marketing.
- 7.8 In 2019, [advertisements for high fat, salt and sugar \(HFSS\) foods](#) were banned from the Transport for London network by the Mayor of London. This included on trains and at stations as well as on buses and bus shelters.
- 7.9 [Research](#) evaluating the impact of the ban found reductions in purchases of HFSS foods by households within the London TfL area compared to households outside of London. Weekly household purchase of energy from HFSS products was 6.7% (1,001 kcal) lower in intervention households after the introduction of the policy. This demonstrates the potential impact of restricting the marketing of products of unhealthy products within public spaces, especially when targeted towards childhood health.
- 7.10 Given the difficulties around defining places as places children and young people frequent, as well as the likely impact of alcohol marketing on adults too, a prohibition of alcohol advertising in public spaces may be the best course of action.

Question 8		Do you think we should prohibit alcohol marketing outdoors, including on vehicles, and in public spaces in Scotland?				
Please tick one	Yes		No		Don't Know	
Please explain your answer in the text box.						

- 7.11 [Children](#) and [young people](#) in Scotland have made recommendations supportive of restricting outdoor and public spaces advertising. Children's Parliament investigators felt that billboards and adverts promoting alcohol use and drinking should not be allowed to be displayed in areas where children may see them.

### Young Scot Health Panel

#### Recommendations 14

Prohibit alcohol marketing on billboards and posters near to schools, nurseries and playgrounds, and on public transport vehicles, stops and stations.

### Children's Parliament

#### Recommendations 3

Remove adverts for alcohol so that children can't see them

- 7.12 Reducing this highly visible source of marketing would also benefit higher-risk drinkers, those in recovery and the general population given the links set out in earlier sections on how marketing generally drives attractiveness and influences attitudes and consumption patterns. Given that this type of advertising appears in everyday settings, it cannot be easily avoided.

<b>Question 9</b>	<b>What do you think should be covered by a prohibition on alcohol marketing outdoors, on vehicles and in public spaces?</b>
Your answer should include:  1) Places where you think alcohol marketing should be prohibited (e.g. on bus shelters, in or near leisure centres or on taxis); and  2) Types of alcohol marketing you think should be prohibited outdoors (e.g. billboards or signage).	
Please provide your answer in the text box.	

<b>Question 10</b>	<b>What, if any, exceptions do you think there should be to prohibiting alcohol marketing outdoors, including on vehicles, and in public spaces in Scotland?</b>
Please provide your answer in the text box.	

## 8. In-store alcohol marketing

*“When you go to the till, you pass the big alcohol bit”*  
(9-11 year old, [Children’s Parliament](#))

*“Alcohol is right at the counter... it’s a trigger for me, so I have to avoid it. I don’t go there. If I haven’t got milk, I have to wait until I go to the [big] shops.”*  
[Lisa, 1 year sober](#)

- 8.1 In-store alcohol marketing concerns all the activity that takes place inside a shop or supermarket to increase the visibility and attractiveness of a product to induce sales. This could be, for example, moving a product from an aisle shelf to an end-of-aisle display.
- 8.2 In Scotland, the way that alcohol is sold in the retail setting is regulated in part through the [licensing system](#). To sell alcohol there are specific conditions attached to the mandatory Premises Licence including the requirement to only display alcohol for sale within an alcohol display area/s in store. Temporary price reductions and quantity discounts (e.g. multi-buys or discounts on bulk purchases) [are also prohibited](#).
- 8.3 Alcohol promotions, connected to that specific premises, are [restricted](#) to the [alcohol display area](#) or to tasting rooms and are prohibited within a 200 metre vicinity of the premises.
- 8.4 Despite the current rules, alcohol is still legally promoted in-store through the placement of alcohol. [Research](#) shows that over half (58%) of children and young people surveyed in Scotland report seeing alcohol marketing in-store. This could be a wide range of marketing activities such as an aisle-end display with promotional materials or signage.
- 8.5 Visibility of alcohol in the retail environment may influence children to think of alcohol in the same way as other everyday consumer goods sold at shops like food, clothes and medicines, and contribute to the normalisation of alcohol. This may create positive attitudes around alcohol which later influence consumption decisions.
- 8.6 People in recovery in Scotland [have reported](#) that retail-based environments are their single biggest challenge to recovery. Key factors included the visibility of alcohol in shops and in-store marketing and price promotions. Those in the early stages of recovery cited the everyday difficulties of negotiating the city space whilst avoiding alcohol triggers. Participants who avoided alcohol outlets spoke not only of avoiding premises themselves, but also of the need to avoid the alcohol aisles due to both the presence of alcohol and in-store marketing and price promotions.

*“I had to get my neighbour to get my shopping, I just did not trust myself – it looked too good.”*

[Person in recovery](#)



*"I would like to see more consistency and at the very least alcohol being hidden in the back corner, this would make things easier."*

[Person in recovery](#)

### How can we address this issue?

8.7 The Children's Parliament project recommended further restrictions on the in-store environment.

#### Children's Parliament

Investigators felt that alcohol should not be advertised or displayed in shops where children can see it. Children do not want to be exposed to alcohol in or outside shops and supermarkets. Investigators called for alcohol to be sold in adult-only sections of shops, separate rooms in regular shops and supermarkets dedicated to alcohol sales.

### Window Displays

8.8 In order to reduce exposure to alcohol in the retail environment, we are considering whether the restrictions around the alcohol display area need to be tightened. This would prohibit window displays from being included within the permitted alcohol display area, which would reduce the visibility of alcohol from outside the shop itself. [Evidence shows](#) that shop fronts are a source of marketing exposure for both children and young people as well as those in recovery.

### Defining location of alcohol display areas

- 8.9 Current regulation sets out that alcohol can only be displayed for sale in one specific area of the premises. This one area must be agreed with the Licensing Board but can be situated in main thoroughfares within the shop, including near the entrance or exit, or near checkouts.
- 8.10 This could be addressed by defining where an alcohol display area could be located, for example near the back of the shop away from entrances, exits or checkouts. Where alcohol is displayed behind the checkout this could be required to be in a closed cupboard, like tobacco products. For some small shops this could significantly limit how alcohol could be sold. Further work will need to be undertaken on the impact to small retailers before any potential restrictions were introduced.
- 8.11 The use of mixed aisles could be restricted. This would stop one side of a shop aisle featuring alcohol products but the other featuring non-alcohol products. This would limit the visibility of alcohol to only those who make a specific decision to buy alcohol rather than being visible to anyone.

### Limiting aisle-end displays

8.12 Aisle-end displays increase prominence and visibility of products to consumers and are used to drive product sales. [A UK study](#) found that an end-of-aisle position for alcohol, including beer, wine and spirit products, increased sales by between 23.2% and 46.1%. [Another study](#) found a substantial increase in sales of products positioned at the ends of aisles, soap and milk in this case. This may be because aisle-end displays increase visibility and thereby impulse or unplanned purchase.

8.13 Aisle-end displays of alcohol are therefore likely to do two separate things:

- drive sales of alcohol amongst legal age purchasers
- increase the visibility of alcohol and alcohol brands amongst all consumers, including children and those in recovery.

Question 11		Do you think that we should further restrict the visibility of alcohol in retail environment, giving reasons for your response?				
For example by;						
<ul style="list-style-type: none"> <li>• restricting window displays of alcohol,</li> <li>• restricting the use of mixed alcohol and non-alcohol aisles,</li> <li>• prohibiting aisle-end displays of alcohol,</li> <li>• redefining the alcohol display area, and/or</li> <li>• covering alcohol behind till areas similar to tobacco.</li> </ul>						
Please tick one	Yes		No		Don't Know	
Please explain your answer in the text box.						

### Illustrative example – Irish approach

8.14 In 2018 Ireland introduced a policy of structural separation of alcohol within the retail environment to [reduce alcohol consumption, delay the initiation of alcohol consumption by children and young people and in doing so reduce alcohol-related harms](#). The [legislation](#) mandates specific ways that alcohol can be displayed and advertised within mixed retail outlets, shops that sell alcohol and other products.

8.15 Retailers who sell alcohol alongside other products, can store alcohol in one storage unit behind the counter. This cannot be accessible to members of the public and should remain closed when not in use, with products not visible when closed. In addition to this one unit, [mixed retail shops can also display and advertise alcohol products using one of the following three options](#):

- A separate area of the shop separated by a physical barrier (1.2 metres+ high) and through which alcohol and advertisements for alcohol are not visible.
- One or more enclosed adjacent storage units in which alcohol is not visible up to a minimum height of 1.5 metres.
- A maximum of three open adjacent units, each not exceeding 1 metre wide and 2.2 metres high.

8.16 Restrictions on placement within Ireland came into force in [November 2020](#), as such there is no evaluation yet of impact. However, we welcome views on if we should consider further restricting the placement and location of alcohol in stores. The Irish approach is used to illustrate what this could look like in Scotland.

<b>Question 12</b>	<b>Do you think we should consider structural separation of alcohol in Scotland to reduce the visibility of alcohol in off-trade settings (e.g. supermarkets)?</b>					
Please tick one	Yes		No		Don't Know	
Please explain your answer in the text box.						

<b>Question 13</b>	<b>How do you think structural separation of alcohol in Scotland could operate? (e.g. with barriers, closed display cases)</b>					
Please explain your answer in the text box.						

## 9. Brand-sharing and merchandise

- 9.1 Brand-sharing in the alcohol context means using a brand, primarily known as an alcohol brand, on products which are not alcoholic drinks. This often involves use of the brand name, insignia, logos, colours or other identifiable markings of that brand.
- 9.2 A number of major alcohol manufacturers utilise their brand names on products as diverse as non-alcoholic drinks, ice creams (e.g. Bailey's Haagen-Dazs) and accessories (e.g. [Innis and Gunn](#) blankets). This provides an additional means to increase the visibility of alcohol brands to consumers. Branded clothing, where a slogan or logo is used (e.g. [Guinness merchandise](#)) can also increase the awareness of alcohol brands.
- 9.3 Branding is fundamental to successful marketing. It is what companies use to differentiate their products from those of competitors and to build connotations and associations amongst consumers. [This is recognized as one of marketers' most powerful and advanced emotional tools. Brand strategies are devised to develop branding that builds lasting relationships with consumers that help to ensure they continue to buy products and services.](#)
- 9.4 [Research suggests](#) that alcohol branding has a powerful influence on young people, by using evocative imagery and cues, as well as appealing to adolescents on emotional levels and fulfilling their aspirations in terms of image and self-identity. We know that children and young people in Scotland are [highly aware of alcohol brands](#) and that they associate these with [particular things and have positive or negative feelings towards them](#), before they can legally purchase alcohol.
- 9.5 [Brand-sharing](#) means that brand associations and attitudes can be transferred from the well-established, parent brand to the new extension product. This may encourage purchases of other products from the company.
- 9.6 One way we could seek to reduce the visibility of alcohol brands would be to prohibit the sale or distribution of alcohol-branded merchandise including T-shirts, jackets and baseball caps as well as branded glasses and mugs. These increase brand visibility and have more permanence than alcohol adverts on TV or on billboards. They are often re-used over time within our homes or, in the case of clothing, can become walking billboards in themselves.
- 9.7 A survey of over 3,000 young people aged 11-19 years old in the UK found that [17% reported owning alcohol branded merchandise](#). Those who owned branded merchandise were almost [twice as likely to be susceptible to drinking compared with those who did not](#).
- 9.8 [Research](#) demonstrates that actively engaging with alcohol marketing, like owning alcohol-branded merchandise, has a stronger association with alcohol consumption, than seeing an alcohol advert does.
- 9.9 Prohibiting alcohol-branded merchandise would also remove another potential trigger for higher-risk drinkers and those in recovery, as well as the general population. If restrictions were to be progressed, we would need to further consider the scope of any restrictions and what would be included or exempted from this.

Question 14	Do you think that we should prohibit the sale of alcohol-branded merchandise in Scotland?					
Please tick one	Yes		No		Don't Know	
Please explain your answer in the text box.						

Question 15	Do you think that we should prohibit the free distribution of alcohol-branded merchandise in Scotland?					
Please tick one	Yes		No		Don't Know	
Please explain your answer in the text box.						

Question 16	What, if any, exceptions do you think should there be to prohibiting the sale or distribution of alcohol-branded merchandise?					
Please provide your answer in the text box.						

Question 17	What, if any, other restrictions do you think should be considered on the use of alcohol brands on non-alcohol products?					
Please provide your answer in the text box.						

### Brand-sharing within the drinks category – no and low alcohol

*“It’s not promoting alcohol-free beer its promoting your brand”* ([Georgie, 22](#))

9.10 Several leading players in the alcohol industry offer a NoLo option alongside their ‘flagship’ alcohol products, often branded in similar ways to their alcoholic counterparts and the subject of dedicated marketing and promotional campaigns. By NoLo products we are referring to drinks containing between 0% ABV and 1.2% ABV, featuring brands, or brand identifying characteristics, more associated with stronger alcoholic products (over 1.2% ABV). The no and low alcohol drinks market is expanding rapidly and is one of the fastest drinks trends in the UK; sales increased 58% in 2019 compared to the previous year. This is a further example of the use of brand-sharing, albeit within the drinks category.

- 9.11 The evidence on how NoLo products are consumed is not yet clear. In terms of whether these are consumed in addition to stronger alcoholic products at alternative occasions or settings, or as a direct substitute for alcoholic products. There is also no clear evidence on how children and young people may be consuming these products or the reasons for consumption. However, experiences from those in recovery have noted that NoLo can [negatively impact](#) their recovery.
- 9.12 [There is no strong evidence base to indicate that the expansion of the NoLo market will reduce alcohol-related harm](#) as this is often promoted as to be consumed in [addition](#) to alcohol rather than as a substitution (e.g. in the workplace).
- 9.13 NoLo products are often marketed for drinking in addition to one's usual alcohol consumption patterns rather than instead of. This includes advertising showing the products being consumed at times and in settings where one would not normally drink alcohol e.g. [at lunchtime, amongst pregnant woman, when driving or when doing yoga or DIY](#). If used in these alternative and usually non-alcohol related circumstances, use of NoLo products is unlikely to reduce overall consumption patterns, and thereby alcohol-related harms.
- 9.14 [Some evidence](#) suggests that NoLo products have contributed to a reduction in the volume of alcohol purchased by British households in recent years. However, other UK [survey research](#) suggests that 50% of NoLo drinkers stated that drinking NoLos had not changed their overall alcohol consumption levels. [Moderate and heavy drinkers](#), for whom the health gains from cutting back are greatest, were more likely to report consuming NoLo drinks in addition to, rather than instead of, consumption of alcoholic drinks.
- 9.15 [Evidence from Thailand](#) suggests that alcohol companies strategically use similar branding in promotion of alcoholic and soft drinks meaning that young people associate brands with the 'flagship' alcoholic products regardless of what is being advertised. This may help to encourage allegiance to particular, predominantly alcohol, brands, including among consumers under the legal drinking age.
- 9.16 Within the UK, [some of the current alcohol advertising code rules apply to adverts for some NoLo products – to those over 0.5% ABV as well as to adverts that aren't specifically for alcoholic drinks, but that have the effect of promoting them](#). This is positive as when NoLo products are branded with well-known alcohol brands, this can create a loophole to marketing restrictions. It would therefore seem consistent that, if we were to introduce stronger statutory restrictions in Scotland, we retain NoLo products within the scope of any stronger rules.
- 9.17 Other countries with stronger statutory restrictions have found that, if NoLo products are not explicitly included within the scope of alcohol marketing restrictions, this creates a loophole. It means that NoLo products, branded with a well-known alcohol brand, can be advertised in ways or places that stronger alcohol products can't.
- 9.18 Some other European countries explicitly include NoLo products within the scope of their alcohol marketing restrictions. For example, in Norway alcohol marketing is prohibited on all channels. [This prohibition applies to alcoholic beverages over 2.5% alcohol by volume \(ABV\) but also to advertising of other products carrying the same brand or trademark as alcoholic beverages over 2.5% ABV](#).

- 9.19 In France, comprehensive restrictions prohibit advertising of alcoholic products over 1.2% ABV. Despite these restrictions, during the 2020 Six Nations rugby tournament there [was an average of 1.2 alcohol references per minute during the France vs England match hosted in France](#). The [vast majority of these did not feature the alcohol brand name but were indirect references](#) to the alcohol brand (e.g. the slogan and font of the alcohol brand). This is also called ‘alibi marketing’.
- 9.20 This demonstrates the need to carefully consider restricting these other distinctive and identifiable elements associated with the alcohol brand, in addition to restricting use of the alcohol brand name. [Research has shown that young people in the UK are able to easily identify alcohol brands simply from these visual cues alone, even when the brand name itself has been covered up](#).

Question 18	Do you think that any potential alcohol marketing restrictions should also apply to no-or low drinks products between 0% ABV and 1.2% ABV, where these carry the same brand name, or identifiable brand markings, as alcohol drinks over 1.2% ABV?					
Please tick one	Yes		No		Don't Know	
Please explain your answer in the text box.						



## 10. Print advertising

- 10.1 Alcohol is advertised in newspapers and magazines within Scotland. [A survey of over 3000 young people aged 11-19 years old in the UK](#) found that 18.8% had seen an alcohol advert in newspapers or magazines in the last week. [Four in ten had seen one in the last month](#).
- 10.2 We know that around [a third of adults consume news via newspapers](#). Newspaper circulation figures in Scotland demonstrate that over [70,000 people](#) purchase the Daily Record daily with around [60,000 receiving the free Metro in Scotland daily](#). This means that alcohol-related advertisements could reach a significant number of adult readers.
- 10.3 This provides an additional source of exposure to alcohol marketing within our society and forms a portion of the cumulative effect, previously discussed. This has an impact on those in recovery who try to limit their exposure to alcohol to ensure they do not relapse. It also means that [children and young people](#), can be exposed when reading print media.
- 10.4 If print advertising was not restricted alongside other restrictions presented above then it may provide an opportunity for increased expenditure on print marketing, instead of the other forms of marketing being restricted. Restricting alcohol advertising within printed publications may therefore form part of a comprehensive approach to reduce the impact that alcohol marketing has in Scotland.

Question 19	Do you think that we should prohibit advertising of alcohol in newspapers and magazines produced in Scotland?					
Please tick one	Yes		No		Don't Know	
Please explain your answer in the text box.						

### Exceptions

- 10.5 If this was taken forward, some consideration would need to be given to specialist consumer publications, trade press and industry-focused publications. These are unlikely to be seen, on a large scale, by children and young people or by those in recovery.

Question 20	What, if any, exceptions do you think there should be to prohibiting alcohol advertising in newspapers and magazines produced in Scotland?
Please provide your answer in the text box.	



### Print media from outside of Scotland

- 10.6 One potential issue with prohibiting alcohol advertising in newspapers and magazines in Scotland is that any regulation is unlikely to be able to extend to publications printed outside of Scotland and distributed in Scotland. [This is an issue that other European countries, including Sweden, have encountered with the operation of alcohol marketing restrictions.](#)
- 10.7 If we were to take action to restrict print advertising in Scotland, we would also look to encourage the UK Government to introduce complementary restrictions on alcohol advertising in newspapers and magazines produced in the Rest of UK and distributed in Scotland.

## 11. Online marketing

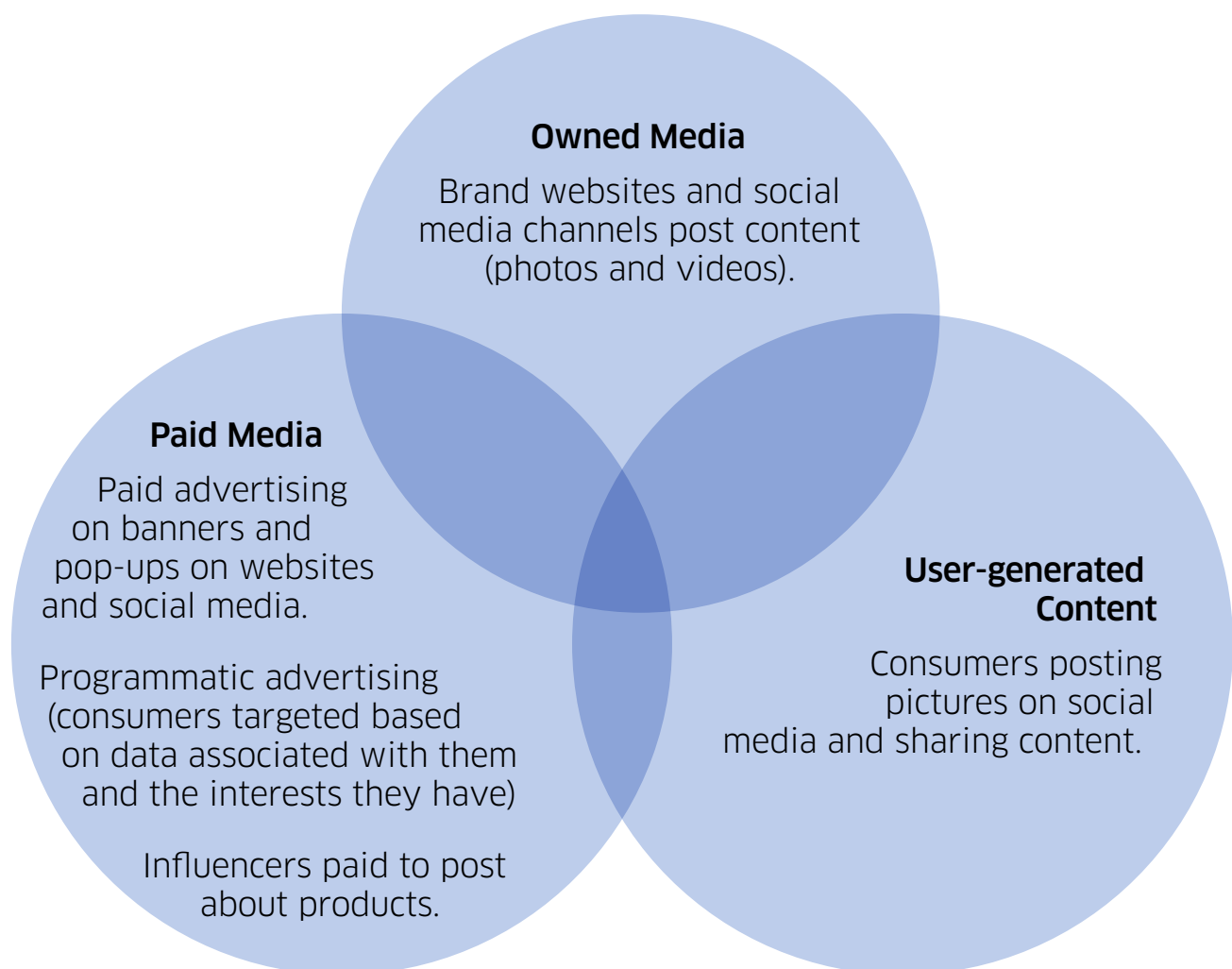
*“Ads pop up all the time on social media and despite blocking them more just appear – it triggers me massively.”*

### Person in recovery

- 11.1 Seeing, and actively participating with, online alcohol marketing is associated with increased alcohol consumption and an increased risk of binge and hazardous drinking behaviours.
- 11.2 We know that online advertising spending is growing as a proportion of total advertising spending, £16bn was spent on online advertising in 2020 in the UK.
- 11.3 Over 2000 online alcohol marketing campaigns were operated on Facebook, Instagram, Snapchat, Twitter and Youtube during a two month period in 2020.
- 11.4 Most children today are active online from an early age. In many instances children and young people are the early adopters of popular websites and applications, driving the trends we later see among adults. Nearly all (97%) 5-15 year olds in UK went online in 2020. UK children aged 7 to 16 years old who went online estimated that they spent 3 hours 48 minutes a day online on average, compared to 2 hours 11 minutes in 2019.
- 11.5 This includes children and young people interacting with many different types of media such as websites, games, on-demand players (such as BBC iPlayer), social media and video sharing platforms (such as YouTube or TikTok).
- 11.6 Social media is an integral part of most children and young people’s lives. In the UK, despite many sites setting a minimum user age of 13, just over one fifth of 8-11 year olds (21%) have a social media profile rising to 43% of 11 year olds. By the age of 13 (the minimum age requirement) more than half have a profile and almost all 15 year olds.
- 11.7 We know that in spending a vast amount of time online, children and young people see and interact with alcohol marketing. Research shows that just over a quarter (27.3%) of 11-19 year olds in the UK had seen an alcohol advert on YouTube, Tumblr, Facebook, Snapchat, Instagram or other social media, in the week prior to being surveyed. Another survey of 11-19 year olds found that more than one-in-ten respondents had actively participated in one form of alcohol marketing on social-media, one-in-twenty had liked an alcohol brand or shared an alcohol brand status, tweet or picture.

## What does online alcohol marketing include?

- 11.8 The online space provides an additional environment for the repetition and extension of offline marketing techniques such as television style adverts on video sharing platforms or billboard type adverts as banner/pop up adverts. It also provides the opportunity for interactive possibilities like targeted vlogs, filters on social media and viral marketing.
- 11.9 Online alcohol marketing includes adverts displayed on alcohol brands' own websites and social media channels (owned media). As well as paid adverts on websites, social media platforms or search engines, or by influencers (paid media).
- 11.10 On top of these commercial techniques, consumers post and share alcohol content on their own social media profiles (consumer-generated content).
- 11.11 Whilst traditional media channels like television display the same advertisement to all people watching, [online platforms have sophisticated data gathering methods which enable them to develop consumer profiles and to target that specific consumer with personalised advertising in real time based on their behaviour and interests](#). This is called programmatic advertising.



## Owned media

- 11.12 Alcohol branded social media channels post content, including photos and videos, to individuals who follow or ‘like’ them. [High - quality posts advertise the product/s sold and show the alcoholic drink being consumed in desirable locations or contexts as well as highlighting sponsorships or tie-ins with celebrities.](#)
- 11.13 Children and young people would see alcohol content if they followed or liked the alcohol brand or if they followed sponsored celebrities, influencers or sports people who advertise the brand.
- 11.14 This is despite age gating, which is the process of checking age of users before allowing access. [UK research](#) has found that while age verification can prevent individuals whose profile states they are under 18 years of age accessing alcohol marketing on Facebook, users of all ages can access alcohol marketing on Twitter and YouTube.
- 11.15 [Research from the United States](#) found YouTube profiles created for fictional users aged 14, 17 and 19 were able to subscribe to 100% of the alcohol brand YouTube pages explored.

Question 21	Do you think we should restrict alcohol branded social media channels and websites in Scotland?					
Please tick one	Yes		No		Don't Know	
Please explain your answer in the text box.						

Question 22	What, if any, exceptions do you think there should be to prohibiting alcohol branded social media channels and websites in Scotland?
Please provide your answer in the text box.	

## Paid media

- 11.16 Alcohol companies also pay for advertising outside of their own websites and social media channels, as shown by a recent study by the [ASA](#). A high volume of paid alcohol advertising online is data-driven. It targets consumers based on data associated with them. For example, through other interests that consumers have (e.g. music or gardening) determined by previous browsing history and searches (known as user targeted advertising and retargeted advertising). Other online advertising continues to be contextually targeted, meaning that it is targeted to be relevant to the content of the website upon which it appears.

- 11.17 The current regulatory system is clear that online alcohol advertising should not be targeted towards under 18's. Also that advertisers should use both known age data and data about interests to ensure that this does not happen. [The ASA researched alcohol advertising in social media specifically and found that:](#)
- A handful of campaigns did not appear to use any age targeting at all
  - For the majority that selected an age 18+ audience, many didn't select any 'interests' options to give greater confidence in reaching an adult, rather than a child
  - There was limited evidence of advertisers actively barring their ads from being targeted to audience groups that have interests in topics and themes very strongly associated with under 18s.
- 11.18 This links in with broader issues around advertising online and age-restricted content, [as set out by the UK Government](#), including:
- the shared use of devices, online profiles and accounts between adults and children mean that there will perhaps not be clear age-based data or interests-based data showing that a user is under 18. [Research from the ASA](#) found that an avatar mimicking the profile of a child and adult sharing a device was served a similar proportion of unhealthy food adverts as avatars mimicking the profile of an adult
  - the false reporting of users' ages. [Ofcom data](#) indicates that levels of misreporting of age on social media have remained steady over the past 10 years – around 20% of 8 to 11 year olds report using social media accounts, despite the minimum age for such accounts being 13.
  - inaccuracy in using interest-based factors and other behavioural data as a proxy for age.
- 11.19 However, there are wider effects to users who would prefer not to receive targeted messages, especially those in recovery.
- 11.20 Adverts are tweaked and personalised to optimise the effectiveness of them to that particular individual. This may result in alcohol marketing online being uniquely harmful to vulnerable consumers [as more adverts might be served to high-volume consumers](#).
- 11.21 [This can include targeting at specific times and in specific places where people can be most vulnerable to alcohol marketing messages. This may appear in user's digital feeds while they are drinking alcohol including when they are intoxicated.](#)
- 11.22 Advertising online can also allow for instantaneous purchase through 'buy buttons' [creating a seamless flow from identifying consumer preferences, exposing consumers to a targeted piece of marketing to converting this into purchase.](#)
- 11.23 This is of particular concern for higher-risk drinkers or those who may be in recovery from alcohol problems.

<b>Question 23</b>	<b>Do you think we should restrict paid alcohol advertising online in Scotland?</b>					
	<b>Examples include adverts appearing on websites, via pop ups, on social media platforms, on search engines, or influencer advertising.</b>					
Please tick one	Yes		No		Don't Know	
Please explain your answer in the text box.						

<b>Question 24</b>	<b>What types of paid alcohol advertising do you think should be covered by any restrictions?</b>					
Please provide your answer in the text box.						

<b>Question 25</b>	<b>What, if any, exceptions do you think should there be to restricting paid alcohol advertising online?</b>					
Please provide your answer in the text box.						

### User-generated content

- 11.24 User-generated marketing includes sharing or liking an alcohol brand's content including written posts, photos, videos, games and competitions. [This extends the reach of the original marketing and enhances the credibility of it.](#)
- 11.25 Consumers also create and post text, pictures or videos featuring alcohol on their social media profiles, independently of alcohol companies. For example, the NekNominate drinking game involved an individual posting a video of themselves drinking before tagging a peer on social media to do the same within 24 hours.
- 11.26 [A UK survey of 400 18-25 year olds](#) found that they were aware of, and took part in alcohol marketing on social media, and that this is linked with alcohol consumption and higher-risk drinking. The most common methods were sharing photos of friends and peers drinking, sharing videos of drinking, sending multimedia instant messages about drinking, sharing memes and cartoons. On average participants engaged with four of the methods surveyed.
- 11.27 We know that social media can be a [public platform for young people to endorse alcohol brands and use these as an extension of their identity](#). Young people in focus groups describe the alcohol brands they are associated with on social media as [influencing their choices of new friends, and carefully selecting them on this basis - 'I wouldn't be friends with someone if they were liking too much rubbish.'](#) This lends credibility and authenticity to alcohol brands.

11.28 [In Finland, commercial marketing of mild alcoholic beverages \(less than 22% ABV\) is banned on social media when it is either produced by consumers or produced by an alcohol company and intended to be shared by consumers.](#) This means alcohol companies cannot use content originally uploaded by consumers (user generated) nor can they create content which is specifically aimed for consumers to share (which once shared becomes user generated).

<b>Question 26</b>	<b>Do you think we should restrict alcohol companies from sharing promotional content on social media (e.g. filters, videos or posts) – whether this is produced by them or by consumers?</b>					
Please tick one	Yes		No		Don't Know	
Please explain your answer in the text box.						

<b>Question 27</b>	<b>What, if any, exceptions do you think there should be from restricting alcohol companies from sharing promotional content on social media (e.g. filters, videos or posts) – whether this is produced by them or by consumers?</b>					
Please provide your answer in the text box.						

## 12. Television and Radio Advertising

*“When I was going through a long period of drinking too much, seeing alcohol adverts on TV just prompted me to buy more.”*

[Respondent, Alcohol Health Alliance Survey](#)

- 12.1 Television is a highly visible marketing channel and one which can reach high volumes of people. In 2021, [television and online audiovisual](#) advertising increased by 39.1% to £6.2bn. Television viewing combines a mix of watching live television as well as broadcaster on-demand services (e.g. All4 or ITV hub) and subscription services like Netflix and Prime Video, some of which do not currently include advertising during the programming.
- 12.2 On average, people in Scotland [spent 3 hours 39 minutes per day watching broadcast television on the television set in 2020 \(similar to 2017 levels\)](#), the most of any nation in the UK. Although older adults watch more of this, Scottish children in 2020 [aged 4-15 years old watched 64 minutes per day whilst those aged 16-24 watched 72 minutes \(which was consistent with 2019\)](#). Children are more likely to watch some form of on-demand content than live television. [In 2020, nine in ten Scottish children aged 5-15 \(94%\) watched some form of on-demand content](#). The effects of the covid pandemic for the majority of 2020 has not changed viewing patterns when compared with 2019.
- 12.3 About [three-quarters of adults](#) in Scotland tune into the radio every week.
- 12.4 [The Youth Alcohol Policy Survey asked participants to recall alcohol marketing activity they had seen in the month prior to the survey](#). In 2019, 69% had seen an alcohol advert on television, 46% on a catch up or streaming service whilst 24% had heard one on radio.
- 12.5 Television and radio advertising in the UK is regulated by the ASA through a system of co-regulation with Ofcom. The ASA enforces the [UK Code of Broadcast Advertising](#) (BCAP Code) which is drawn up, and regularly reviewed, by an industry committee.
- 12.6 The current regulatory system prohibits alcohol advertising around programming commissioned for or likely to appeal particularly to children. To determine whether a programme is likely to appeal particularly to children, broadcasters rely on ‘audience indexing’ in which Broadcasters Audience Research Board (BARB) data is used to determine which programmes would attract a high percentage of children compared to the total audience watching.



- 12.7 Despite this, we know that children watch all types of television programming, not just shows aimed directly at them. The current system of BARB audience indexing also only considers the proportion of the total audience that are children, rather than the total number of children watching. [Children's viewing time peaks between 6-9pm, a time period where the television shows most likely to be broadcast are not children's programming, but instead 'family' or adult programmes. This means that some of the shows most watched by children, such as Saturday Night Takeaway, or Great British Bake Off, are not captured within the scope of current restrictions.](#)
- 12.8 However, it is not just children and young people that this affects. If children and young adults are seeing regular alcohol advertising during television programming then it is not unreasonable to assume that adults in the general public will see at least as much advertising, if not more. This could be especially problematic for those in [recovery](#).
- 12.9 Scottish Government may not have sufficient power to restrict advertising on television or radio in Scotland and may need to work with the UK Government to take action.
- 12.10 Scottish Ministers have previously written to the UK Government asking them to take action to protect children and young people from seeing alcohol advertising on television.
- 12.11 Children and young people in Scotland support the need to take action to further restrict alcohol advertising on television.

### **Young Scot Health Panel**

#### **Recommendations 3**

Introduce a watershed for alcohol advertising on television.

### **Children's Parliament**

#### **Recommendations 7**

##### **Make alcohol less visible (television)**

Children's Parliament Investigators called for alcohol to be omitted or blurred from television programmes designed for children or at times when children may be watching.

- 12.12 [Other European countries](#) have differing approaches to restricting alcohol advertising on television and on radio. Some countries prohibit this completely ([Lithuania](#), [Norway](#), [Sweden](#) and [Russia](#)) whilst others have time-based restrictions (e.g. [Estonia](#) and [Ireland](#)), with the aim of prohibiting advertising when children and young people are likely to be hearing or seeing this. [In Ireland, for example, this prohibits alcohol advertising on TV between 3 a.m. and 9 p.m.](#)

<b>Question 28</b>	<b>Do you think we should explore prohibiting alcohol advertising on television and radio completely (e.g. like Norway or Sweden)?</b>					
Please tick one	Yes		No		Don't Know	
Please explain your answer in the text box.						

<b>Question 29</b>	<b>Do you think we should introduce a watershed for alcohol advertising on TV and radio (e.g. like Ireland), and if so how would this work?</b>					
Please tick one	Yes		No		Don't Know	
Please explain your answer in the text box.						

## 13. Cinema Advertising

- 13.1 Children and young people are highly engaged with cinema-going; [data](#) shows that 63% of 5-10 year olds had attended the cinema in a year, moving up to 70% within the 11-15 age group. [Those with children in their household are more likely to go to the cinema than those without.](#)
- 13.2 Cinema provides a captive audience and an opportunity for advertising before films start. [Alcohol adverts can make up to 40% of the commercials shown before feature films.](#) [Around a quarter \(23%\)](#) of 11-19 year olds in the UK reported having seen an alcohol advert in the cinema in the month before being surveyed. [Research](#) carried out in the North East of England found that during five popular family films (four rated 12A and one 15 certificate) shown throughout the summer, one in four adverts were for alcohol.
- 13.3 The current regulatory system around cinema advertising does not restrict alcohol advertising to films certified over 18. It is covered by the [CAP Code](#) and overseen by the ASA. Alcohol advertising is restricted if 25% or more of the audience are estimated to be under 18. This is done through a pre-clearance procedure by the Cinema Advertising Association ([CAA](#)) which clears all ads.
- 13.4 As with TV and radio advertising, the focus of the rules on the proportion of under 18's does not allow for consideration of the high volume of under 18's who will still see alcohol adverts. Those in recovery, and those in the general population, are also likely to see alcohol adverts in the cinema often.
- 13.5 Alcohol advertising in the cinema creates a positive association between [alcohol and lifestyle](#). However, the effects of alcohol advertising in the cinema and its effects on long-term consumption and therefore harms is complex, especially its impact on children and young people, and the general population.
- 13.6 For those in recovery, this is another opportunity to see alcohol advertising and another potential environment to avoid.
- 13.7 Following this consultation and subject to the consultation responses, we will consider possible restrictions that can be implemented. This is an area where the Scottish Government may not have the power to implement potential restrictions on cinema advertising in Scotland and where there may be a need to work with the UK Government to take action.

Question 30	Do you think alcohol advertising should be restricted in cinemas?					
Please tick one	Yes		No		Don't Know	
Please explain your answer in the text box.						

13.8 Some European countries, [including Finland and Ireland](#), have introduced an approach whereby alcohol can be advertised in cinemas but only at films certified as 18+.

<b>Question 31</b>	<b>If alcohol advertising was restricted in cinemas, what, if any exceptions (e.g. products in scope, times of day or specific movie ratings) do you think should be considered?</b>
Please explain your answer in the text box.	

## 14. Restrictions on content of advertisements

*"I would love to be at a party like that. They're all drinking and dancing and having fun."*

[Male, 14–15, Manchester, 2005](#)

*"It's one-sided, only shows the good, not the bad. This makes you want to have a drink more because it replaces the bad with the good in your mind."*

[Person in recovery](#)

- 14.1 Alcohol adverts often show alcohol being consumed in a glamorous, fun, cool or sociable way in order to present this in a positive manner. [We know that children and young people find alcohol adverts appealing](#) and that this [influences young people to have positive ideas about drinking alcohol](#). [Children and young people are particularly drawn to elements of music, characters, story and humour](#). [Multiple studies, including in Scotland](#), have shown a link between how much a young person likes an alcohol advert and their drinking behaviours.
- 14.2 The [existing self-regulatory codes](#) include rules focused on the content of adverts such as prohibiting marketing linking alcohol with sexual success, implying that alcohol can enhance confidence or popularity, implying that drinking alcohol is a key component of the success of a personal relationship or social event.
- 14.3 These rules are open to interpretation and judgement of individuals, e.g. the Code rule prohibiting content that is 'particularly' or 'strongly' appealing to children. The decision-making process does not include children and young people themselves.
- 14.4 [Irish](#) research has shown that that marketing for adults often appeals to children. This included marketing that would appear in locations that children would often attend such as shops. The reasons cited for appealing are often the same reasons given by adults such as 'funny', 'celebs looked cool', 'colourful'.

## Case study: Estonia

Estonia introduced a comprehensive set of alcohol marketing restrictions across all media channels in order to reduce high alcohol consumption levels and drinking amongst young people. As part of this, content restrictions were introduced meaning that, where alcohol advertising is allowed, adverts can only contain the following permitted characteristics:

- Product name
- Product type
- Manufacturer's name
- Trademark
- Country of origin
- Geographical area produced in
- Alcohol volume
- Image of sales packaging
- Properties (colour, aroma, taste)
- Serving suggestion

Information contained in advertising of alcohol must be focused on the product and be presented neutrally. The design of information presented in advertising shall not:

- 1) contain a living being, a picture or image in any manner, except for human voice;
- 2) contain an animated image of inanimate objects;
- 3) incite to buy or consume alcohol;
- 4) depict the serving or consumption of alcohol;
- 5) link alcohol to any important dates, events, activities or seasons;
- 6) otherwise leave an impression that alcohol is a natural part of life and that consumption of alcohol has a positive effect;
- 7) link alcohol to driving;
- 8) place emphasis on high ethanol content as being a positive quality of beverages;
- 9) imitate the voice of well-known persons or characters or the voice of persons or characters known from films, television, music or entertainment programmes or events directed principally at children.

14.5 If Scotland followed the Estonia model then we would restrict the content of adverts to a list of objective and factual criteria. The aim of this would be to make adverts less appealing and weaken the link between seeing alcohol adverts, and developing positive feelings between brands and positive attitudes towards consumption.

- 14.6 Restricting the content of alcohol advertising would also benefit the general public, including [higher-risk drinkers](#) who can find alcohol adverts more appealing and react in a stronger way than lighter drinkers, causing increased cravings or for those in recovery who are susceptible to current alcohol marketing.
- 14.7 We know that [young people find adverts that feature more factual product attributes such as ingredients and taste far less appealing than those that portray drinking lifestyles](#). [Research has also demonstrated that](#) in comparison to neutral and informative content, more lifestyle linked advertising has a greater influence on the attractiveness of the product and the desire to consume it. By removing the attractiveness of alcohol in the advertising we begin to change the culture around alcohol.
- 14.8 [Children and young people in Scotland investigating alcohol marketing](#) felt that alcohol adverts can be targeted toward young people. This can be through alcohol brands portraying drinking alcohol as a fun, sociable and a community activity which makes people feel good and equals happiness. They found that many alcohol adverts featured young-looking people and often use humour, catchy slogans, popular songs and other tactics to appeal to a youthful market. They identified restricting the content of alcohol adverts as the below recommendation demonstrates.

### Young Scot Health Panel

#### Recommendation

Prohibit the use of real people or anthropomorphic animals/objects in alcohol adverts.

Question 32	Do you think that the content of alcohol marketing in Scotland should be restricted to more factual elements?					
Please tick one	Yes		No		Don't Know	
Please explain your answer in the text box.						

Question 33	Do you think we should only allow alcohol marketing to include elements set out in a list, like in Estonia? This would mean all other elements not on the list would be banned from adverts.					
Please tick one	Yes		No		Don't Know	
Please explain your answer in the text box.						

Question 34	Do you think that content restrictions like the Estonian model should be applied to all types of alcohol marketing?					
Please tick one	Yes		No		Don't Know	
Please explain your answer in the text box.						



## 15. Enforcement

- 15.1 Effective monitoring and enforcement is crucial to ensuring that any alcohol marketing restrictions are complied with, and therefore impactful.
- 15.2 [In other European countries a mix of statutory and non-statutory bodies are involved in monitoring and enforcement.](#) Common sanctions include fines for breaches, as well as revoking alcohol licenses, as well as potential imprisonment in some countries.
- 15.3 [Research considering restrictions in other countries](#) has found that responsibility for monitoring and enforcement should be allocated to bodies alongside resource to do this effectively. Sanctions should also be significant enough to discourage advertisers from breaching the regulation. Countries with minor sanctions have reported continual breaches. Examples have shown that when penalties are raised significantly, it can eliminate intentional breaches of the regulations.
- 15.4 In Scotland, local Licensing Standards Officers monitor and enforce other alcohol policy interventions, including Minimum Unit Pricing. This system is unlikely to be practicable for the types of restriction covered in this consultation, as marketing campaigns are not often linked to a particular licensed premise in a geographic location.
- 15.5 One option may be to work with the existing regulatory bodies, if possible, to monitor and enforce requirements in place in Scotland. Another option might be to create new regulatory arrangements or a new regulatory body in Scotland to monitor and enforce marketing restrictions.
- 15.6 We welcome any initial input on how any Scottish restrictions might be monitored and enforced. Given that this consultation does not set out a detailed package of proposals with definitions and exceptions, enforcement is a matter which will require further thought and development depending on the outcome of this consultation.

Question 35	How do you think that any future alcohol marketing restrictions in Scotland should be monitored and enforced?
Please provide your answer in the text box.	

## 16. Evaluation and provision of data

- 16.1 Scotland has a leading [international role](#) in implementing and evaluating alcohol policy interventions, as demonstrated by our comprehensive Minimum Unit Pricing evaluation programme.
- 16.2 We would intend to continue our robust approach to evaluation if introducing marketing restrictions in Scotland. This would allow us to monitor the impact that any restrictions have on exposure to alcohol marketing as well as on consumption levels.
- 16.3 In order to assist with evaluating the impact any alcohol marketing restrictions would have, it may be helpful to require alcohol producers and companies selling alcohol to provide data on alcohol marketing expenditure as well as local sales data. This would allow Scottish Government to consider the impact of both national and local alcohol marketing campaigns on product sales.
- 16.4 In addition, this information may be useful to local decision makers in licensing boards. It could provide licensing boards with a clearer and more accurate picture of the availability of alcohol in a geographic area and the impact of different types of premises.

<b>Question 36</b>	<b>Do you think that Scottish Government should require the alcohol industry to provide information and data on alcohol marketing campaigns in Scotland?</b>					
Please tick one	Yes		No		Don't Know	
Please explain your answer in the text box.						

<b>Question 37</b>	<b>Do you think that Scottish Government should require the alcohol industry to provide local alcohol sales data in Scotland?</b>					
Please tick one	Yes		No		Don't Know	
Please explain your answer in the text box.						

## 17. End Questions

- 17.1 The consultation sets out a range of different options for restricting the advertising and marketing of alcohol products across Scotland. As previously stated, we know that advertising and marketing has a cumulative effect across many different channels. This reflects the way that marketing campaigns for alcohol products operate; these take place across a mix of marketing different channels.
- 17.2 Following on from this consultation, Scottish Government could take action to restrict alcohol marketing on one, many or none of the marketing channels set out in the consultation. It would be helpful if respondents could set out if they think a comprehensive approach would be appropriate and if so, how this could be taken forward.
- 17.3 There are some areas within the consultation where there would be potential overlap between restrictions. For example, if both the display of alcohol advertising in public areas was prohibited and alcohol sports sponsorship, the scope of both of these restrictions may cover pitch-side signage or billboards around sports venues.

<b>Question 38</b>	<b>Do you think the Scottish Government should look to introduce a comprehensive package of restrictions across a number of marketing channels? If so, what do you think this package should include?</b>					
Please tick one	Yes		No		Don't Know	
Please explain your answer in the text box.						

- 17.4 We would welcome views on if there are any other methods or channels not considered within this consultation that should be further restricted.

<b>Question 39</b>	<b>What, if any, additional alcohol marketing methods or channels not covered in the consultation would you like Scottish Government to consider restricting and why?</b>					
Please provide your answer in the text box.						

- 17.5 The evidence presented in this consultation is wide ranging and extensive but we welcome any further evidence that should be considered as the policy on further restrictions is developed.

<b>Question 40</b>	<b>What further evidence on alcohol marketing would you like the Scottish Government to consider?</b>
Please provide your answer in the text box.	

17.6 The Scottish Government acknowledges that the restrictions presented here could have significant implications for those who sell, distribute or manufacture alcohol. It is important that alcohol and advertising industry views are provided to allow us to consider the potential impacts that proposals might have, as well as any support that could be provided alongside any restrictions.

<b>Question 41</b>	<b>If you sell, distribute, advertise or manufacture alcohol, or represent those who do, how do you think the potential restrictions in this consultation paper would impact you, and the wider alcohol sector?</b>
Please provide your answer in the text box.	

## 18. Declaration of direct or indirect links to the alcohol industry

- 18.1 We ask all respondents to disclose whether they have any direct or indirect links to, or receive funding from, the alcohol industry.
- 18.2 Careful consideration will be given to all consultation responses, including those from the alcohol industry and from those with links to the alcohol industry. These views will also be included in the published summary of consultation responses.

Declaration	Please indicate any direct or indirect links to the alcohol industry			
Please tick one	No links	Direct	Indirect	Don't Know
If you have links to the alcohol industry, please explain what those are below.				

## 19. Impact Assessment

We are committed to equality and ensuring that our policies lead to the creation of a fairer Scotland. To help us do so, we welcome your views on the following questions.

Question 42	Are there any relevant equality issues that Scottish Government should be considering at this stage in the policy development?
Please provide your answer in the text box.	

## Consultation process

### Responding to this consultation

We are inviting responses to this consultation by 9 March 2023. Please respond to this consultation using the Scottish Government's consultation hub, Citizen Space (<http://consult.gov.scot>). Access and respond to this consultation online at <https://consult.gov.scot/alcohol-policy/alcohol-advertising-and-promotion>. You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 9 March 2023.

If you are unable to respond using our consultation hub, please complete the Respondent Information Form and consultation questionnaire and return to:

Alcohol Advertising and Promotion Consultation  
Alcohol Harm Prevention Team  
Scottish Government  
3E, St Andrews House  
Regent Road  
Edinburgh  
EH1 3DG

[alcoholmarketing@gov.scot](mailto:alcoholmarketing@gov.scot)

### Handling your response

If you respond using the consultation hub, you will be directed to the About You page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document. To find out how we handle your personal data, please see our privacy policy.

### Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at [Scottish Government consultations](#).

If you use the consultation hub to respond, you will receive a copy of your response via email. Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so. An analysis report will also be made available.

## Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to the contact address above or at [alcoholmarketing@gov.scot](mailto:alcoholmarketing@gov.scot)

## Scottish Government consultation process

Consultation is an essential part of the policymaking process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work. You can find all our consultations online at [Scottish Government consultations](#). Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

## Key publications

September 2022, [Alcohol Everywhere : A Report by the Alcohol Action Group](#), Scottish Families Affected by Alcohol and Drugs

June 2022, [Realising our Rights : how to protect people from alcohol marketing, a report by the Alcohol Marketing Expert Network](#), Alcohol Focus Scotland

June 2022, [Review of alcohol marketing restrictions in seven European countries](#), Public Health Scotland

May 2022 [Alcohol marketing restrictions : Learning from International Implementation](#), University of Stirling Institute for Social Marketing and Health

March 2022. [The Marketing and Consumption of No and Low Alcoholic Drinks in the UK](#), Institute of Alcohol Studies

March 2022, [The effect of alcohol marketing on people with or at risk of an alcohol problem a rapid literature review](#), University of Nottingham, SPECTRUM

December 2021, [Digital marketing of alcohol: challenges and policy options for better health in the WHO European Region](#), World Health Organization

November 2020, [No Escape : How alcohol advertising preys on children and young people](#), Alcohol Health Alliance

June 2020, Alcohol marketing in the WHO European Region: [Update report on the evidence and recommended policy actions](#), World Health Organization.

March 2020, [Preventing Harm – Alcohol Marketing and Young People](#), Young Scot Health Panel

February 2020, [Alcohol Marketing and Youth Drinking: Is There a Causal Relationship?](#), Journal of Studies on Alcohol and Drugs

January 2020, [The extent, nature and frequency of alcohol sports sponsorship in professional football and rugby union in Scotland](#), University of Stirling Institute for Social Marketing and Health

December 2019, [The technical package SAFER : A World free from alcohol-related harms. Five areas of intervention at national and subnational levels.](#) World Health Organization

September 2019, [Children’s Parliament investigates : an alcohol-free childhood](#), Children’s Parliament

March 2019, [Awareness of alcohol marketing, ownership of alcohol branded merchandise, and the association with alcohol consumption, higher-risk drinking, and drinking susceptibility in adolescents and young adults: a cross-sectional survey in the UK](#), Critchlow N, MacKintosh AM, Thomas C, et al

October 2017, [Tackling NCD’S : ‘best buys’ and other recommended interventions for the prevention and control of non-communicable diseases](#), World Health Organization

August 2016, [Alcohol marketing and youth alcohol consumption: a systematic review of longitudinal studies published since 2008](#). Jernigan D, Noel J, Landon J, Thornton N, Lobstein T.

December 2009, [Guidance on the Consumption of alcohol by children and young people](#), Chief Medical Officer, Department of Health and Social Care

February 2009, [Impact of alcohol advertising and media exposure on adolescent alcohol use: a systematic review of longitudinal studies](#), Anderson P, de Bruijn A, Angus K, Gordon R, Hastings G.

February 2009, [The effect of alcohol advertising, marketing and portrayal on drinking behaviour in young people: systematic review of prospective cohort studies](#). Smith L A, Foxcroft D R.

January 2009, [Does Marketing Communication Impact on the Volume and Patterns of Consumption of Alcoholic Beverages, especially by young people? – a review of longitudinal studies](#), Scientific Opinion of the Science Group of the European Alcohol and Health



**Title**

## RESPONDENT INFORMATION FORM

**Please Note** this form **must** be completed and returned with your response.

To find out how we handle your personal data, please see our privacy policy:

<https://www.gov.scot/privacy/>

Are you responding as an individual or an organisation?

- Individual
- Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name
- Publish response only (without name)
- Do not publish response

### Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

- Yes
- No



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## **THE ABERDEENSHIRE LICENSING BOARD**

### **REPORT TO THE ABERDEENSHIRE LICENSING BOARD – 22nd February 2023**

#### **EQUALITIES ACT 2010**

#### **EQUALITIES ACT 2010 (SPECIFIC DUTIES)(SCOTLAND) REGULATIONS 2012**

#### **EQUALITIES MAINSTREAMING & OUTCOMES 2021 – 2025 Progress Report**

### **1 Executive Summary/Recommendations**

- 1.1 Licensing Boards are public bodies separate to Local Authorities for the purpose of the Equality Act 2010 and therefore require to publish their own policies and action plans relating to the Act. The Licensing Board has worked in partnership with Aberdeenshire Council and the Education Authority in Aberdeenshire in complying with our Equality duties.
- 1.2 The current Board adopted the Equality Policy and Outcomes approved by its predecessor Board at their meeting in June 2022. The document can be found [here](#) (Item 11(i)).
- 1.3 The Equalities Act 2010 (Specific Duties)(Scotland) Regulations 2012 (“the 2012 Regulations”) places a duty on the Council, the Education Authority and the Licensing Board to provide a progress report every two years.
- 1.4 The Council, the Board and the Education Authority publish a joint Progress Report and the purpose of this report is for the Board to consider the part of the progress report relating to the work of the Board prior to approval of the Progress report at Full Council in due course.
- 1.5 **The Licensing Board is recommended to:**
  - 1.5.1 **Consider the progress made by the Board towards meeting the Public Sector Equality Duty and specific duties in terms of the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 as set out at Section 7 of the draft Progress Report attached as Appendix 1 to this Report.**
  - 1.5.2 **Approve Section 7 of the Progress Report for Publication as part of a joint Progress Report on behalf of Aberdeenshire Council, the Aberdeenshire Licensing Board and the Aberdeenshire Education Authority in due course.**
  - 1.5.3 **Note that the draft Progress Report also requires to be approved by the Education and Children’s Services Committee and Aberdeenshire Council prior to publication on the Council’s website.**
  - 1.5.4 **Note that the Board’s website will be updated to provide the necessary links to the Progress Report once published by Aberdeenshire Council.**

### **2. Decision Making Route**

- 2.1 This matter has not been considered by the Board previously

### **3. Discussion**

- 3.1 The Public Sector Equality Duty, referred to as the General Duty, is a legal duty under the Equality Act 2010 whereby Local Authorities, Local Education Authorities and Licensing Boards must give 'due regard' to (or to consciously consider) protected characteristics specified in the Act when exercising their public functions.
- 3.2 Furthermore, the Scottish Government passed the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012, which came into force in May 2012. These specific duties require all three of the above-named entities to identify and publish fresh Equality Outcomes every four years, and to publish an equality outcomes progress report every two years. This report asks the Board to consider and approve the latest progress report for the three authorities.
- 3.3 Considerable work has been undertaken regarding the integration of equalities into the council's structure, and in respect of our approved Equality Outcomes. It is two years now since publishing the current outcomes, and the Equality Mainstreaming & Outcomes Progress report 2021 - 2025 is now put before the Licensing Board for consideration on progress made in matters relating to the Licensing part of the Equality Outcomes.
- 3.4 The legislation states that an interim report on progress must be made in relation to mainstreaming equalities and also that progress made in respect of the Equality Outcomes is published. The aim is to build on previous work and promote a fairer, more inclusive Aberdeenshire where everyone can feel part of the community and ensure that equalities are always an important consideration in everything we do.
- 3.5 Furthermore we require to publish information in relation to the following:-
- Assess and review policies and practices;
  - Gather and use employee information;
  - Report and publish gender pay gap information;
  - Consider award criteria and conditions in relation to public procurement; and
  - Publish in an accessible manner.

In the main, the Board publishes information in relation to the assessment and review of policies and practices. The Board employs no staff directly, it is administered by Aberdeenshire Council and therefore the remainder of the above bullet points fall within the remit of Aberdeenshire Council and not the Board.

- 3.6 The Progress Report is attached as **Appendix 1** to this report. Section 7 of the report relates to the work of the Board. The section highlights:
- The appointment of an Equalities Ambassador from the Board Members following the election in May 2022
  - The completion of mandatory training by the new Board Members is covered under section 2.21 of the progress report.
  - Continued use of interpretation services if required in relation to licensing hearings
  - The main evidence is in respect of the use of Integrated Impact Assessments in relation to review of Board policies and where any application being considered by the Board requires the Board to consider equalities issues specifically
  - Use of the Council template for reports including Integrated Impact Assessments
  - Board Agendas and Minutes highlight the requirement for the Board to consider equalities issues in making their decisions

3.7 The Progress report will also be considered by the Education and Children’s Services Committee of Aberdeenshire Council (date unknown – possibly 23<sup>rd</sup> March 2023) and is currently being presented to the Licensing Board for approval. This will be followed by a report to Full Council (date unknown – possibly 27<sup>th</sup> April 2023) for approval. The purpose of this is to have the joint report approved by all three authorities, those being Aberdeenshire Council, Aberdeenshire Education Authority and Aberdeenshire Licensing Boards, in a transparent manner.

#### 4 Priorities, Implications and Risk

4.1 The Council priorities do not apply to this report as they are set by Aberdeenshire Council and the Licensing Board is a separate entity to Aberdeenshire Council.

4.2 The table below shows whether risks and implications apply if the recommendation(s) is (are) agreed.

Subject	Yes	No	N/A
Financial		X	
Staffing		X	
Equalities and Fairer Duty Scotland	X		
Children and Young People’s Rights and Wellbeing	X		
Climate Change and Sustainability		X	
Health and Wellbeing		X	
Town Centre First		X	

4.3 There are no staffing or financial implications arising from this report.

4.4 An integrated impact assessment has been carried out as part of the development of the proposals set out above. It is included as Appendix 2 and

- *23 positive impacts have been identified under the duties relating to Equalities and Children and Young People’s Rights and Wellbeing.*
- *No negative impacts have been identified*

4.5 There are no risks on a Corporate or Strategic level as these relate to Aberdeenshire Council and the Licensing Board is a separate entity.

**Karen Wiles**

**Clerk to the Board**

Report prepared by Fiona M. Stewart, Senior Solicitor (Governance), Depute Clerk to the Board

Date 10<sup>th</sup> February 2023

**Appendices**

**Appendix 1:** Progress Report

**Appendix 2:** Integrated Impact Assessment





From mountain to sea

# **Aberdeenshire's Equality Mainstreaming and Outcomes Progress Report 2021 - 2025**



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## **Foreword**

Welcome to Aberdeenshire Council's Equalities Mainstreaming and Outcomes Progress Report 2021-2025.

Our Equalities and Mainstreaming Report demonstrates our continued commitment through the wide-ranging activities, best practice and honest reflection on how we work within the organisation and together with our partners. As we make progress with our Equality Outcomes, we continue to embed and integrate equalities through all that we do, placing the people of Aberdeenshire at the heart of our services.

The COVID-19 pandemic has shown us how individuals and communities who already experience the greatest inequality in society are the ones who are most negatively affected. Simultaneously, it has also shown how, by working together with a shared sense of compassion and community we have been able to respond in a way that demonstrates the strengths and values we have that overcomes the challenges.

This report highlights how we are addressing inequalities, how Aberdeenshire Council, Aberdeenshire Education Authority and Aberdeenshire Licensing Board are embedding equality practices by encouraging strong leadership of the Equalities agenda across councillors, Strategic Leadership Team, the Education Authority and Licensing Board.

We have a strong commitment to equality, and we recognise that promoting equality and diversity is a continuing journey. Building on our previous work, our aim is to support a fairer, inclusive Aberdeenshire where equality of opportunity is an important consideration in everything we do and is a critical part of our approach.

This report is designed to provide an overview of progress since the 2021 report in relation to:

- Mainstreaming equalities into the structures of Aberdeenshire Council, Aberdeenshire Education Authority and Aberdeenshire Licensing Board
- Progress in relation to our current Equality Outcomes (2021 – 2025).

It provides evidence of what we have achieved over the last two years as well as highlighting the actions to be taken over the next two years of the equality outcomes.

## Part A: Mainstreaming Equalities

### 1 Our Equalities journey so far

The equality outcomes 2021-25 demonstrate that we are continuing to take equalities into account in the way we go about our business when acting as:

- an Employer;
- a Policy and Decision Maker;
- a Service Provider;
- a Buyer of Goods and services;
- an Education Authority; and
- Licensing Board

We recognise that mainstreaming equalities has a number of benefits, including:

- Equalities becomes part of the structures, behaviours and culture of Aberdeenshire, to the benefit of employees and Service users;
- We can demonstrate how, in carrying out our business, we are promoting equalities; and
- Mainstreaming equalities contributes to continuous improvement, better performance and better value.

In addition to corporate activity, Education and Children's Services and partners have developed the Children's Services Plan, the results of which formulate our overall approach.

The Children's Services three-year plan provides information on how local services plan and deliver support to children, young people and families across Aberdeenshire; to make sure they get the right support, at the right time, by the right people.

The five priorities for the Aberdeenshire 2020-2023 Children's Services Plan are as follows:

1. Providing help for care experienced children & young people (Corporate Parenting).
2. Drive early intervention and prevention to support children and young people affected by their own or someone else's drug or alcohol use.
3. Support children with a disability and their families.
4. Making sure children get the best start in life by giving the best support to families in the early years (children aged 0 to 8 years old).
5. Improving Mental Health outcomes for children and young people.



## 2 Overview of Aberdeenshire in the context of Equalities

### 2.1 The Legal context

#### 2.1.1 *The Public Sector Equality Duty*

Section 149 of The Equality Act 2010 came into force in April 2011, introducing a new Public Sector Equality duty that became law across Scotland. The Public Sector Equality Duty has three parts with which we must comply. It requires public bodies such as Aberdeenshire Council, Aberdeenshire Education Authority and the three Aberdeenshire Licensing Boards to have due regard to, or to consciously consider, the need to:

1. Eliminate discrimination, harassment and victimisation;
2. Advance equality of opportunity between those who have Protected Characteristics and those who don't; and
3. Foster good relations between those who have Protected Characteristics and those who don't.

These are sometimes referred to as the three aims or arms of the general equality duty. The Act explains that having due regard for advancing equality involves:

- Removing or minimising disadvantages suffered by people due to their protected characteristics.
- Taking steps to meet the needs of people from protected groups where these are different from the needs of other people.
- Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

In terms of discrimination, the following describes how they are classified:

- Direct discrimination - treating someone with a protected characteristic less favourably than others
- Indirect discrimination - putting rules or arrangements in place that apply to everyone, but that put someone with a protected characteristic at an unfair disadvantage
- Harassment - unwanted behaviour linked to a protected characteristic that violates someone's dignity or creates an offensive environment for them
- Victimisation - treating someone unfairly because they've complained about discrimination or harassment

#### 2.1.2 *What are Protected Characteristics?*

Everyone is protected by the Act. Every person has one or more of the Protected Characteristics, so the Act protects all of us against unfair treatment. The Protected Characteristics are:



## **Age**

The Equality Act 2010 protects people of all ages. Aberdeenshire Council has divided this into two groups- age (younger) and age (older). Please note that there is no fixed boundary between age (younger) and age (older) as this will depend on the context.

## **Disability**

Disability includes people with physical or mental impairment which has a substantial and long-term adverse effect on a person's ability to carry out day-to-day activities. These would include learning and sensory disabilities, people with a long-term illness, and people with mental health problems.

## **Gender Reassignment**

The Equality Act 2010 provides protection for Transgender people. A Transgender person is someone who proposes to, starts, in the process or has completed a process to transition from one sex to another.

## **Marriage and Civil Partnership**

Marriage is defined in The Equality Act 2010 as a union between two people of different or the same sexes. Same sex couples can also have their relationship legally recognised as civil partnerships. Civil partners must be treated the same as married couples on a wide range of legal matters.

## **Pregnancy and Maternity**

The law covers pregnant women or those who have given birth within the last 26 weeks, and those who are breast feeding.

## **Race**

Under The Equality Act 2010 race includes colour, nationality and ethnic or national origins. It also includes Gypsy Travellers.

## **Religion or Belief**

In The Equality Act 2010, religion includes any religion. It also includes a lack of religion. Belief means any religious or philosophical belief or a lack of such belief.

## **Sex**

Sex is either a man or a woman. Both are protected under The Equality Act 2010.

## **Sexual Orientation**

The Equality Act 2010 says that you must not be discriminated against because you're gay, lesbian, bisexual or heterosexual.

### **2.1.3 *The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012***

The Scottish Government introduced a set of specific equality duties to support the better performance of the general duty by public bodies. These duties include requirements to:

- publish a report on the progress of mainstreaming the equality duty every two years;

- publish equality outcomes and report on progress;
- assess and review policies and practices;
- gather and use employee information;
- publish gender pay gap information;
- publish an equal pay statement (every 4 years)
- consider award criteria and conditions in relation to public procurement

At its meeting on 23 September 2021 Aberdeenshire Council approved Aberdeenshire's Equalities Mainstreaming and Equality Outcomes Report 2021-25. The report was also approved by the Licensing Board and the Education and Children's Services Committee on 18 and 26 August 2021 respectively.

This report highlights the progress which has taken place since April 2021.

We are committed to meeting the Public Sector Equality Duty and Specific Duties.

We will ensure that we will:

- take effective action on equality;
- make the right decisions, first time around;
- develop better policies and practices, based on evidence;
- are more transparent, accessible and accountable;
- deliver improved outcomes for all in the community; and
- ensure our equality outcomes have a positive impact

#### 2.1.4 *Fairer Scotland Duty*

Part 1 of the Equality Act (2010), The Fairer Scotland Duty, came into force in Scotland from April 2018. It places a legal responsibility on particular public bodies (including Local Authorities) in Scotland to actively consider (pay due regards to) how they can reduce inequalities of outcome caused by socio-economic disadvantage when making strategic decisions.

To fulfil our obligations under the duty, Aberdeenshire Council must be able to demonstrate that the following key requirements are met:

- To actively consider how to reduce inequalities of outcome in any major strategic decision making
- To publish a written assessment, showing how this has been carried out

#### 2.1.5 *Community Empowerment (Scotland) Act 2015*

The Community Empowerment Act 2015 aims to strengthen communities across Scotland by strengthening their voices in decisions about public services and making it easier for them to own land and manage buildings.

The Act has been in force since 2015.

Part 3 of The Community Empowerment (Scotland) Act 2015 introduced a new right by which community groups can request to be involved in, and have influence over, decisions and services that affect communities. This involvement is described as an Outcome Improvement Process (OIP) and is initiated by a Participation Request (PR)

## 2.2 Bringing this report to life

Throughout this report and in [Appendix 3](#): examples, case studies and vignettes have been used to bring this report to life.

We continue to build equalities into our organisational structures, adopting an inclusive approach to developing and delivering our equalities vision, strategies and plans through the work we do and the services we deliver which are outlined below. Many of the mainstreaming activities described in this report demonstrate this.

## 2.3 Equalities Governance Framework

The Equalities Governance Framework in Aberdeenshire is designed to support, embed and promote the equalities agenda throughout Aberdeenshire. There are several elements to the structure as follows

### **Equalities and Human Rights Strategy Board (EHRSB)**

The Equalities & Human Rights Strategy Board (EHRSB) is made up of senior employees who have been nominated to represent their relevant council Service and trade union representation. Membership reflects the broad range of services provided by the council and the need for a council-wide approach to equalities. The Board provides direction to ensure Aberdeenshire's ability to comply with The Equality Act 2010 and The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012.

The EHRSB meets on a half-yearly basis and is chaired by the Director of Education and Children's Services.

### **Equality Ambassadors**

Approximately 40 Equality Ambassadors have been nominated across the council, Education Authority and staff that support the Licensing Board. Their role is to support the mainstreaming of equalities by assisting staff when completing Integrated Impact Assessments and responding to day-to-day queries regarding equalities matters as well as share updates across their service area. Equality Ambassadors also receive training and any Equalities related updates to ensure their knowledge is up to date,

### **Elected Members**

All Aberdeenshire Council Elected Members recognise the significant importance of equalities in their role of leading, supporting and advocating for the people and communities within Aberdeenshire Council.

### **Business Strategy Team**

Within the Business Strategy Team, the Policy & Performance Team Leader and the Policy Officer support the corporate approach to equalities, complementing the work of Services and monitors and reports on progress.

### **Mental Health First Aiders**

Aberdeenshire Council recognises the importance of supporting its employees, particularly where it comes to their mental health. A group of approximately 20 volunteer employees have been trained to provide mental health first aid. Mental

health first aiders are there to support staff in a crisis. Training has been re-established in December 2022 to further enhance mental health first aider provisions.

## 2.4 Integrated Impact Assessments (IIAs)

Aberdeenshire uses a digital Integrated Impact Assessment (IIA) tool to provide robust evidence to demonstrate that we are giving due regard to the Public Sector Equality Duty.

The impact assessment takes account of all nine Protected Characteristics as well as the Fairer Scotland Duty. An impact assessment should be carried out where any strategic decision, new policy or changes to a policy, or project is being carried out.

Guidance on the completion of Integrated Impact Assessments has been developed for employees. This guidance is written in the form of short notes as well as a recorded session held on Aberdeenshire Council's learning platform, ALDO. It details the process from screening to carrying out the assessment to determine if there are potential impacts, both positive and negative, on people with Protected Characteristics and different socio-economic groups, and examples of the potential different impacts on protected groups.

The guidance is available for all employees to access through the Equalities pages of the council's intranet.

## 2.5 Prejudice and Discrimination Reporting Process

A Prejudice and Discrimination incident is any discriminatory act based on prejudice or discrimination against an individual as a result of:

1. The victim having one or more of the Protected Characteristics under The Equality Act 2010 being treated unfairly; or
2. It is assumed that the victim has one or more of the Protected Characteristics, being bullied; or
3. The victim is associated, or assumed to be associated with someone who has one or more of the Protected Characteristics

The Prejudice and Discrimination Report can be used to report behaviour such as, but not restricted to:

- offensive language
- threatening behaviour
- physical violence
- abusive text messages, emails or comments on social media
- spreading rumours, being ignored or excluded
- having belongings stolen or damaged, based on having one or more of the Protected Characteristics

Prejudice and discrimination incidents may be recorded in the following ways:

1. Schools: prejudice and discrimination Incidents are recorded within the Bullying and Harassment module of SEEMIS;

2. Service users/customers: prejudice and discrimination incidents are recorded through the council's Feedback Team;
3. Employees: HR&OD record details of prejudice and discrimination incidents between staff members

An update report on prejudice and discrimination incidents is provided to the EHRSB twice a year for consideration and action as appropriate.

## 2.6 Committee reporting structure

Committee reports take account of equalities impacts through Integrated Impact Assessments. We continuously work to ensure that we are consciously considering equalities where we are considering new policies or changes to existing policies or strategic decisions.

## 2.7 Budget setting

Equalities and Fairer Scotland Duty impact assessments are integral to the Council's budget setting process.

## 2.8 Communications Plan

We use a broad range of communication methods available to us to engage with employees and residents.

### 2.8.1 *Intranet*

Our equalities SharePoint site on Arcadia, our employee intranet, provides comprehensive guidance on corporate equality resources to support employees when dealing with equalities issues.

### 2.8.2 *Equalities and Diversity Events*

We raise awareness by highlighting key dates relating to Protected Characteristics. These are promoted via articles on Yammer and our intranet for staff, and through our social media channels.

Some of the events include Black History Month, Hate Crime Awareness Week, World Breastfeeding Week, International Youth Day, IDAHOBIT, 16 Days of Action, Holocaust Memorial Day

## 2.9 Social media

We use our social media channels to highlight our work around equalities and key dates to employees, residents and communities. Examples of these have been our commemoration of Holocaust Memorial Day shared on Twitter, Facebook and YouTube; used Facebook to highlight and signpost International Day Against Homophobia, Biphobia and Transphobia; and a series of social media posts during Black History Month 2021.

Twitter was used during November and December 2022 for 16 days of action by Aberdeenshire's Violence Against Women Partnership including actions and learning during those 16 days.

## 2.10 Interpretation, Translation and Transcription

We continue to provide interpretation services and access to translation services to ensure communities' effective access to Services. Council Services are encouraged to use face-to-face interpreters, telephone interpretation and translation of key documents.

The council translates key publications and documents which are targeted towards people who may not speak English as a first language.

Many of our publications include a statement explaining how members of the public can request the document in another format on the front page. This statement includes the top four most requested languages in Aberdeenshire.

British Sign Language translation and sensory support is now included in our contract for translation services.

## 2.11 Accessibility

We added accessibility and translation functionality to our Council website in April 2022. The tool has different functions to aid those with sensory support and language barriers such as a magnifier, text to speech and inbuilt translator that will translate to the chosen language. We actively monitor usage to look for any trends that can help inform of any areas we need to focus on.

## 2.12 Training and Development

To support our equalities work we need to ensure employees and Elected Members are aware of our equality duties, and also how they affect Service delivery and employee management. Below are examples of training and awareness sessions taken place:

### 2.12.1 *E-Learning for Employees and Councillors in relation to The Public Sector Equality Duty*

- a) We have run sessions for Equality Ambassadors around the Public Sector Equality Duty. Additionally, training modules are available on the Council's Learning & Development platform, ALDO. Equalities training is mandatory for all employees as part of the corporate induction programme and is refreshed regularly. Training is monitored by the Learning and Development team. In addition, a course on Respecting Diversity was also developed. To date, 19 of our Elected Members have completed the online training.

Equalities training formed part of the Councillor induction following the Local Elections in May 2022. A seminar delivered by the Scottish Women's Budget Group was held on 12 December 2022. The topic was Gender Budget Setting. The session was attended by 23 Elected Members.

- b) Integrated Impact Assessments

An e-learning course has been developed which provides support to those employees who require to complete Integrated Impact Assessments. This is supplemented with a user guide on our Equality page within our intranet. Our

Equality Ambassadors have also received training using case studies to help support Aberdeenshire Council staff in assessing impacts.

c) Mentally Healthy Work

Aberdeenshire Council is committed to supporting its employees' wellbeing and mental health. Support is offered through various channels including our employee assistance programme provided by Vivup.

This service offers all employees at least six free and confidential one hour counselling sessions. Further support is offered through continued training and development, workshops on stress management, mental health for managers and wellbeing are offered to individuals and teams, virtually and/or face to face.

Face to face team meetings, the team come to site, meet the team and discuss matters relating to wellbeing. Regular communication and awareness campaigns are run using platforms such as Yammer and trickle as well as a monthly wellbeing newsletter. Information is aimed at providing our employees with support, where to find that support, how to access that support and raising awareness of specific subject matters such as mental health, menopause, cost of living etc. We also offer peer support groups, physiotherapy, employee benefits, meditation sessions and podcasts.

## 2.13 Participation and Representation

Aberdeenshire is committed to mainstreaming equality considerations into partnership activities and plans. We recognise that encouraging equal opportunities is an important objective of the community planning process, given that its purpose is to lead to a more equitable, just, and inclusive society.

### 2.13.1 *Scottish Councils' Equality Network (SCEN)*

This is a Network of Equality Officers from Scottish Local Authorities working closely with the Convention of Scottish Local Authorities (COSLA), the Scottish Government and the Equality and Human Rights Commission (EHRC). The Network is a hub for information-sharing, professional support and often acts as a voice on equalities matters in Scotland. The Policy Officer and Team Leader (Policy and Performance) represent Aberdeenshire at SCEN.

### 2.13.2 *Gypsy/ Traveller Sub Committee*

*The remit of the subcommittee is:*

1. To develop and approve Council policies and practices in respect of issues specific to Gypsies/Travellers, including their health, welfare, educational and housing needs, and unauthorised encampments.
2. To monitor and approve the Council's Gypsy/Traveller Action Plan.
3. To consider and approve arrangements regarding the provision of accommodation for Gypsies/Travellers

### 2.13.3 *Gypsy/ Traveller Inter-agency Group*

This is a Grampian-wide officer group comprising the three local authorities (Aberdeen, Aberdeenshire and Moray), Police Scotland, NHS Grampian and

Grampian Regional Equality Council (GREC). The group seeks to pursue a joint approach to responding to Gypsy/Traveller issues within the Grampian area.

The group meets quarterly to consider cross-boundary Gypsy/Traveller issues, including implementation of a Grampian-wide Gypsy/Traveller Action Plan.

#### 2.13.4 *Gypsy/Traveller Officer Working Group*

The Gypsy/Traveller Officer Group (GTOG) comprises of council officers and representatives from Police Scotland and the NHS.

The remit of the Group is to develop, monitor and provide feedback on policies, procedures and practices in respect of:

1. The Gypsy/Traveller Strategic Outcome Statement; and
2. Associated actions and documents produced as a result of the Implementation of the Strategic Outcome Statement.

GTOG meets quarterly or as required, and reports to the Gypsy/Traveller Sub Committee.

The council's Housing Service is the lead Service for dealing with unauthorised encampments and Gypsy/Traveller site provision. Aberdeenshire Council has a dedicated full-time Gypsy/Traveller Liaison Officer.

#### 2.13.5 *Integrate Grampian Forum*

This is a Community Planning Partnership Forum which seeks to promote community cohesion and the integration of new residents in Aberdeenshire. The Forum oversees the Prejudice Incidents Reporting process in Aberdeenshire.

#### 2.13.6 *Peterhead Inclusion Forum*

This group seeks to deal with issues affecting good relations between migrants and the local people in and around Peterhead. Peterhead Inclusion Forum works closely with primary schools and churches in the Peterhead area and the local Community Learning and Development network to provide support to disadvantaged and vulnerable children and parents in Peterhead.

#### 2.13.7 *Aberdeenshire Refugee Resettlement Programme*

The Aberdeenshire vision for refugee resettlement and integration, is rooted in the principles of partnership, community development, innovative practice, and co-production – putting new Scots and welcome communities at the centre of decision making, planning and action. We recognise refugees as an asset and a power for change in our communities and not simply victims of conflict, disaster, torture or war.

Aberdeenshire Council and partners have been resettling refugee families since 2015. From 2016 to 2021, the majority of families arrived via the *Syrian Vulnerable Persons Relocation Scheme*, the *Vulnerable Children's Resettlement Scheme* and the *Afghan Relocation Assistance Programme*.



### 2.13.8 *Grampian Regional Equality Council*

Grampian Regional Equality Council (GREC) promotes and champions equality and diversity in the North East of Scotland and its mission is to work with others to ensure that everyone is valued for who they are and is able to contribute with encouragement, and without fear of discrimination or unfair treatment.

### 2.13.9 *Community Planning Partnership (CPP)*

To ensure consistency across Aberdeenshire, the Community Planning Partnership has adopted the IIA toolkit developed by Aberdeenshire Council.

Aberdeenshire is committed to mainstreaming equality considerations into partnership activities and plans. We recognise that encouraging equal opportunities is an important objective of the community planning process, given its purpose is to lead to a more equitable, just, and inclusive society.

#### **Community Planning website**

Our community planning website was redeveloped to ensure that information on community planning remained as accessible as possible across all different channels. Simultaneously, editors of the website were provided with guidance on how to make the content on webpages accessible for all. It is now a key source of information to support equalities activity across the wider partnership.

#### **Local Community Plans, Socio-economic Inequalities and Integrated Impact Assessments (IIAs)**

These are plans which identify priority outcomes and actions to improve the quality of life for those living and working in the area based on evidence and engagement with the local community. An IIA is undertaken for each of the plans.

Aberdeenshire Community Planning Partnership's (CPP) Connected and Cohesive Communities LOIP priority focusses on locality planning arrangements for the CPP's three locality planning areas, that cover four towns in Aberdeenshire – Peterhead, Fraserburgh and Banff & Macduff. To tackle inequalities in Aberdeenshire these areas were chosen based on key areas of disadvantage, highlighted in the Scottish Index of Multiple Deprivation (SIMD, 2016) and the Improvement Service's Community Planning Outcomes Profile (CPOP) tool. Each of these locality Plans updated annually are accompanied with an IIA.

In March 2017, the Aberdeenshire CPP Board formally agreed three LOIP priorities for Aberdeenshire. These are:

- Reducing Child Poverty in Aberdeenshire (broadened to "Reducing Poverty" in 2020)
- Connected and Cohesive Communities
- Changing Aberdeenshire's Relationship with Alcohol. This priority was removed in 2020 following a three-year review. The Board agreed that an alternative governance was in place via the Integration Joint Board. Progress in relation to this action is provided to the CPP Board in annual updates.

The 2020 review identified an additional priority of Health & Wellbeing. This priority is delivered in two distinct strands – healthy eating active living or HEAL and mental wellbeing.

#### 2.13.10 *Participatory Budgeting (PB)*

Live Life Aberdeenshire (LLA) committed to spending £1.8m of its capital budget on Sport and Leisure infrastructure in Stonehaven through a participatory budgeting exercise.

Over a period of nine months, officers engaged with the public, community groups, clubs and young people to understand the needs and identify options that could be included in a public vote.

Through this engagement, the community indicated a range of sports and leisure activities that could be supported. Officers received proposals from clubs and groups to enhance existing or add additional spaces required to accommodate these sporting activities.

A reference group was formed in summer 2021 to support LLA officers in reviewing options and participatory budgeting approach. The group comprised of Area officers, colleagues from Landscape Services, Community Council members, representatives of sports clubs, colleagues from health and social care, and the local schools.

The reference group agreed a shortlist of options in October 2021. Colleagues within LLA, Landscape, Planning and Property assisted in developing options for the public vote.

Architectural colleagues produced a suite of visualisations to assist the public in their choice. Seven options for consideration progressed to the public vote. These include an additional covered multi-use sports area at the leisure centre; upgrade to the gym, fitness area and the addition of PAMIS (Promoting a more Inclusive Society) changing space at the leisure centre; funding to support additional multi-use space within the Stonehaven Recreation Grounds; funding to support a covered tennis facility at Stonehaven Recreation Grounds; upgrade to the skate park area including seating and lighting; upgrade to the outdoor space within Stonehaven Recreation Grounds to incorporate challenge putting, pétanque and quoits. The options are set out in a leaflet attached.

All options are subject to terms and conditions to ensure compliance with health and safety, planning, and other policies to ensure proper accountability on using public funds. Engagement HQ, the Council's online engagement platform, was used successfully throughout this process, from idea gathering to enabling public members to view the seven options for which they will be able to vote. Over the life of the project, there have been 27.3k visitors, with 205 ideas generated by the community for consideration. This platform was also used for the online vote.

There has been an extensive campaign to raise awareness of the process and vote. As well as issuing information to the media and using social media to raise awareness, posters and flyers were be distributed around the town, through doors, and at local events. A dedicated display within Stonehaven Leisure Centre and Library. The library service included promotional bookmarks in books being

borrowed and delivered locally. Officers worked with schools in the network to distribute information and encourage voting. Many community organisations have been encouraged to cascade information through their contact lists and supplied the social media collateral pack and calendar to include content within their own social media.

The turnout for the vote was 1753 15.7% of the population. A post-vote survey is underway to establish the awareness of the PB vote in Stonehaven. The vote was mainly online. However, local sessions supported voting and offered paper voting for those unable to access the digital platform. The highest ranked option by the community will see an upgrade to the Stonehaven Leisure Centre.

#### 2.13.11 *Aberdeenshire Lived Experience Network*

Working directly with those with lived experience, and through partnership work, we are able to bring the voice of lived experience into the work we do to reduce child poverty by understanding the issues and challenges faced by families and marginalised groups across Aberdeenshire and listening to their ideas for change.

We have several ongoing rights-based person led projects where the voices of lived experience are the lead partners in reviewing services which provide us with information on inequalities faced, and from these, help shape these Services to meet their needs.

### **3 Aberdeenshire as an employer**

Aberdeenshire Council values all employees and recognises the importance of equality of opportunity. We aim to achieve this by ensuring the operation of fair and consistent employment practices that take account of the diversity of groups and individuals.

#### 3.1 Workplace profile

We aim to have a diverse workforce which reflects the communities we serve. We seek to achieve this by ensuring the operation of fair and consistent employment practices that take into account the diversity of groups and individuals in our community. By doing this, we aim to be an employer of choice and to be recognised as an employer that provides fair employment opportunities for all.

Further information in relation to our workforce profile, can be found at:

[Appendix 1 Aberdeenshire Council's workforce profile](#)

[Appendix 2 Aberdeenshire Education Authority's workforce profile](#)

##### 3.1.1 *Gender Pay Gap*

The gender pay gap (the difference in the average hourly rate of all men and women across the workforce excluding overtime) is illustrated in the table below.

The information in the following table shows the average hourly rate for all employees, Teachers only (excluding Supply) and Non-Teaching employees (excluding Relief) respectively, over the three financial years 2019/20, 2020/21 and 2021/22. The 'Gap (%)' columns show the percentage pay gap for the respective category. Please note that progress, or otherwise, is best judged when looking at the two groups of Teaching and Non-teaching employees separately in isolation.

The pay gap has decreased for Teaching and for Non-teaching year-on-year, yet it has increased for All Employees. This contradiction is due to the 'All Employees' average hourly rates which are not averages of the respective averages for Teaching and Non-teaching but are calculated in their own right.

In this instance, the proportion of All Employees Females who are Non-teaching Females has increased at the expense of the contribution made by Teaching Females because the average hourly rate for Non-teaching Females is significantly less than that for Teaching Females. This change in relative proportions has caused a drag and has depressed the All Employee Females average hourly rate.

At the same time the inverse has happened on the Male side, with the proportion of All Employees Males who are Teaching Males increasing at the expense of the proportion of Non-teaching Males; the average hourly rate for Teaching Males is significantly higher than that for Non-teaching Males, so the change in relative proportions has boosted the All Employees Males average when compared with All Employees Females.

Average Hourly Rates									
	All Employees			Teaching			Non-teaching		
	M	F	Gap (%)	M	F	Gap (%)	M	F	Gap (%)
2019/20	£16.34	£15.41	5.71	£25.86	£24.94	3.55	£13.88	£12.23	11.88
2020/21	£16.97	£15.91	6.22	£26.64	£25.77	3.27	£14.26	£12.63	11.43
2021/22	£17.31	£16.16	6.64	£26.73	£25.87	3.22	£14.59	£13.01	10.86

## 3.2 Human Resources & Organisational Development (HR&OD) policies

Human Resources policies continue to be prioritised for review on a rolling three-year programme, subject to change if a policy requires to be revised in relation to an amendment in terms and conditions either at local or national level, or to take account of new or amended employment legislation.

### 3.2.1 *Recruitment policy*

The recruitment guidance continues to be developed to incorporate additional guidance around fair recruitment with the inclusion of an Equalities across Recruitment factsheet. This provides guidance on a number of areas including advert text, interview questions and reasonable adjustment.

- New courses have been introduced on our learning platform to support Managers when recruiting: Reasonable Adjustments Across Recruitment and Recruiting and Retaining People with Sensory Impairment or Deafness. The Recruitment and Selection Course also links to the Equality and Respecting Diversity Courses.
- Aberdeenshire Council continues to be recognised as a Disability Confident Employer and utilised a Guaranteed Job Interview Scheme to support those who wish to be considered under the scheme into employment.

### 3.2.2 *Apprenticeship schemes*

The Resourcing Team within Legal & People have continued work over the last two years to develop new apprenticeship opportunities across the council. This work links in with the Skills Development Scotland Apprenticeship Week in March each year and supports the establishment of our annual Apprentice of the Year Award. Further to this, the team has re-introduced attendance at school careers events post covid, for students and parents to promote apprenticeships within the Council.

We continue to work with colleagues in Corporate Parenting to ensure care experienced young people are offered a guaranteed job interview and constructive feedback. There has also been a continued partnership with local universities to offer Graduate Apprenticeship to current employees. This offers the opportunity to work toward a degree in a specific discipline as they work to enhance continual learning and skills within their role with the Council.

### 3.2.3 *Disability leave scheme*

The review of Aberdeenshire Council's disability leave scheme was carried out in September 2020. The amendments included:

- A definition of what disability leave is and how it relates to Aberdeenshire Council's responsibilities under The Equality Act 2010.
- The policy signposts who should be involved in the process of identifying whether reasonable adjustments should be made, how they are made or if leave should be considered. This includes the employee and service, our occupational health provider, Human Resources, employee's GP/specialist and on occasion a disability advisor from the Job Centre.

### 3.2.4 *Work performance*

The work performance policy was reviewed in 2022 and continues to promote fair and equitable treatment of employees while trying to improve standards of work performance. The update will focus on:

- Relevant information relating to health and disability issues will be included to ensure the correct procedure is applied and any necessary occupational health interventions are made. This should allow for consideration of issues that may be affecting performance other than lack of capability.

- Manager's responsibilities under the procedure are clearly outlined to ensure a clear understanding of all the tools that can be used to assist them in managing performance, ensuring concerns are identified and discussed to allow adequate support to be given in all circumstances.
- Advice on the support available from HR including a case review by HR before a case progresses to a capability hearing. This will allow for a further opportunity to consider any factors linked to Protected Characteristics.
- Documents will be developed to support the manager in all aspects of a work performance while HR engagement is advised, particularly in the case of disability.
- It will be recommended that managers attend policies in practice training in this area to improve their knowledge and skills to allow for improved practice in managing employee performance.

### 3.2.5 *Neurodiversity Guidance*

Our Neurodiversity Guidance is currently being developed. HR have consulted with Autism Understanding Scotland and Social Work services to develop this. The guidance will give advice to line managers and employees on neurodiversity including any support or possible adjustments for neurodiverse employees in the workplace.

### 3.2.6 *One Aberdeenshire Principles*

The creation of 'One Aberdeenshire' in 2017 fundamentally changed our approach to engaging with employees. One Aberdeenshire underpins our beliefs, culture, behaviours, strengths, and aspirations within the organisation; It is about identifying where we do things well and supporting colleagues across the organisation to achieve similar success. One Aberdeenshire is about working together as one organisation; through working with our partners to achieve a common goal that better meets the needs of our customers.

The Principles are the cultural aspirations of colleagues which underpin how we will achieve the council's vision to be the best council, from mountain to sea. The Principles are put into action by shaping our systems, processes and structures around these ambitions.

1. Everyone brings their 'best self' to work every day.
  - We try to do our best every day, going above and beyond when necessary.
  - We treat each other the way we want to be treated.
  - We recognise that leadership and team-working is for everybody.
2. We are clear about what is expected of us and ask for clarity if unsure.
  - We work in our communities, for our communities.
  - We communicate clearly and honestly with each other
  - Where our work falls below the standards expected we accept the support offered to improve.
3. We take informed decisions as close to the action as possible.

- We use information and skills to make the right things happen
- Our freedom to make sensible decisions is supported
- We are involved in making sure we have as few 'rules' as possible and our ways of working are as simple as they can be.

## 4 Procurement

The Procurement Reform (Scotland) Act 2014 Act makes specific reference to “reducing inequality in the area” in the context of addressing “wellbeing”. Where it is proportionate and relevant to do so, this allows councils to potentially further their objectives in terms of the nine Protected Characteristics covered by the Public Sector Equality Duty under the Equality Act 2010.

The Public Sector Equality Duty requires councils to have due regard to the inclusion of award criteria which will assist in meeting obligations under the Public Sector Equality Duty. Award criteria and contract performance conditions must be related to and proportionate to the subject matter of the contract or framework. We are required to advance wellbeing are health related factors and in terms of fair work practices, i.e. the promotion of physical, social and mental health and reducing health inequalities.

### 4.1 Fair Work Practices (including the Living Wage)

A bidder's employment practices and its approach to its workforce can have a direct impact on the quality of service it delivers and, sometimes, of the goods it supplies and works performed. Fair pay, including payment of the Living Wage, is one of the ways a bidder can demonstrate that it takes a positive approach to its workforce which is one of the criteria Aberdeenshire Council looks at. Wherever it can be deemed relevant to quality of service or goods or delivery/performance of the contract, a bidder's employment practices and approach to the workforce to perform the contract is evaluated as part of our procurement exercise.

### 4.2 Living Wage/Living Wage Accreditation

The Scottish Government obtained clarification from the European Commission that public bodies are unable to make payment of the Living Wage a mandatory requirement. It is, however, a key national and organisational priority to encourage accreditation of suppliers as Living Wage employers (and encourage progress towards that end) across the supply chain.

A sample clause reflecting the full range for Protected Characteristics has been incorporated into the standard Invitation to Tender as follows:

'Promoting equality of opportunity and developing a workforce which reflects the population of Scotland in terms of characteristics such as age, gender, disability, marriage and civil religion or belief, sexual orientation, pregnancy and maternity, gender reassignment, partnership and race (including gypsy travellers). The Equality Act 2010 makes it unlawful to discriminate against people with a 'protected characteristic'. Organisational policies (including but not limited to recruitment) should ideally account for and respect all protected characteristics'.

## 5 Policy Development & Review Framework

The framework has been revised as part of the review of the council's decision-making process and constitutional documents and is now simpler to use for officers and enhances the early consultation and engagement of stakeholders, particularly those with Protected Characteristics at a commissioning phase within the development stage as well as more formally prior to the approval stage.

The monitoring and review stages have also been further strengthened. Each policy committee will consider an overview of policies appropriate to the scheme of delegation on an annual basis to identify gaps or review requirements. Policies will continue to be formally reviewed every five years, however the scrutiny process at Aberdeenshire also allows for early review of a policy if the impact is not as expected.

## 6 The Work of our Education Authority

### 6.1 Background

Education and Children's Services (ECS) provides education across the predominantly rural area of Aberdeenshire. There are 17 academies, 152 primary schools, 4 special schools, and 87 nurseries. In addition, there are 36 enhanced provision sites. Partner providers offer early years' educational and childcare in 76 settings.

In 2021 there were 36,647 pupils in Aberdeenshire primary and secondary schools, an increase from the 2020 figure of 36,317. The number registered in Aberdeenshire Council Special Schools in 2020 was 216.

Education and Children's Services provides a wide range of services which make a positive difference to our vulnerable learners, Service users, families and communities. As a result of a range of self-evaluation activities and external scrutiny from bodies such as Education Scotland and the Care Inspectorate, work takes place continuously to improve performance across a range of measures, including attainment and achievement.

Our key strengths include:

- Improved outcomes for learners with a diverse range of needs, including high levels of attainment in Scottish Qualification Assessment examinations
- Sustained good progress with implementation of Curriculum for Excellence
- Increased levels of positive leaver destinations
- Positive inspections of schools and learning communities

The Service has a detailed equalities action plan in place to ensure key priorities are addressed. We continue to make good links across the Service with other functional groups; for example, the Service's work with Human Resources in Developing the Young Workforce.



The Prejudice and Discrimination Incident Reporting procedure has been revised to streamline the process and enable monitoring of incidents more effectively. This results in accurate reporting and recording of prejudice-based bullying, including racist and homophobic bullying. This revised procedure focuses on ensuring incidents are dealt with promptly and resolved to the satisfaction of Service users.

The following workstreams support Outcome 3 'In Aberdeenshire people have opportunities to fulfil their potential throughout life.'

## 6.2 Leadership

Education and Children's Services is committed to developing school leaders at all levels who understand the need to ensure equalities are mainstreamed across all schools in Aberdeenshire.

### 6.2.1 *Supporting Children and Young People within the LGBT+ Community*

In partnership with Four Pillars, the 'Queer Equality Support Team' project has been developed and an LGBT+ Inclusion Advisor (LIA) post funded to provide support for young people and schools staff. The support offered to schools include:

- Staff LGBT+ awareness training session
- Staff advice and information via email/telephone
- Assembly/class presentation/visit
- LGBT+ Group visit
- LGBT+ Group support pack

In addition, support offered to young people include:

- Advice and information
- One to one session
- Youth and Philanthropy Initiative (YPI) – The Wood Foundation

### 6.2.2 *Accessibility Strategy*

Aberdeenshire Council is committed to ensuring that all our children and young people are safe, healthy, achieving, nurtured, active, respected, responsible, included. To support this, all of our children and young people should have access to positive learning environments and opportunities to develop their knowledge, skills, ambition, confidence and self-esteem to their fullest potential. Aberdeenshire Council are guided by Getting it right for every child (GIRFEC) principles.

Our Accessibility Strategy for schools outlines the present and future developments to enhance and improve access to a quality education to all pupils.

This strategy recognises the rights of pupils with disabilities to appropriate education through improved access to information, curriculum and environment to ensure they are included, engaged and involved.

## 6.3 Staff development

### 6.3.1 *Career Long Professional Learning (CLPL) programme*

A programme of CLPL for Education and Children's Services staff is ongoing with these being delivered via our learning platform as well as additional training via twilight and full day sessions. We have a Learning and Development page for Education staff to signpost and to provide more information on the learning.

The programme includes addressing inequalities, celebrating diversity and building resilience in children and young people. Events in the programme included:

- Supporting pupils with visual impairment
- Understanding Neurodiversity, with toolkits and strategies
- Disability inclusion training for school based staff;
- Working with bilingual pupils in schools
- Celebrating diversity and challenging homophobia
- Wellbeing and relationships
- Anti-bullying
- Restorative approaches
- Nurturing approaches
- Supporting Transgender young people

## 6.4 Developing our curriculum to support equality

### 6.4.1 *Meeting learners' needs*

The Getting It Right For Every Child disability strategic group organised a number of multi-agency events which resulted in actions to improve provision for transitions from secondary school to post-school and to increase positive destinations for disabled young people. A greater focus on transition with secondary schools and partners has been rewarded with a further increase in positive destinations for Aberdeenshire school leavers at a challenging time economically in the area.

### 6.4.2 *The curriculum*

Schools adopt flexible approaches to ensuring the curriculum is inclusive and supports equality and diversity.

### 6.4.3 *Learning for life – through collaboration*

Community Learning and Development (CLD) created a 'Communicating Well' Guidance Sheet to support CLD practitioners to consider accessibility when they are planning and designing communications, from lessons or surveys to promotional materials. The guidance highlights good practice and also provides links to further guidance. An example of how we have considered accessibility for our Learners in our day-to-day work is where CLD created a two-page summary document to help Adult Learner understand the Scottish Qualifications Authority (SQA) Induction document. Both documents were also interpreted into ten different languages.

CLD also supports people in communities to learn about and improve equalities for themselves and others. Examples of our work with communities:

**People First Fraserburgh – Capacity Building** People First in Fraserburgh, run by and for adults with learning disabilities, offered a valuable drop-in centre providing a safe space for members to socialise, access support and engage in projects. The centre was forced to close during the pandemic, and it has proved difficult to resume services. Their main concern was finding funding to keep the drop-in open.

People First worked alongside a CLD practitioner to gain clarity on their strengths, vulnerabilities and opportunities to grow more resilience. They sourced appropriate funding and made successful applications of over £35,000. They now have the core funding they need to continue running the drop-in centre and its activities for at least 12 months.

The successful funding bids combined with holistic support from CLD has increased People First's confidence, helped make them feel more hopeful for the future of the charity and instilled a sense of new energy and enthusiasm back to the committee and staff members

**Princes Trust Youth Community Art Project** Young people from the Inverurie Princes Trust project were supported by CLD staff to undertake a community art project that helped improve access in a community centre. The poles in the community space were difficult to see for visually impaired people so the young people wanted to make them easier to see by turning them into an art installation. The young people worked together to decide who had different roles in the project and worked on a design for the pole next to the Youth Space. The young people learned how to complete risk assessments, art and design skills and budgeting. The young people felt proud of their artwork especially as it helped a minority group access the new campus better.

"I didn't think I could achieve anything, but we worked together and made this!"

**Westhill Youth Platform- Mask-ots Collective Poetry** The Mask-ots group was invited to participate in the Over 2 Youth 22 event in September 2022 which highlighted the impact of poverty and inequality from a youth perspective. They decided upon two themes – autistic masking and ableism. The group were curious about using collective poetry and CLD Workers supported this. For both poems, young people were given a prompt and worked on their own to come up with individual lines that best represented their experience. These were combined into collective work. This level of anonymity elicited truly personal accounts. Young people were surprised and proud at what they managed to produce in each session. They challenged themselves by displaying their work, talking to the public about their experiences and reading their poetry aloud.

"It is a way to turn your ideas into art. If your feelings are bottled up, writing your feelings down could help you feel better."

**Garioch New Scots Mother and Baby/Toddler Group** New Scots mums can be isolated when bringing up young children without the support of wider family and can have difficulty navigating resources in English language. Baby groups can be

a new concept to New Scots. This group was set up to acclimatise mums to the standard UK baby group format to make it easier to integrate into established local groups. CLD staff used established networks to set up and support/facilitate volunteers in delivering the themed sessions for this project, with plans to progress to a new integrated baby/toddler group with a mix of New Scots mums and mums in the community who are more familiar with the concept of baby groups.

#### 6.4.4 *Equitable and appropriate teaching*

Educational psychologists and teachers undertook work on dyslexia friendly practices. The work included reviewing and updating guidance for schools, producing reflective frameworks and providing an online course supporting the use of the Addressing Dyslexia Toolkit. The aim was to ensure equitable and appropriate teaching and learning for children and young people with literacy difficulties.

#### 6.4.5 *Pupil voice questionnaire*

Education and Children's Services piloted the use of a pupil voice questionnaire in preparation for multiagency assessment and action planning (MAAPs) and transition meetings. This was developed in conjunction with the ASN team and ICT as we had identified that there were limited, if any, pupil voices in MAAPs. The questionnaire was completed online and uses Widgit symbols to support pupils with additional special needs (ASN), English as an additional language pupils, and younger pupils. So far this was used for P4-7 mainstream pupils to good effect and further usage is planned with adult support as required. The questionnaire allows pupils to comment on all of the Safe Healthy Achieving Nurtured Active Responsible Respected Involved (SHANARRI) indicators with regard to their life in school. Pupils can read the questions, hear the questions and look at the symbols to support their understanding.

### 6.4.6 Active Schools

Our main purpose is to provide opportunities for children and young people to take part in sport and physical activity, before school, during lunchtime. While doing so, we ensure everything we do are inclusive. Below are examples:

#### **Example 1: Stonehaven Inclusive Sessions**

*Stonehaven Community Sports hub runs a disability and inclusion project – initially planned to run for 12 months. Every Friday night since April 2022 different clubs and groups have offered inclusive sessions at the leisure centre in Stonehaven.*

*Funding was secured through Aberdeenshire Voluntary Action and helped purchase four sport wheelchairs and have allowed participants to try activities such as wheeled Basketball and Athletics, whilst other sports that have been offered include Cricket, Badminton and Martial arts. In addition, the hub secured an initial trial with purchase option of two para trekkers, further expanding the opportunities to allow local people with mobility difficulties to try new activities. The wheelchairs and para trekkers have been made available for public use in and around Stonehaven*

#### *Outcomes*

- *New inclusive sessions that specifically target those with additional support needs*
- *Increased funding to support the local community*
- *Greater understanding of the needs across the network and further afield*
- *Increased physical activity levels for those living with a disability*

#### **Example 2: Kit for All projects**

*Live Life Aberdeenshire have supported 4 hubs across Aberdeenshire to develop sport kit for all projects within their local communities. These projects encourage communities to drop off unused and unwanted sports kit, which can then be accessed by those who may otherwise struggle to access kit to participate in physical activity.*

*With an additional benefit of reducing the volume of waste sent to landfill each year. Projects are now live in Peterhead, Turriff, Inverurie and Stonehaven – with further launches planned in Fraserburgh, Banchory and Huntly.*

*Schools have been getting involved with these projects to develop in school opportunities for young people to donate and access kit.*

## 6.5 Education programmes

Establishments have adopted programmes of study to ensure that the nine Protected Characteristics are addressed in depth. Examples include:

### 6.5.1 Respect for All Ambassadors

Respect for All Ambassadors is a group that represents pupils of all ages. The group carries out local work in secondary schools across Aberdeenshire to promote equality and diversity in secondary schools. Each pupil plays an active leadership

role within the group and undertakes significant work in sharing positive messages across their school community.

### 6.5.2 *The Duke of Edinburgh award*

The Duke of Edinburgh Award scheme offers young people an opportunity to develop their skills, interests and involvement in their community.

The Duke of Edinburgh gold award is the highest achievement in the award scheme and every year a presentation is organised for those who have completed it to collect their certificates and highly sought-after gold badges.

## 6.6 Community engagement

### 6.6.1 *Engaging with vulnerable pupils*

With increasing numbers of refugees resettling in Aberdeenshire, many schools have demonstrated good practice, celebrating diversity of language and culture, making use of English as an Additional Language strategies and a range of resources to support learners. One music teacher sourced a Ukrainian bandura for their pupil to continue practising the Ukrainian folk instrument. The English as an Additional Language (EAL) Service responded quickly to the Ukraine resettlement schemes, coordinating guidance and resources for schools through Microsoft Teams, as well as offering support to 111 children and young people from Ukraine (as of December 2022).

**Academy DHT feedback:** *"Thank you for the comprehensive bank of resources (the EAL Service) have provided through the MS Team Ukraine Resources for Schools. The information, resources and signposting cover every aspect and they have been invaluable in supporting us... ..as we enroll an S1 pupil from Ukraine"*

Over the last year Aberdeenshire has seen 22 unaccompanied asylum-seeking children arrive through the National Transfer Scheme. Some young people have already moved onto positive destinations at college, while the majority of young people have enrolled in Academies. For those pupils who have very little or no experience of school it has been a challenge to find learning opportunities appropriate to levels of prior learning, but school staff continue to work hard to offer as wide and meaningful a range of experiences and support as possible. Partnership working between social work, education (schools, education officers, EAL) and Community Learning and Development has been crucial to coordinating support for these young people. Education colleagues are working in partnership with NESCOL to develop further opportunities on the pathway from school into positive destinations.

**Teacher feedback** *'The boys seem very keen and willing to learn. They pick up the new language well despite having no school experience.'*

### 6.6.2 *Free Period Products*

Aberdeenshire Council is committed to providing free period products in line with the Period Products (Free Products) (Scotland) Act 2021.

These are provided to everyone who needs them for themselves, on behalf of others and for visitors to Aberdeenshire.

Free period products are available in schools during term-time for all pupils and staff. They are also available in community facilities such as community centres and libraries, and also in Service points.

A “Pick Up My Period” App has been developed to and provides locations close by for people to collect products, and also provides educational resources on menstrual health.

Online ordering and home delivery of period products were created during the COVID 19 pandemic when public buildings were closed and this service is continuing.

## 7 The Work of our Licensing Board

### 7.1 Constitution

The Licensing Board is constituted in terms of the Licensing (Scotland) Act 2005. The Board is entrusted with the administration of liquor licensing, gambling licensing and certain other statutory duties.

At the time of the previous mainstreaming report, there were three divisional licensing boards in Aberdeenshire:

- North Board: 8 members
- Central Board: 8 members
- South Board: 8 members

Following a review of the structure of the Licensing Boards, Aberdeenshire Council, at its meeting of 5<sup>th</sup> March 2020, revoked the divisional licensing board structure with effect from 28<sup>th</sup> April 2020 and established a single Licensing Board for Aberdeenshire with effect from 29<sup>th</sup> April 2020.

- Aberdeenshire Licensing Board: 10 Members

Our Board Members are Elected Members of Aberdeenshire Council and are appointed to the Licensing Board at the first full meeting of the council after each ordinary election. A board in terms of the legislation must consist of at least five Members and meet the following criteria:

- Our meetings are held in public but deliberations can be made in private
- Our decisions must be made in public
- Our meetings are held in venues that are fully accessible to everyone

Following the local government elections in May 2022, 8 new Members were appointed to the Aberdeenshire Licensing Board. There are currently two posts vacant.

Aberdeenshire Council is responsible for administering the licensing system for the Licensing Board. The Members of the Licensing Board and the teams which administer these are all employees of Aberdeenshire Council. The information detailed in Section 4: Aberdeenshire as an Employer is relevant to Licensing Boards. Similarly, this section covers employees of Licensing Boards, all of which is relevant to Outcome 1: 'Aberdeenshire Licensing Board Members have an increased understanding about the challenges facing people from different groups and will respond to their requirements' and Outcome 3: 'Aberdeenshire Council is an inclusive workplace where employees are respected and have an equal opportunity to achieve their full potential'.



## 7.2 Statutory Provisions and Licensing Objectives

Apart from complying with our public sector equality duties, we have objectives laid down in statute specifically related to our work, around which we must organise all of our licensing functions.

The statutory provisions are found in:

- The Licensing (Scotland) Act 2005; and
- The Gambling Act 2005

The regimes under these Acts set out broad aims which we must support in terms of our functions. These are as follows:

<b>The Licensing (Scotland) Act 2005</b>	<b>The Gambling Act 2005</b>
<b>Objectives</b>	<b>Objectives</b>
<ul style="list-style-type: none"> <li>• Preventing Crime and Disorder and</li> <li>• Securing Public Safety</li> </ul>	Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.
<ul style="list-style-type: none"> <li>• Preventing Public Nuisance</li> </ul>	Ensuring that gambling is conducted in a fair and open way.
<ul style="list-style-type: none"> <li>• Protecting and Improving Public Health and</li> <li>• Protecting Children and Young Persons from Harm</li> </ul>	Protecting children and other vulnerable persons from being harmed or exploited by gambling.

## 7.3 Numbers of licences currently in force (at 31 March 2022)

### **The Licensing (Scotland) Act 2005**

- **531** premises licences;
- **2,167** personal licences;
- **1883** occasional licences; and
- **17** occasional extensions.

### **The Gambling Act 2005**

- **16** premises licences;
  - **144** notices of automatic entitlement for gaming machines;
  - **35** gaming, club gaming and club gaming permits; and
  - **498** registrations for small society lotteries.
-

The Board also considers applications for variation and transfer of the above licences on a regular basis, as well as dealing with applications for review of licences and investigating complaints in relation to licensed premises and licence holders.

## 7.4 Equality Policy

The Licensing Board endorsed the Equality Outcomes 2021 – 2025 approved by the previous Licensing Boards at its meeting on 22<sup>nd</sup> June 2022. The policy holds equalities at the heart of the Board's work and ensures openness and transparency of the Licensing Board's position in this regard. The following mission statement has been included in the Equality Policy:

*Our mission is to serve the licensing needs of Aberdeenshire as quickly and efficiently as possible, striking a balance between the businesses needs of our customers, and the interests of the community as a whole in order to protect the public and further the licensing objectives set out under the Licensing (Scotland) Act 2005 and the Gambling Act 2005."*

"To achieve our mission:

- *We will reach out to all parts of our society and genuinely reflect their interests in determining policy.*
- *We will have open and honest exchanges of information in customer-friendly settings and make decisions in a fair and reasoned manner based around agreed and published policies and the legal tests set out in legislation.*
- *We will be fair in all we do, including having due regard to the public sector equality duties and the protected characteristics, ensuring that equality considerations are central to the administration of the licensing system.*
- *We will not work in isolation but achieve our objectives in partnership with a wide range of other public bodies, including the Council and its various services, statutory consultees, licence holders and the public. They too must eliminate any form of unlawful discrimination and protect equality of opportunity and good relations between persons from all sections of society.*
- *We will strive to reflect the interests of people from all sections of the society we serve.*

The Licensing Board works closely with Aberdeenshire Council to ensure that it can work with partner agencies in promoting equalities and in adhering to the Public Sector Equality Duty.

The Licensing Board set new Equality Outcomes in 2021 in conjunction with the outcomes set by Aberdeenshire Council to ensure consistency of approach.

## 7.5 Staffing and Training

Our Licensing Board is served by a Clerk, Depute Clerks, Paralegals, Administrative Staff and Licensing Standards Officers.

All Members and staff have attended, and will continue to attend, seminars and briefings on Equalities run by Aberdeenshire Council.

A Depute Clerk and a Board Member have been appointed Equalities Service Champion for the Licensing Board and Board Members are all trained in equality matters.

## 7.6 Staff support the Licensing Board in their thinking and understanding of equalities.

Staff also consider equalities in terms of the information provided on application forms in considering and processing applications for licences. Translation and Interpretation Services

The Licensing Board has used, and will continue to use, interpreters at Licensing Hearings where it is known that the applicant for a licence does not have English as a first language. The Licensing Board will continue to provide policy documents and procedures in alternative formats and languages on request. The Licensing Board has specifically inserted wording into correspondence relating to licensing hearings that translation services can be provided upon request.

The Licensing Board links in with the Services provided by Aberdeenshire Council to ensure consistency of approach in the service we provide to the public and to licence holders in Aberdeenshire.

## 7.7 Integrated Impact Assessments (IIAs)

To ensure consistency across Aberdeenshire, the Licensing Board has adopted the IIA toolkit developed by Aberdeenshire Council.

An Integrated Impact Assessment was carried out as part of the Licensing Board's review of Gambling Policy in June 2022. The IIA highlighted positive impacts following on from ensuring that the Statement of Licensing Principles provides guidance on risk factors and safeguarding issues for operators which facilitate well-regulated and controlled gambling within the local area.

The Licensing Board is currently working on an IIA in relation to its statutory duty to review its Statement of Licensing Policy under the Licensing (Scotland) Act 2005 which requires to be completed and published by 1<sup>st</sup> November 2024. The outcomes of the IIA will be considered by the Board in setting the terms of its revised policy.  
Licensing Board Report Format

To ensure consistency across Aberdeenshire, the Licensing Board has adopted the committee report style agreed by Aberdeenshire Council to take account of equalities issues throughout the licensing process.

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Every report considered by the Licensing Board either has an IIA attached to it, or an explanation as to why an IIA is not required. Additionally, every agenda has an equality statement at the beginning and the Board publicly agrees to take equalities into account when making decisions.

## Part B: - Equality Outcomes: 2021 – 2025 Progress

### 8 Equality Outcomes

#### 8.1 Equality Outcome 1

**In Aberdeenshire, disabled people have an improved experience in accessing services that meet their needs through more regular and systematic involvement in design of service delivery across the Council.**

##### Protected Characteristics:

- Disability

##### General Duty:

- Eliminate unlawful discrimination, harassment and victimisation
- Advance equality of opportunity
- Foster good relations

##### Aims

- More disabled people access public transport safely and in comfort with an integrated service that provides accessible information, appropriate assistance and support from transport employees
- Improve engagement with our services and enhance access to information for marginalised and underrepresented groups

##### Progress and Achievements so far

- Accessibility has been included as an item on all the Area Bus Forum agendas, providing an opportunity for disabled people and others with mobility concerns to raise and discuss any physical and other accessibility barriers to using bus services
  - Issues raised during meetings are minuted with the actions to resolve documented
  - Before carrying out provisions of services, all contracted-in passenger all drivers undertake training in customer care including disability awareness
  - Council employed minibuses drivers undertake the Minibus Drivers Awareness Scheme (MiDAS), a nationally recognised standard for the assessment and training of minibuses drivers, prior to being allowed to operate any service. MiDAS includes disability awareness training in addition to the use of wheelchair lifts, ramps and the appropriate wheelchair tie-down and occupant restraint system. Aberdeenshire Council currently employ 72 minibuses drivers
  - Procurement of Interpretation, translation and transcription services including BSL which will enhance access to information for all groups
  - Appointment of a Service Design Lead to embed service design approaches with relevant customer groups
  - Service Design champions course rolling out to services across the council- highlighting the need to include users and particularly those from harder to reach groups when designing services to meet their needs
-

- Accessibility and translations functionality was added to our website in April 2022

## 8.2 Equality Outcome 2

**People in Aberdeenshire, particularly those who face barriers through literacy, language and digital exclusion, are provided with accessible information on services provided by the Council and are supported to access these digitally where appropriate.**

### **Protected Characteristics**

- Disability
- Age
- Race

### **General Duty**

- Eliminate unlawful discrimination, harassment and victimisation
- Advance equality of opportunity
- Foster good relations

### **Aims**

- More disabled, older people and people with English as an additional language (EAL) can access the information we provide about our services and appropriate assistance and support is provided with the confidence and skills to access our information digitally

### **Progress and Achievements**

- Language translations plug-in for web translations implemented
- Close working with colleagues at the Digital Scotland office within Scottish Government (specifically on the R100 programme), and UK Government DCMS (relating to Project Gigabit)
- Targeted community engagement, as well as regional promotion and stimulation of the programmes
- 10% of all eligible properties (668 premises) have been supported to use the voucher subsidies available to them, to obtain a superfast alternative broadband solution
- the R100 programme has completed the deployment of full-fibre broadband connections to 1,002 premises, which equates to 5% of the planned build, which will take place in Aberdeenshire between 2022 and 2028.
- Two posts have been created to deliver interventions to support young people in digital skills relating to employability, and confidence & wellbeing

### **Peterhead Digital Inclusion Pilot**

This project has been developed because of concerns identified by partners that people with low income living in Peterhead were not digitally connected due to access and cost. A short term, partner working group was established leading to a test for change project. Through data research (Peterhead Strategic Needs

Assessment (2021), Covid-19 Community Impact Assessment, Scottish Index of Multiple Deprivation (SIMD) led to a qualitative research project being undertaken in the Longate area, Peterhead as this is an area with low employment and deprivation links to housing, education and crime domains. The aim was to understand whether there was a need for those in the area to be digitally connected. Possibly due to the increased digital support, equipment and free MiFi, resulting from the response to Covid, the findings showed the need was not as great as the quantitative data suggested – the majority of Longate residents already had affordable connectivity and skills and no residents wanted to be involved in developing a community website. Based on these findings the following recommendations were approved and are being taken forward:

- a. The creation of a start-up package for residents who want access to affordable broadband and digital learning support
- b. Undertake further engagement through door to door and drop in sessions
- c. Discuss placing free Wi-Fi in the temporary housing service accommodation.

### 8.3 Equality Outcome 3

**In Aberdeenshire people have opportunities to fulfil their potential throughout life.**

#### **Protected Characteristics**

- All

#### **General Duty**

- Eliminate unlawful discrimination, harassment and victimisation
- Advance equality of opportunity
- Fostering good relations

#### **Aims**

- All children and young people will be able to make the most of the education opportunities available to them to reach their full potential, there will be progress by 2023 in the experience of those with protected characteristics who are currently disadvantaged or underperforming.

#### **Progress and Achievements**

- Accessibility Strategy developed to enhance and improve access quality education to all pupils especially those disadvantaged with disabilities.
- Training and resources available to support the mental, emotional, physical and sexual health of young LGBT+ individuals
- Our English as an Additional Language (EAL) service has helped young refugees settle into school life or have enabled them to move onto Positive Destinations

**UNICEF UK Rights Respecting Schools Award**

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Aberdeenshire Schools are engaged in the Rights Respecting Schools programme which is an accredited programme run by UNICEF which recognises a school's achievement in putting the United Nations Convention on the Rights of the Child into practice within the school and beyond.

The programme develops the principles of equality, dignity, respect, non-discrimination and participation. Aberdeenshire schools have maintained their levels of involvement in this programme over the last two years despite Covid. Schools who participate have reported a positive impact on school ethos, improved relationships and wellbeing leading to better learning and behaviour.

Young people learn new skills in how to respect themselves and others and how to actively participate in the life of their school, their community and in global action.

### **Children's Rights – Incorporation into Scots Law**

To help Aberdeenshire Council staff understand the implications and expectations of the incorporation of children's rights into Scots law, an ongoing programme of training and CLPL on learner Participation and Children's Rights is created and implemented in conjunction with Education Scotland and MDEC. This has been offered to senior leaders, school staff and CLD practitioners. There are also ongoing opportunities for young people to reflect on the incorporation and what it means to them.

## 8.4 Equality Outcome 4

**Aberdeenshire Council as an employer continues to create a fair and inclusive place to work where differences between people are celebrated and barriers are reduced for women, disabled people, minority ethnic people, LGBTI+ people and young people**

### **Protected Characteristics**

- All

### **General Duty**

- Eliminate discrimination.
- Advance equality of opportunity.
- Foster good relations.

### **Aims**

- Our BAME, disabled, women, young and LGBTI+ employees have safe and supportive work environments to thrive, and we are seen as an employer of choice
- Enhanced opportunities for people with communication difficulties to fully express their skills, personality and ability as part of the application process for employment and skills development programmes.

### **Progress and Achievements**



- Digital Project Lead recruited to provide increased opportunities to build digital skills confidence
- Online learning and webinars developed and delivered to support confidence in digital skills
- Digital champions in place to encourage colleagues to use the digital tools we have available and explore using digital solutions on how things are done within the council. They provide advice and support on anything digital

### **Employee Groups:**

The organisation has been working on building stronger networks of support and bringing employees together through various projects such as the introduction of the peer support groups. The peer support groups bring together employees from different sex, ages and race to meet around a common theme, mental health for example. Currently we have a women's group, a mixed group and are planning for a male only group in 2023. In the development of the next issue of the wellbeing survey, interest in further peer support groups will be explored.

### **Self Service Equality and Diversity Screen**

In 2022, the introduction of Employee Self Service recording and maintenance of Equality and Diversity related information in the HR System allows for more accurate reporting and providing employees with the opportunity to maintain their own details as necessary. These details are stored securely and only utilised for reporting and monitoring purposes. Further, the categories now used are aligned to those used by COSLA and in the Scottish Government Census, which is expected to improve the Council's ability to gauge how its workforce represents the communities.

## **8.5 Equality Outcome 5**

**An increased proportion of women, black and minority ethnic people, younger people, disabled people and LGBTI+ people are supported to enter employment or training.**

### **Protected Characteristic**

Race

Age

Disability

Sex

### **General Duty**

- Eliminate discrimination
- Advance equality of opportunity
- Foster good relations

### **Aims**

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Locality employment issues is under continuous review to ensure we maintain robust employment practices for all of our citizens

BAME, disabled and LGBTI+ employees have safe and supportive work environments to thrive

Young LGBTI+ people feel supported and have access to improved digital platforms and sources of support.

### **Progress and Achievements so far**

- Aberdeenshire now operates a fully engaged Employability Partnership, Employment CONNECT, which engages with the local communities throughout Aberdeenshire
- Person-centred employability assistance from ages 16-67 and occasionally beyond is offered via 8 Key Workers. The team is responsible for the governance and audit of all No One Left Behind funding received from Scottish Government ensuring programmes are available for all seeking assistance into employment, training or education.

### **Kickstart:**

Kickstart Scheme was a UK Government scheme aimed at helping up to 24-year-olds into employment. Building relationships with DWP, Aberdeenshire Council recruited 27 young people across all services within the Council. From those on a 6-month, 25 hour per week work placement, 16 have continued to work within the local authority.

### **Long Term Unemployment**

Aberdeenshire Council has utilised funding from Scottish Government under the Long-Term Unemployment (LTU) Scheme. The work began at the beginning of 2022. This scheme is aimed at supporting over 25-year-olds living in Aberdeenshire who have been long term unemployed.

We have successfully supported 33 people back into employment for a 6-month period minimum (some up to a year), working across all services. From those so far, 1 has gained full time employment and 4 others have secured part time roles within the organisation.

### **Developing Young Workforce initiative**

Aberdeenshire Council has been awarded a certificate from Developing the Young Workforce North East Scotland (DYWNES). DYWNES is a regional group funded by the Scottish Government which aims to help businesses connect with schools in order to build meaningful working relationships, enabling young people to learn the skills required to enter the workforce for the first time. This certificate recognises the work of Aberdeenshire Council in encouraging and supporting young employees.

### **Developing the Young Workforce (DYW) Developments in Schools**

Aberdeenshire Council's HR Service, with support from the DYW team, has developed a session for primary schools to help them understand the vast array of jobs on offer within Aberdeenshire Council. Workshops are now being created for secondary schools.

Work is continuing on developing a suite of resources to support teachers in DYW. This includes Career Fair Guidance and Employer School-Relationship Planning Guidance for both Senior Leadership Teams and Faculty Heads, and support materials in using the Career Education Standard, including presentations on the importance of career education and the importance of Labour Market Information.

## 8.6 Equality Outcome 6

**LGBTI+, disabled, religious, faith and black and minority ethnic people have increased confidence to report hate crime through our work with partners to; prevent hate crime; encourage people to report hate crime when it happens; and improve service responses to victims**

### **Protected Characteristic**

Race  
Gender Reassignment  
Disability  
Sexual Orientation  
Religion and Belief

### **General Duty**

- Eliminate discrimination
- Advance equality of opportunity
- Foster good relations

### **Aims**

- People harmed, witnesses and partner agencies feel more confident in reporting hate incidents

### **Progress and Achievements so far**

- We have worked in partnership with Police Scotland to raise awareness of Third Party Reporting, and we currently have two third party reporting centres
  - Training has been developed, and is currently being rolled out on Third Party reporting
  - Awareness raising presentation delivered to Housing support from Four Pillars, an organisation that supports Grampian's LGBT + community with issues such as mental, emotional, physical and sexual health and offer information and support on a person-to-person basis to build a community which support itself through peer education, thus allowing individuals to make informed choices to improve their overall health and wellbeing. They provided signposting, referring to different organisations throughout Grampian. The
-

presentation also explained definitions, concepts and terminology relating to the LGBT+ community to ensure staff understanding.

### **Pupil Participation Forum (PPF)**

The Pupil Participation Forum has been running for the last 6 years. It has up to six young people (S1-S6) per school from all 17 secondary schools and they meet six times a year. During Covid meetings were moved online. Meetings have now returned to face to face. The PPF decide on an annual focus that they would like to work on as well as providing a consultative mechanism within Aberdeenshire Council.

Activity in the last two years has included

- Finalising a pupil resource on wellbeing
- Participating in consultations within the council on anti- bullying, attendance, managing substance misuse incidents
- Participating in a national Child Protection Scotland - children & young people campaign
- Creating a resource for school staff on using pronouns and what to do if you misgender with support from the organisation Four Pillars

Their new themes for this session are looking at the stigma of poverty and cultural diversity

### **Gypsy/Traveller awareness**

Annually, we recognise Gypsy Roma Traveller History Month which takes place every June and provides an opportunity to raise awareness of these minority ethnic communities and celebrate the richness they bring and the contribution they make to society. It also helps to address prejudice and stereotyping, as well as promoting their history, language, culture and heritage and helping to challenge myths.

## Appendix 1: Aberdeenshire Council's Workforce Profile

As at December 2022, Aberdeenshire Council employed 16,292 people which took up a total of 21,477 posts within the council. The workforce data presented here is the total number of posts within the council. This report is based on incumbencies or post held by each employee. Some employees may have multiple incumbencies – for example, a Supervisory Cleaner may hold posts for Relief Cleaner and Children's Escort. Throughout the report incumbencies are referred to as 'employee data' or 'employees'.

The information in this Appendix refers to all employees of the council over the years 2021 and 2022. In 2021 the categories for recording the data were updated and this is reflected in the profiling.

The sections on training, leavers and general employee data are generated from our Human Resource Information system. The data relates to development, retention and recruitment respectively. The data on recruitment is obtained from the Talentlink database, the Scottish public authority recruitment tool. As employees often undertake multiple training courses in a year each employee is only counted once in the development figures.

In some parts of our report there are high responses in the 'unknown' category. Steps have been taken to encourage employees to provide as much information as possible to help us gain a better understanding of our workforce profile.

Workforce profile information has been used by some sections of the council to plan for the future in terms of addressing age profiles which would leave a Service 'at risk' due to a predominantly significant proportion of employees in the higher age ranges. Similarly, some Services have used the workforce profile information in new and innovative ways to address the means of retaining employees and skills when duties and tasks need to be provided. It is critical that such work continues and helps the council address changes and gaps in relation to the Protected Characteristics.

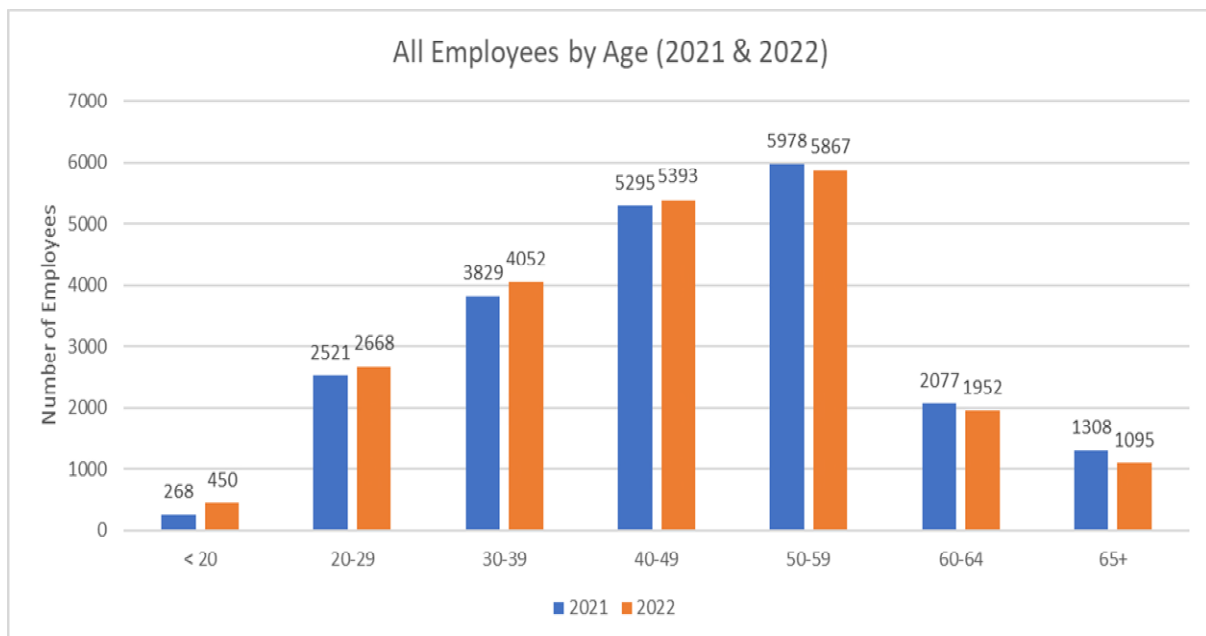
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## Combined Workforce Profile

### Age

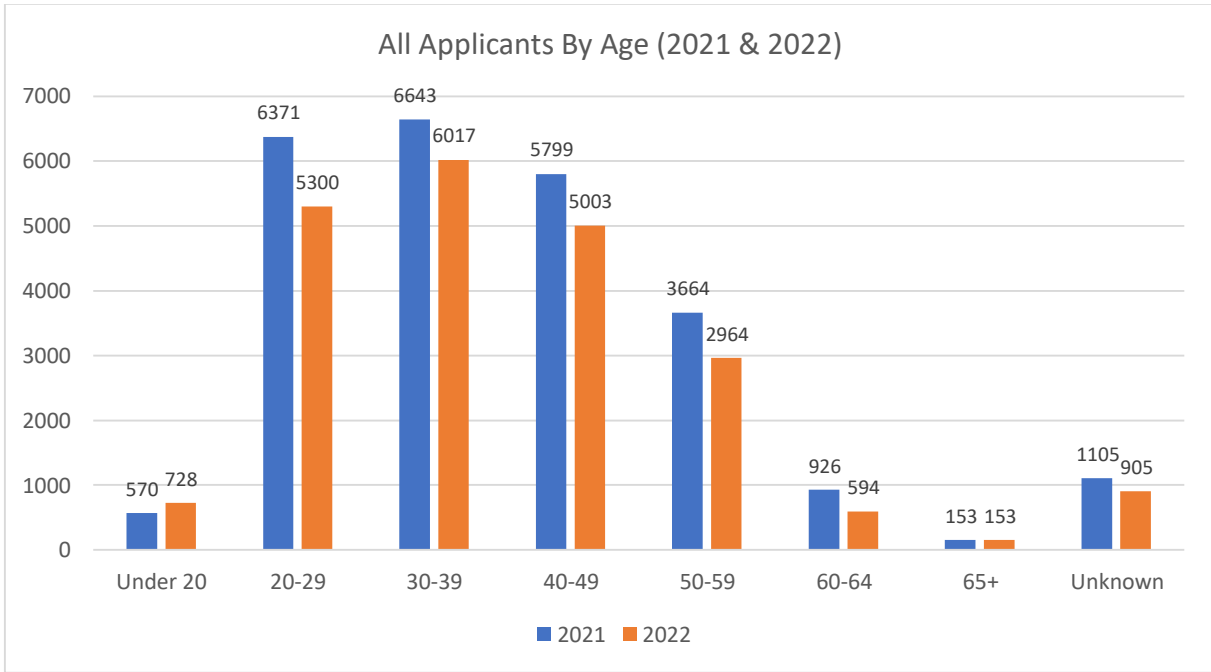
#### All Employees

The largest percentage of employees fall into the age range 40-49 and 50-59. The number of employees in the 50-59 category has decreased by 0.78% since 2021. The number of employees in the 60-64 category has decreased by 0.67% and the number of over 65's dropped by 1.05% in 2022.



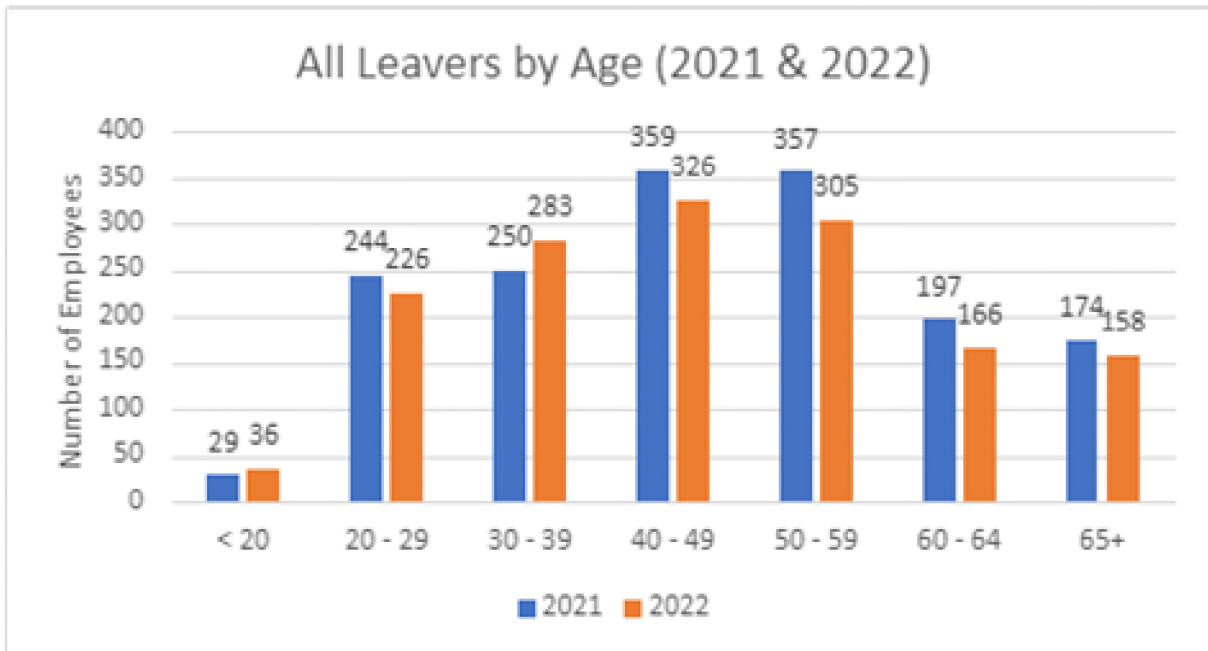
#### Recruitment

The number of job applicants has decreased across all categories, with the exception of under 20, over the course of the two year period. This could be partly attributable to the ease of lockdown from the pandemic where potential applicants have returned back to their former roles.



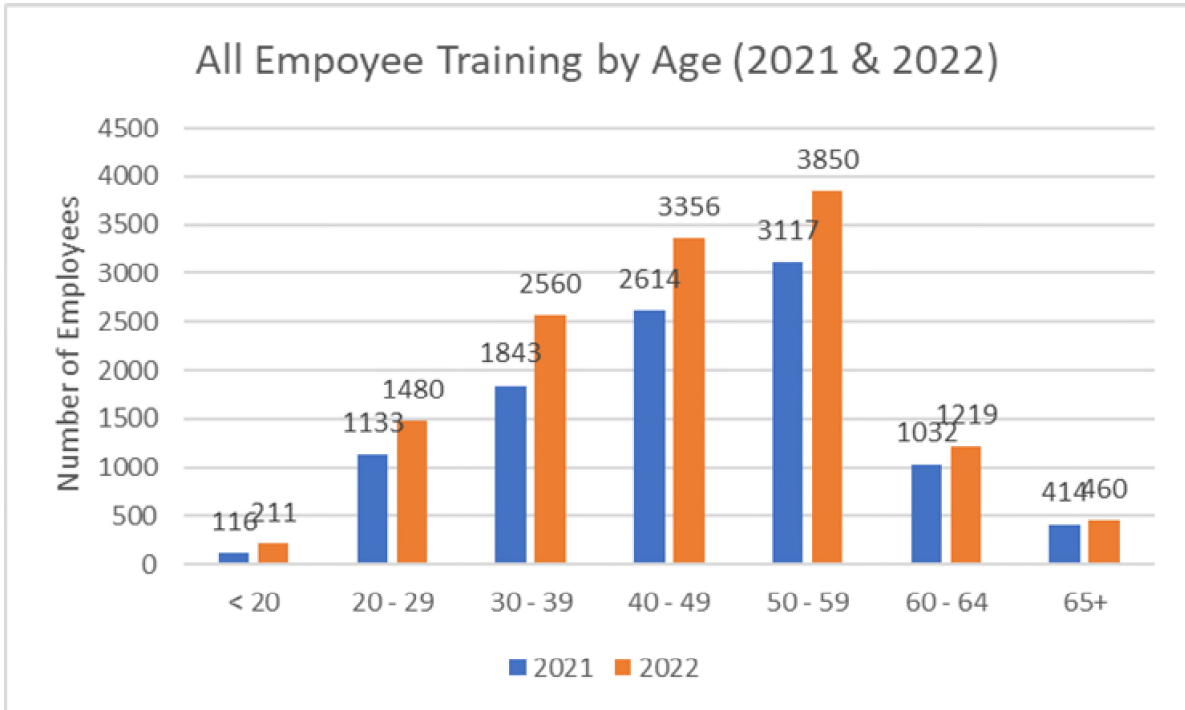
## Retention

The highest number of leavers are in the 40-49 category, with a 3.34% increase in the number of those in the 30-39 category leaving.



**Development**

The data indicates an increase in the number of employees participating in training across all categories. Employees in the 40-49 and 50-59 categories undertook the highest number of training courses, in line with age data for all employees.

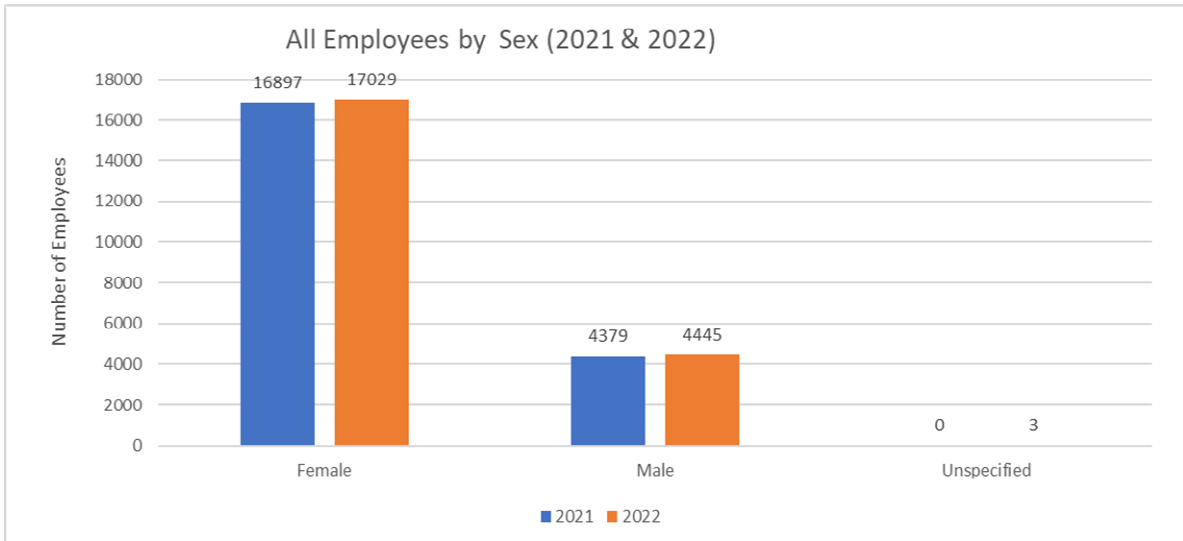


**Sex**

**All Employees**

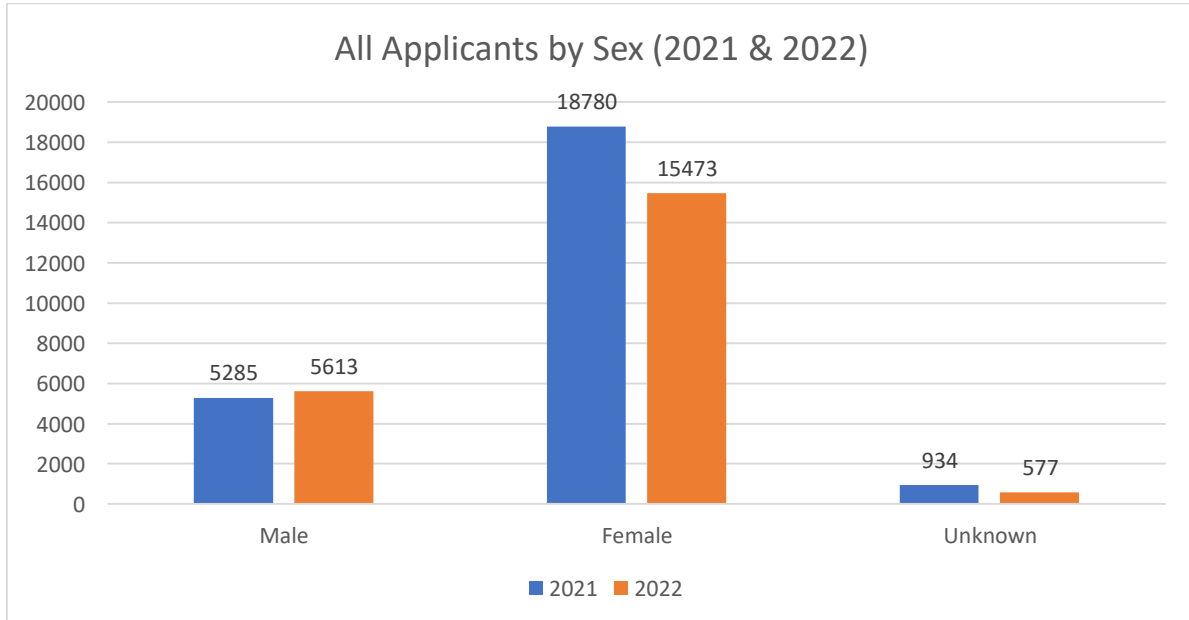
The proportion of male (20%) and female (79%) employees has remained the same in both 2021 and 2022.





### Recruitment

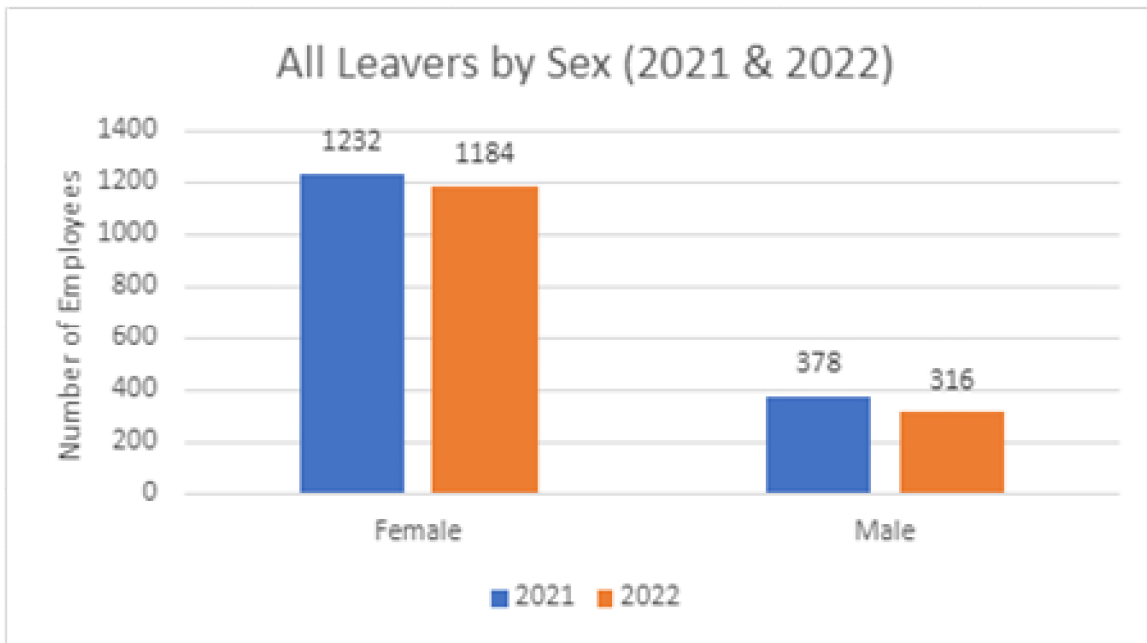
The large increases in applicants across both sexes, with a reduction in the number of 'unknowns' in this category which may be attributable to the changes in capturing recruitment monitoring information. The number of male applicants has proportionally increased more than female applicants, this could be due to the downturn in oil and gas which is a more male dominated sector.



### Retention

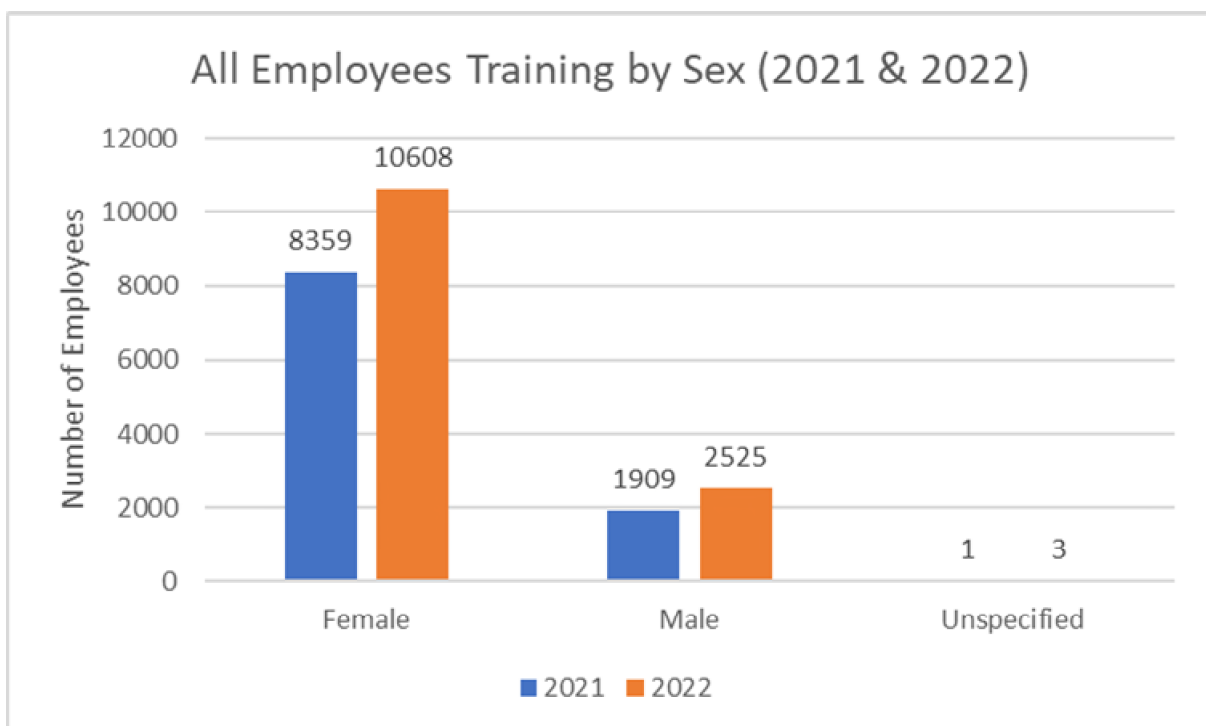
There was a decrease in the number of female leavers in 2022. However, due to the reduction in all leavers from 1610 in 2021 to 1500 in 2022 there was an increase in

the percentage of female leavers from 76.52% in 2021 to 78.93% in 2022 and corresponding fall in the number of male leavers.



### Development

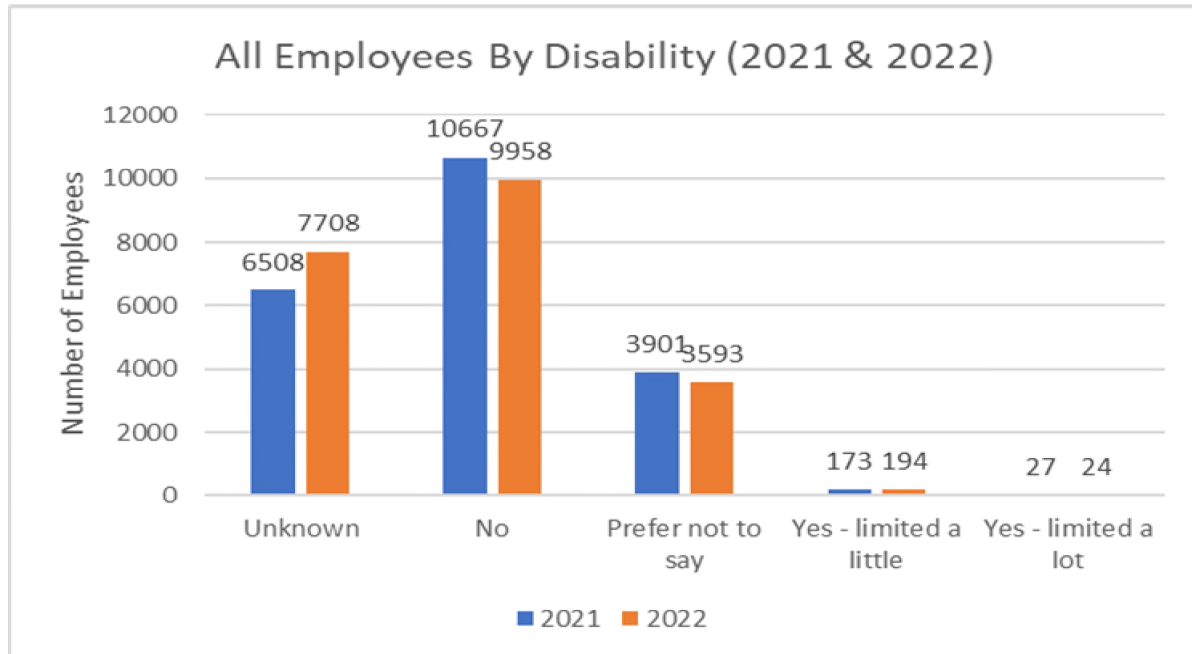
There has been an increase of 2249 in the number of females undertaking training in 2022 when compared to 2021. The total number of employees undertaking training has increased from 10,269 to 13,136.



## **Disability**

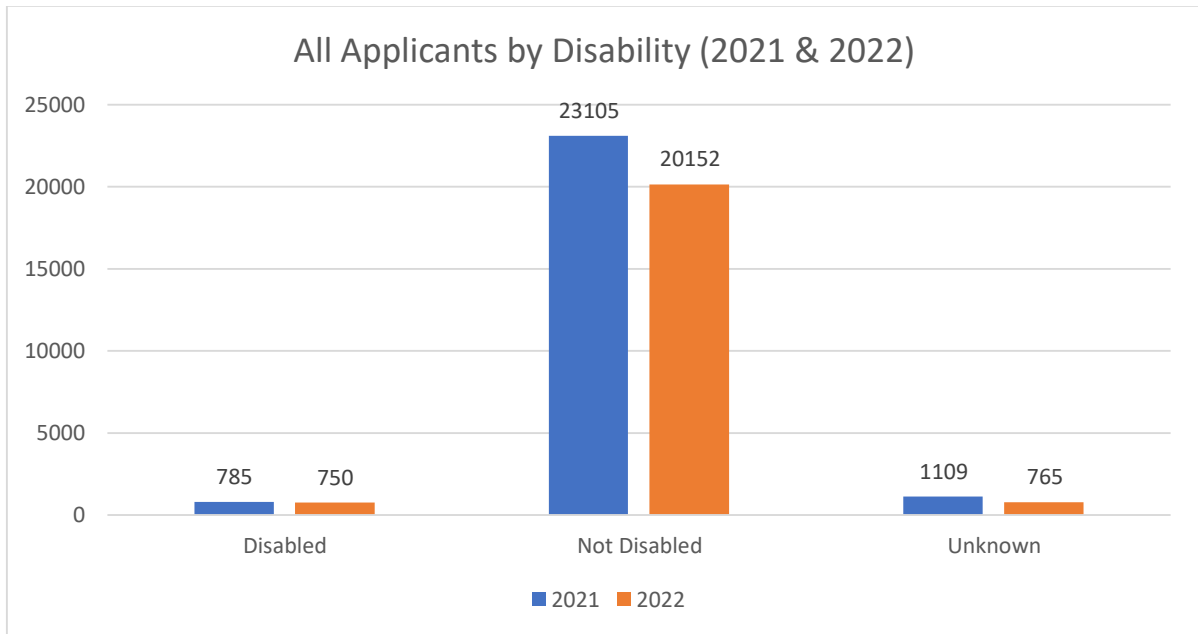
### **All Employees**

The number of employees with a disability has increased marginally in 2022. The number of employees with a disability, Yes - limited a little, has increased and the number of Yes - limited a lot has decreased slightly.



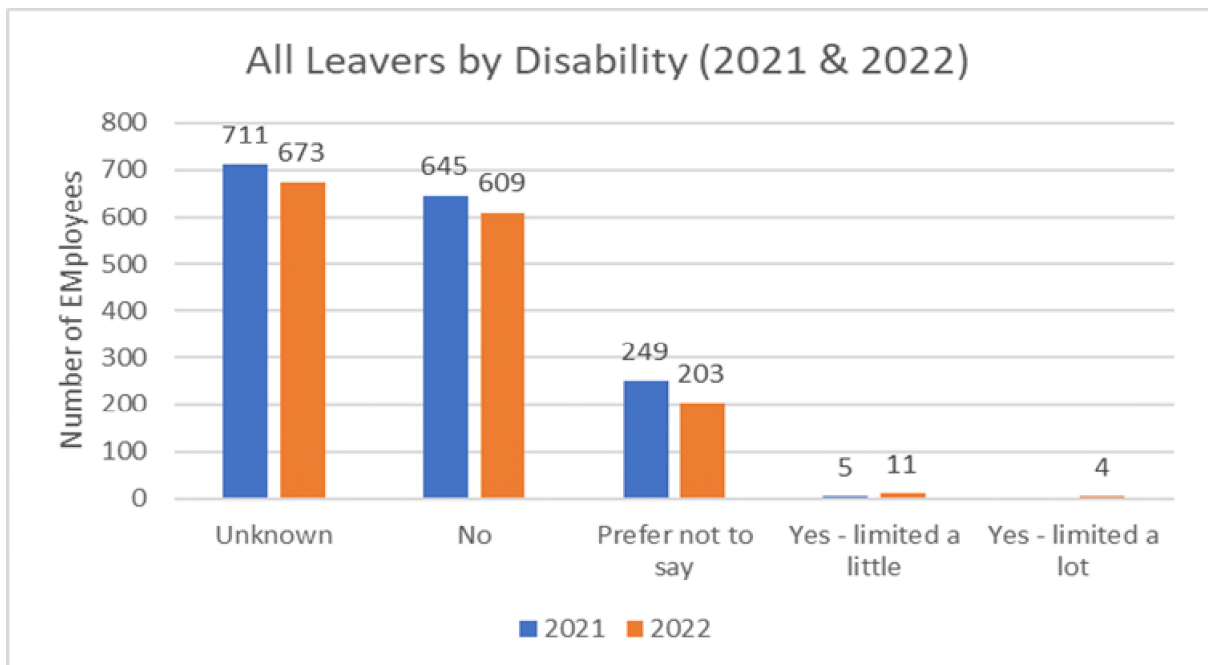
### **Recruitment**

The number of applicants identifying as having a disability remains consistently low at 3%, which is slightly lower previous mainstreaming reports. Work continues to encourage applicants with disabilities to consider the council as a place of employment and improve accessibility. For example, the short-listing process has been adapted to make it easier to identify applicants who wished to be considered for interview through the Guaranteed Job Interview Scheme. Aberdeenshire Council is a Disability Confident Employer and promotes this in all job adverts.



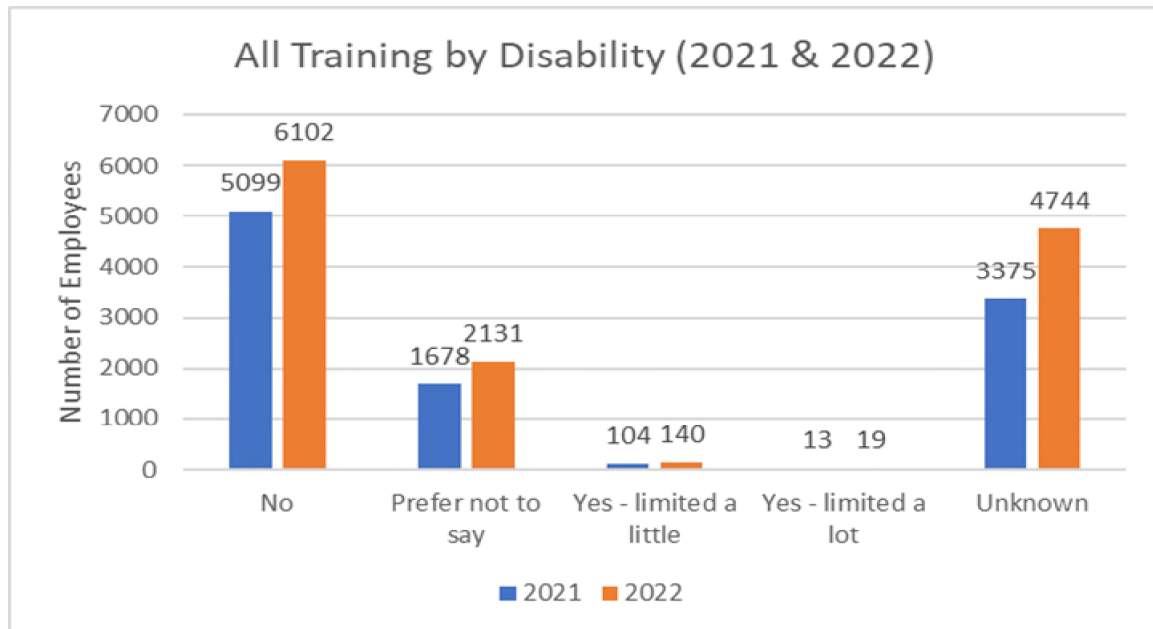
### Retention

There has been a marginal increase in the number of leavers reporting as disabled between 2021 and 2022, this is seen in both of the 'Yes' categories.



## Development

As reported across all other characteristics, there has been an increase in those undertaking training courses across most groups between 2021 to 2022.



## Race

### All Employees

The largest proportion of employees identify as White Scottish in 2021 and 2022 but in 2022 this has declined from 45.20% to 42.03%. This will, in part, be due to the increase in the number of employees who are classed as Unknown which has increased to 34.85% in 2022 compared with 29.50% in 2021.

<b>All Employees (Race)</b>	<b>2021</b>	<b>2022</b>
African / Scottish African / British African	22	22
Arab / Scottish Arab / British Arab	1	1
Asian - Bangladeshi / Scottish Bangladeshi / British Bangladeshi	4	3
Asian - Chinese / Scottish Chinese / British Chinese	7	8
Asian - Indian / Scottish Indian / British Indian	21	21
Asian - Other	45	42
Asian - Pakistani / Scottish Pakistani / British Pakistani	5	5
Caribbean or Black	4	5
Mixed or multiple ethnic groups	32	35
Other ethnic group	27	24
Prefer not to say	2681	2490
White Gypsy / Traveller	1	1
White Irish	76	70
White Other	278	256
White Other British	2063	1880
White Polish	115	102
White Roma	1	1
White Scottish	9617	9027
Unknown	6276	7484
<b>Total</b>	<b>21276</b>	<b>21477</b>

## Recruitment

The information reflects a decrease in applicants between 2021 and 2022. This is largely contributed by a noticeable decrease in those categorised as 'White Scottish'.

<b>All Applicants (Race)</b>	<b>2021</b>	<b>2022</b>
Asian Chinese	42	74
Asian Indian	315	338
Asian Other inc Scottish	137	131
Asian Bangladeshi	51	27
Asian Pakistani	72	76
Caribbean (OR Black)	58	105
African Other	693	1583
Mixed	229	207
Gypsy/Traveller / roma	12	9
Other Ethnic group	94	212
Polish	440	462
White British	1041	2254
White Scottish	17074	13983

White Irish	208	170
White Other	1308	1223
Unknown	1327	809
Total	22484	21017

## Retention

There was a slight reduction in the numbers leaving in most categories in 2022 with the total number of employees leaving in 2022 being 110 lower than in 2021.

<b>All Leavers (Race)</b>	<b>2021</b>	<b>2022</b>
African / Scottish African / British African	2	1
Asian - Bangladeshi / Scottish Bangladeshi / British Bangladeshi		1
Asian - Indian / Scottish Indian / British Indian	3	1
Asian - Other	3	2
Mixed or multiple ethnic groups	2	2
Other ethnic group	1	2
Prefer not to say	168	136
White Irish	5	7
White Other	14	29
White Other British	144	136
White Polish	10	8
White Scottish	561	523
Unknown	697	652
Total	1610	1500

## Development

The number of employees attending training courses reflects an increase in numbers in most categories. The exceptions are Asian – Bangladeshi and Asian – Other where there have been minor reductions and the figures in each of these categories is low in both 2021 and 2022.

<b>All Training (Race)</b>	<b>2021</b>	<b>2022</b>
African / Scottish African / British African	14	16
Arab / Scottish Arab / British Arab	0	1
Asian - Bangladeshi / Scottish Bangladeshi / British Bangladeshi	3	2
Asian - Chinese / Scottish Chinese / British Chinese	3	7
Asian - Indian / Scottish Indian / British Indian	10	15
Asian - Other	26	24
Asian - Pakistani / Scottish Pakistani / British Pakistani	2	3
Caribbean or Black	2	2
Mixed or multiple ethnic groups	19	21
Other ethnic group	8	13

Prefer not to say	1116	1447
White Irish	36	48
White Other	119	155
White Other British	978	1227
White Polish	54	65
White Roma	1	1
White Scottish	4639	5493
Unknown	3239	4596
Total	10269	13136

## **Religion or Belief**

### **All Employees**

The largest two categories of religion or belief across both years were Unknown and Prefer not to say at 50.69% in 2021 and 54.33% in 2022. This is consistent with previous mainstreaming reports. The Church of Scotland category reduced from with 19.16% in 2021 to 17.56% in 2022.

The number of employees in the None category has remained broadly consistent between 2021 and 2022 and the number of employees identifying themselves as Muslim has reduced slightly from 0.24% in 2021 to 0.20% in 2022.

<b>All Employees (Religion or Belief)</b>	<b>2021</b>	<b>2022</b>
Buddhist	29	29
Church of Scotland	4076	3771
Hindu	10	9
Jewish	3	2
Muslim	51	44
None	4247	4031
Other	139	131
Other Christian	1390	1294
Pagan	1	2
Prefer not to say	4835	4472
Roman Catholic	543	493
Sikh	3	3
Unknown	5949	7196
Total	21276	21477

### **Recruitment**

The proportion of applicants across both years was broadly similar across most religions with a couple of exceptions. The largest numbers of applicants continue to identify as having no religion or belief.



<b>All Applicants (Religion or Belief)</b>	<b>2021</b>	<b>2022</b>
Buddhist	34	57
Catholic	1696	1532
Church of Scotland	3651	3053
Hindu	140	205
Jewish	38	20
Muslim	353	262
No religion/belief	14740	12634
Other Religion or Belief	114	8
Sikh	31	18
Pagan	73	81
Other Christian	1395	1395
Unknown	2370	2398

### **Retention**

The data for 2021 and 2022 is broadly consistent and reflective of the overall numbers of employees with regards to religion or belief.

<b>All Leavers (Religion or Belief)</b>	<b>2021</b>	<b>2022</b>
Buddhist	0	1
Church of Scotland	254	218
Hindu	2	0
Jewish	0	1
Muslim	0	3
None	223	256
Other	7	10
Other Christian	95	93
Pagan	0	1
Prefer not to say	320	250
Roman Catholic	27	33
Sikh	0	1
Unknown	682	633
Total	1610	1500

### **Development**

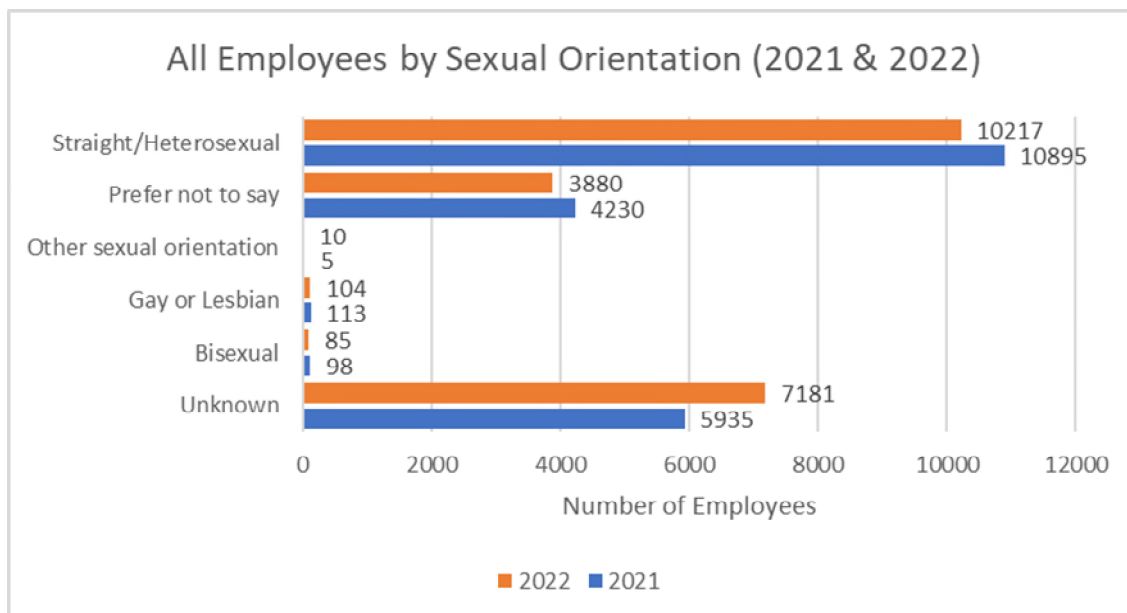
In training data there was an overall increase in those taking courses of 28%. There was an increase in all categories apart from Hindu where the reduction was very minimal.

All Training (Religion or Belief)	2021	2022
Buddhist	12	12
Church of Scotland	1915	2301
Hindu	7	6
Jewish	2	2
Muslim (please specify denomination/school at bottom of page)	23	32
None	2054	2457
Other (please specify at bottom of page)	80	87
Other Christian (please specify at bottom of page)	676	806
Pagan	1	4
Prefer not to say	2123	2669
Roman Catholic	256	312
Sikh	2	3
Unknown	3118	4445
Total	10269	13136

### Sexual Orientation

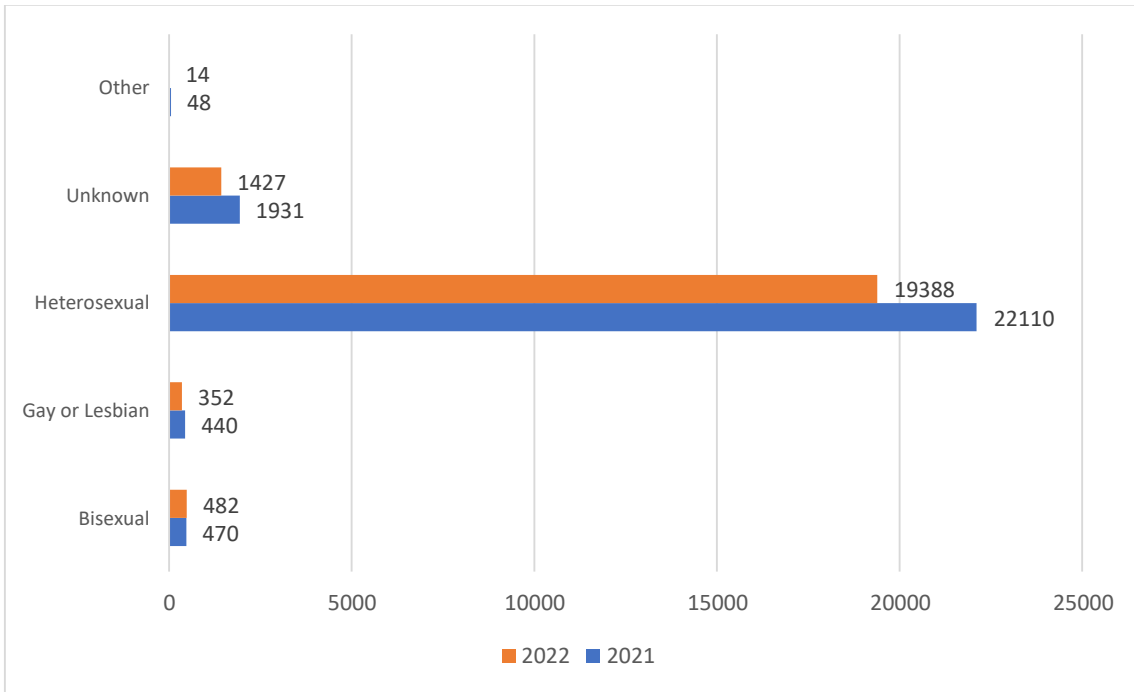
#### All Employees

The percentage of employees identifying as either Lesbian, Gay or Bisexual (LGB) has decreased slightly from 0.99% in 2021 to 0.88% in 2022. This may have been affected by the increase in the Unknown category from 27.90% in 2021 to 33.44% in 2022.



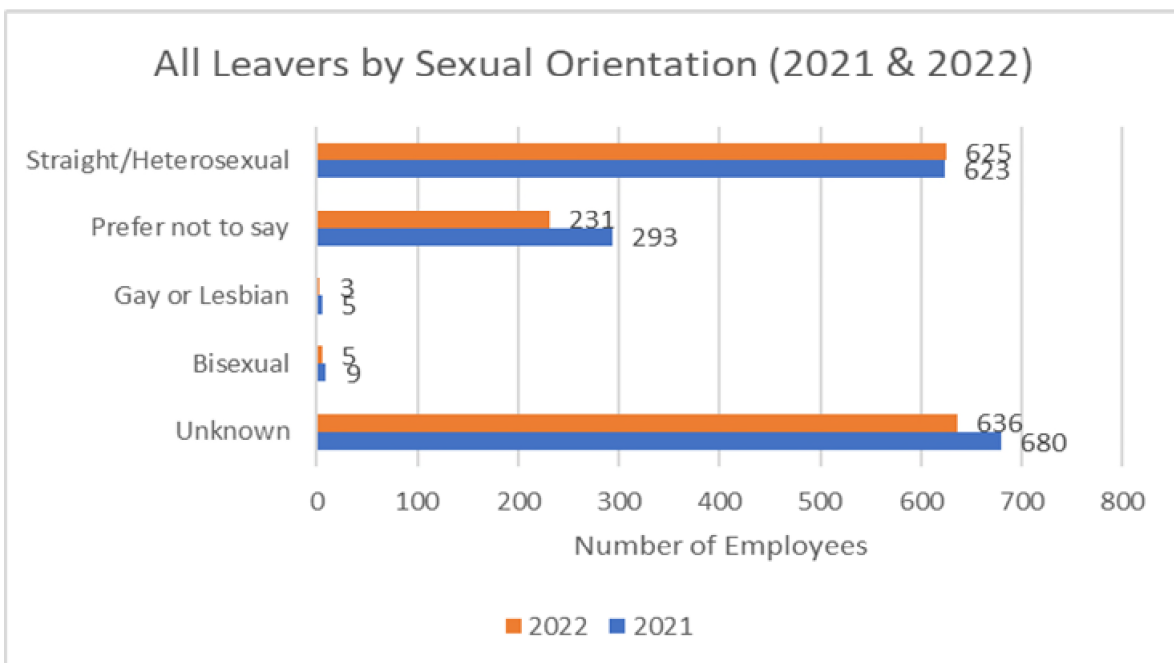
#### Recruitment

The majority of applications came from people identifying as Heterosexual, with application decreases seen across all sexual orientation categories with the exception of Bisexual.



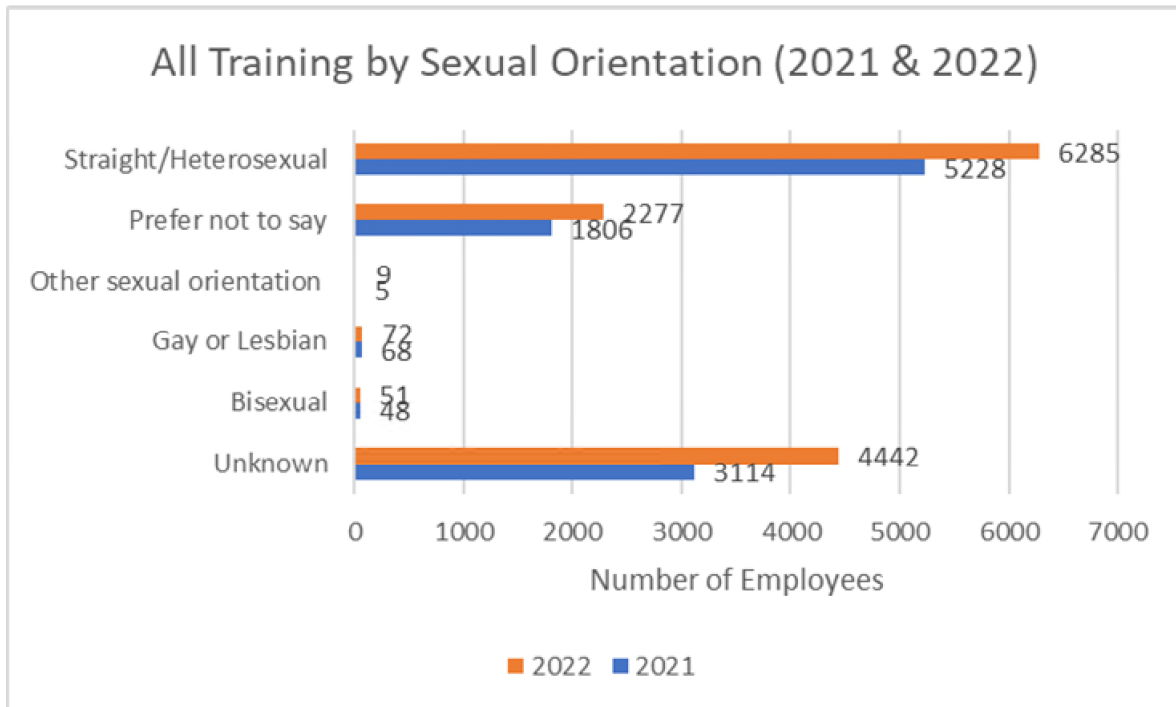
### Retention

There has been an increase in those reporting as Unknown which means numbers of leavers across other categories have generally fallen.



### Development

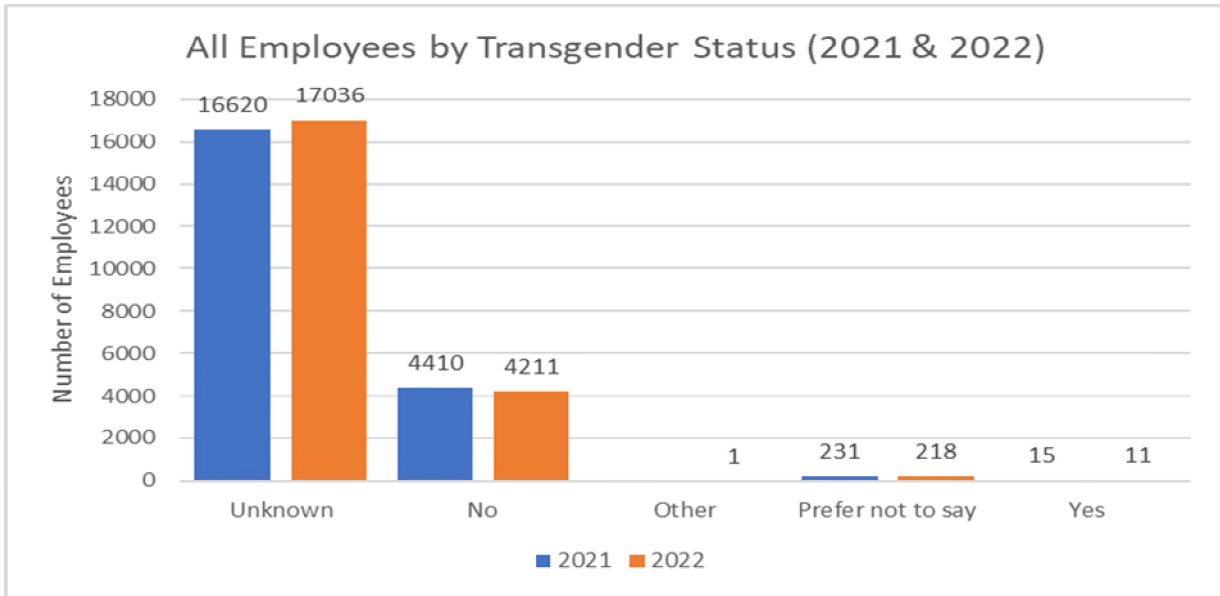
Training courses attended have seen an increase across all categories. The number of those identifying as Straight/Heterosexual has increased from 5,228 in 2021 to 6,285 in 2022.



### Transgender Status

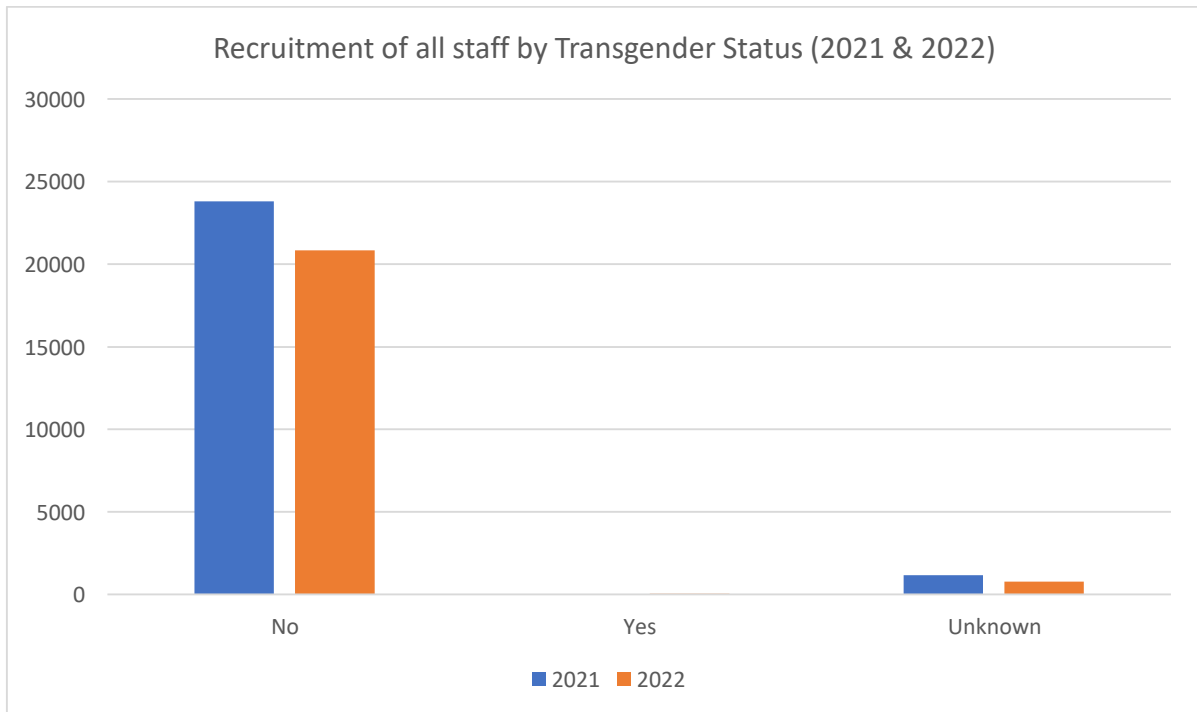
#### All Employees

There has been slight decrease in the number of employees identifying as Transgender from 0.07% in 2021 to 0.05% in 2022. The largest increase is in the Unknown category.



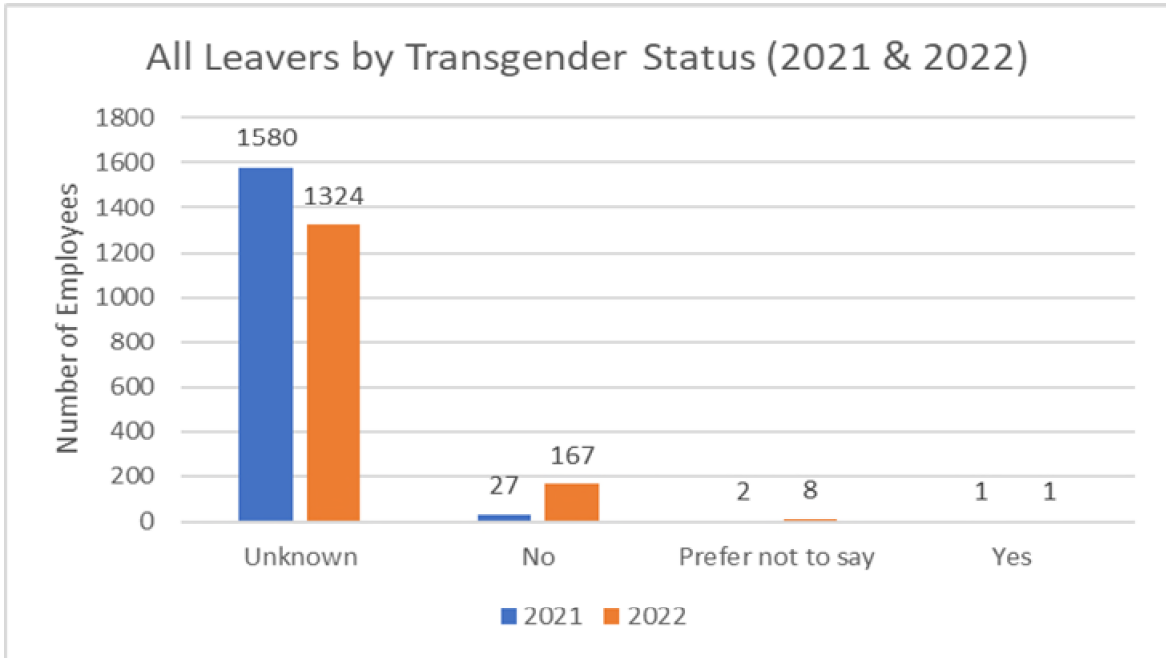
### Recruitment

As with all characteristics there has been a big increase in the number of applicants who identify as Transgender or Not Transgender across the reporting period and in comparison with the previous mainstreaming report. Again there is a fall in those reporting as Unknown, which is likely to be attributable to the reasons already discussed.



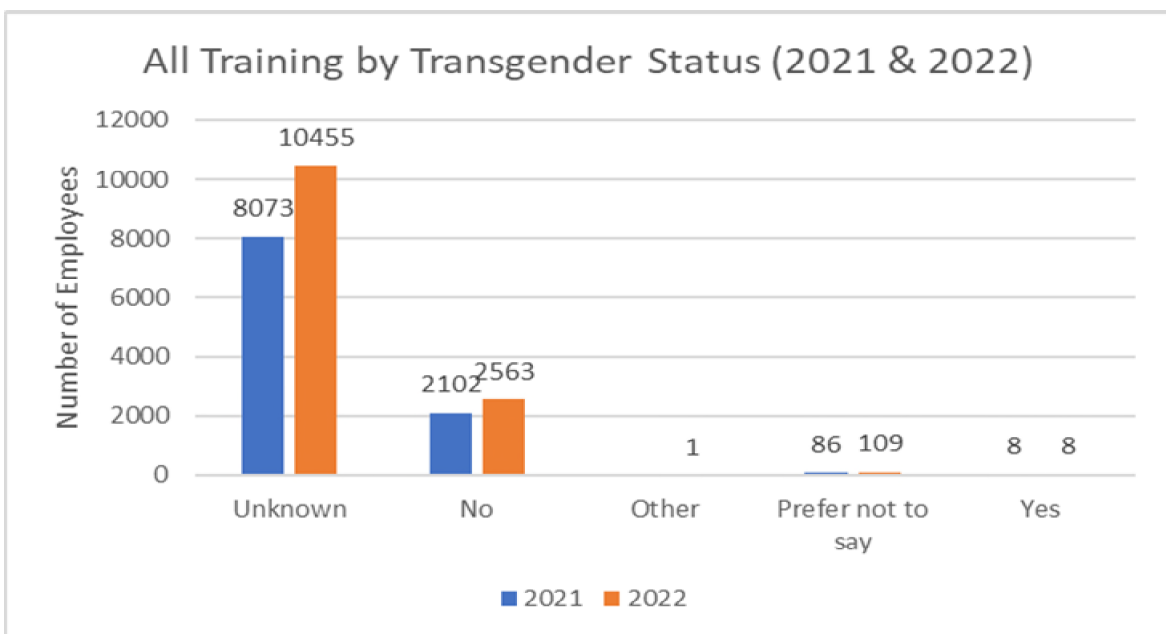
**Retention**

There has been no change in the number of leavers identifying as Transgender. There has been an increase in the number of employees identifying as not Transgender from 1.68% in 2021 to 11.13% in 2022. This is likely to be related to the fall in those in the unknown category which has reduced from 98.14% in 2021 to 88.27% in 2022.



**Development**

There has been no change between 2021 and 2022 in the number of employees identifying with a transgender history.



## Appendix 2: Aberdeenshire Council Education Authority's Workforce Profile

The following information is split between teaching and non-teaching employees. "Teaching Employees" relates to employees with teaching terms and conditions. "Non-teaching employees" relates to all staff with local government terms and conditions, which includes non-teaching employees who work within the education authority.

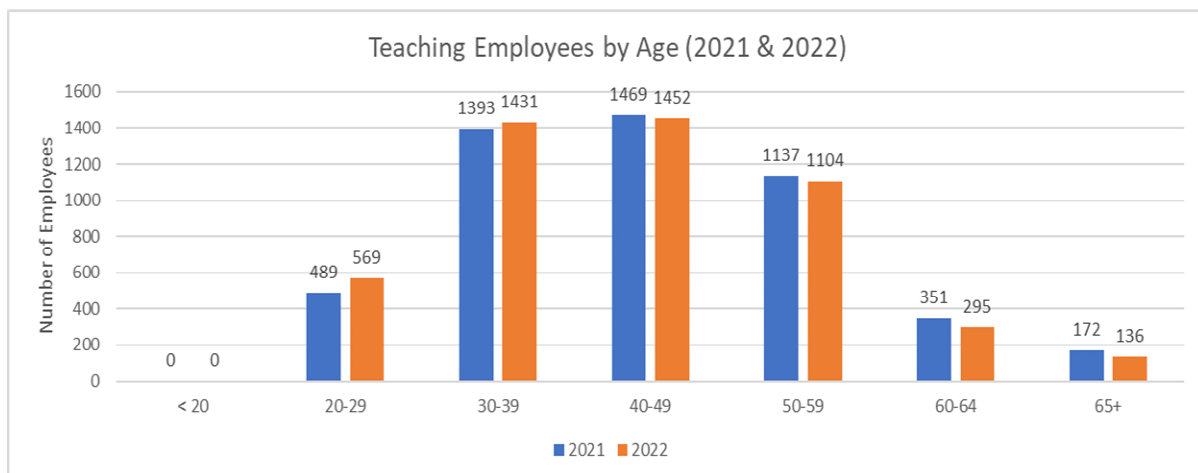
There were 4,987 teaching employees but significantly more non-teaching employees in the Education Authority's profile in 2022.

In this section of the report there is no data relating to recruitment (numbers of applicants) and development (number of training courses attended) for the education authority. Please see the workforce profile for overall information on recruitment and development.

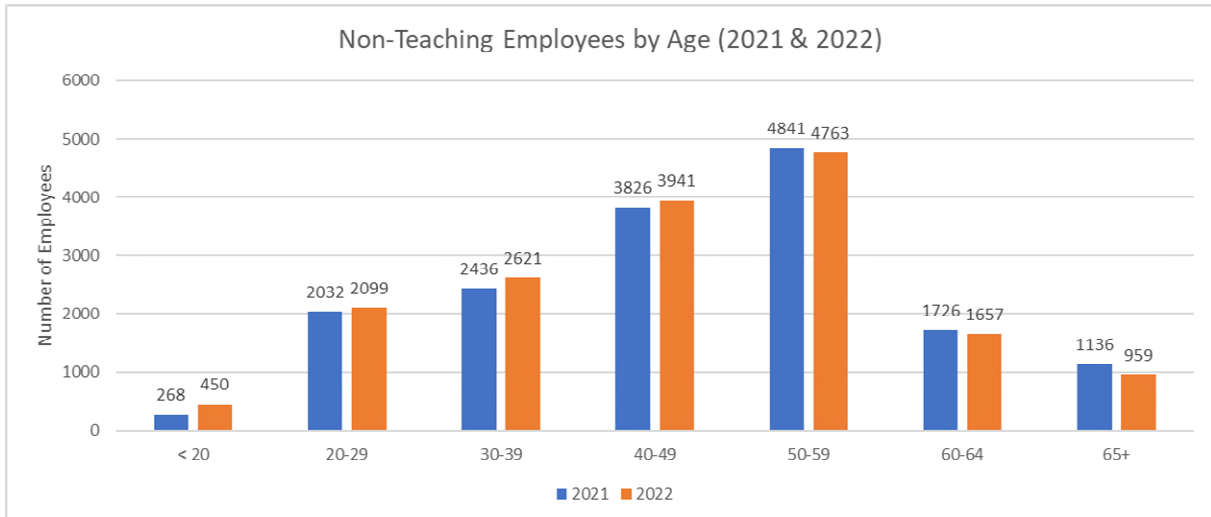
As with the combined employee data, information is based on incumbencies or 'jobs' as it is possible for an employee to hold more than one job with the authority.

### Age

The highest number of teaching employees were in the 40-49 age category. The number of employees in the 20-29 age category has increased from 9.76% in 2021 to 11.41% in 2022.

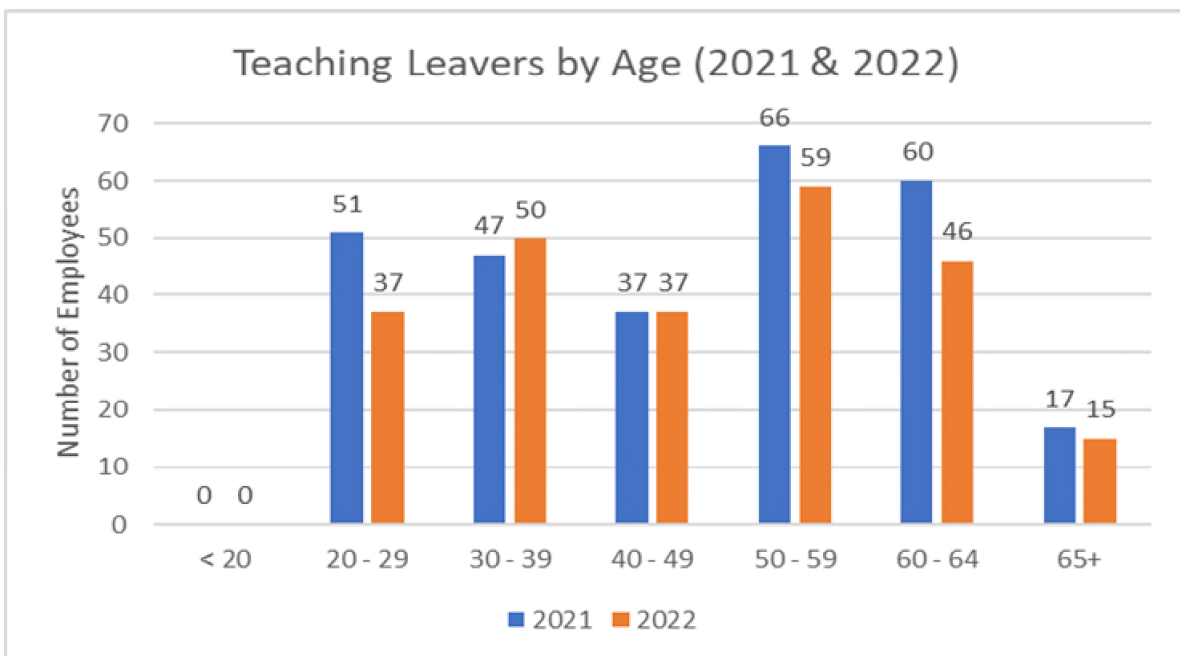


The largest age category for non-teaching employees in both 2021 and 2022 was 50-59.

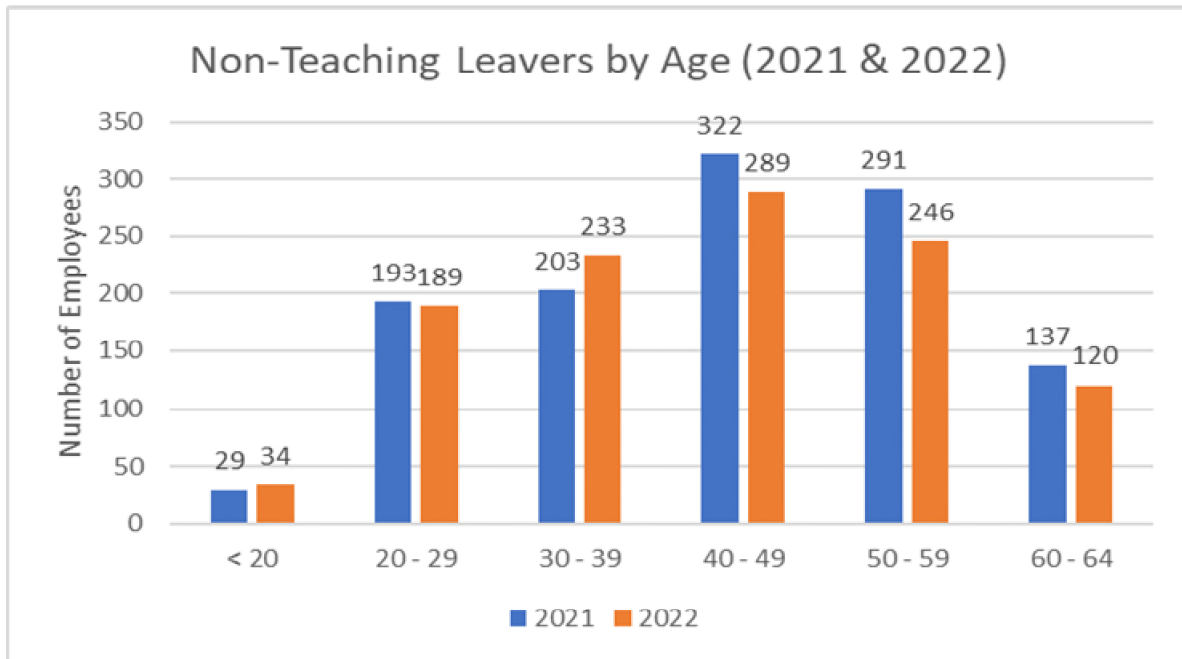


### Retention

The highest proportion of teaching leavers was in the 50-59 age range and in the highest proportion of non-teaching leavers was in the 40-49 age range.

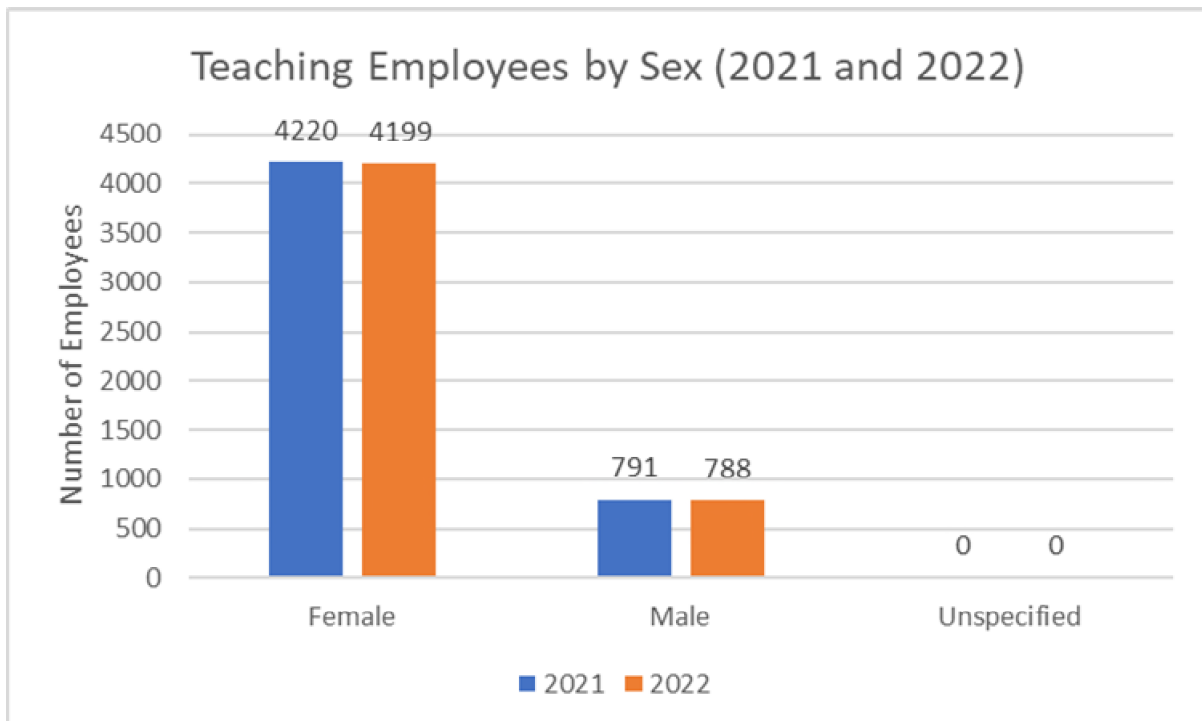




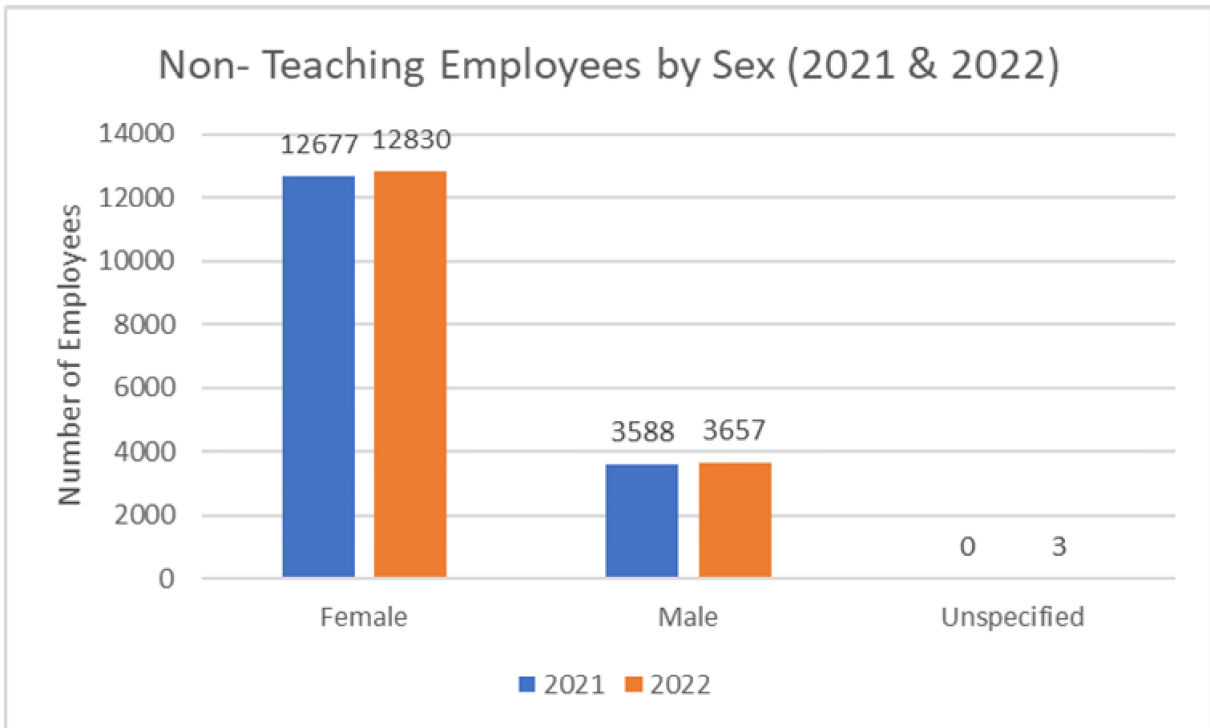


### Sex

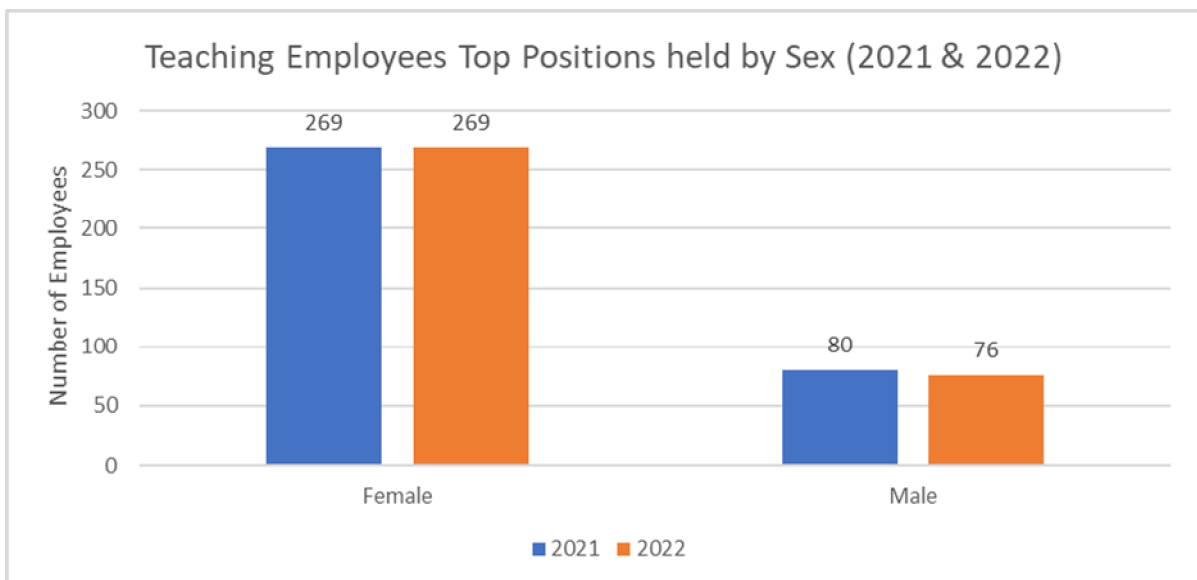
The majority of teachers were female (84%) and this is broadly consistent across 2021 and 2022.



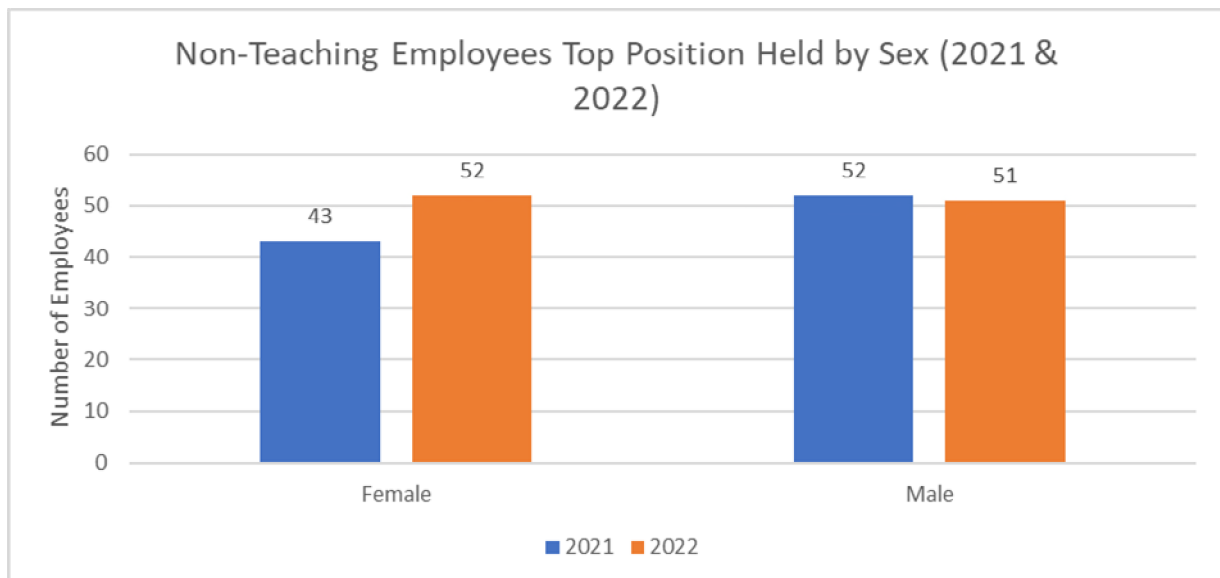
Between 2021 and 2022 the number of female and male non-teaching employees have remained static at 78%.



There has been a slight decrease in the number of employees in top teaching positions. The proportion of male and female top positions was in line with the overall proportion of male and female teaching staff.

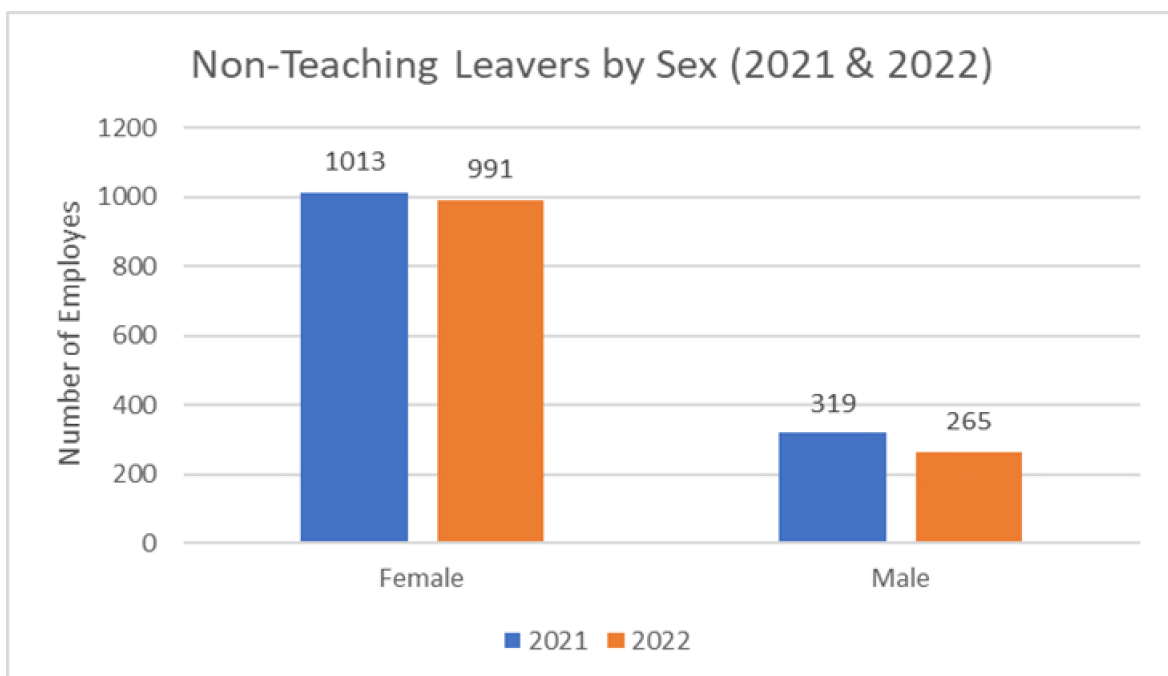
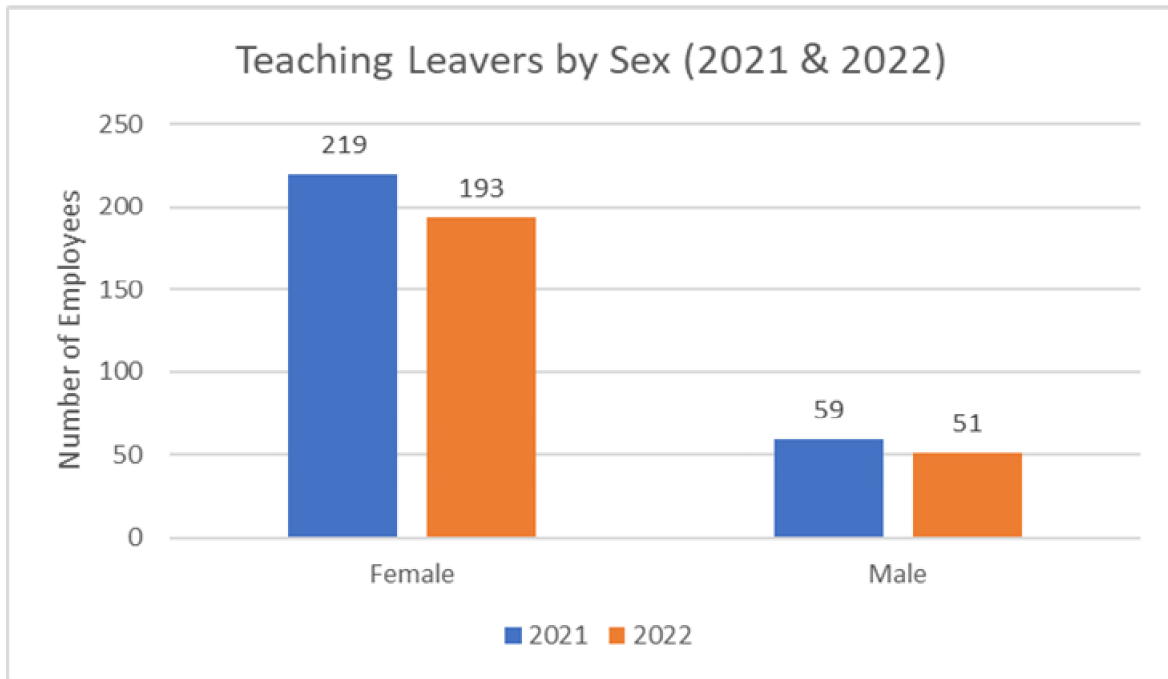


There has been a slight increase in the number of employees in top non-teaching positions. The number of female employees in top positions has increased between 2021 and 2022. The number of male employees in top positions has remained generally static.



### Retention

With regards to teaching and non-teaching leavers, the majority of employees leaving the authority were female. The number of female teaching employees leaving has decreased from 13.6% in 2021 to 12.9% in 2022, whereas the number of female non-teaching leavers has increased from 76% in 2021 to 79% in 2022.



**Race**

In both 2021 and 2022, other than Unknown and Prefer Not to Say, the highest category is White Scottish. This is consistent across both Teaching and Non-Teaching.

<b>All Teaching Employees (Race)</b>	<b>2021</b>	<b>2022</b>
African / Scottish African / British African	6	6
Arab / Scottish Arab / British Arab	1	1
Asian - Bangladeshi / Scottish Bangladeshi / British Bangladeshi	1	1
Asian - Chinese / Scottish Chinese / British Chinese	3	3
Asian - Indian / Scottish Indian / British Indian	10	10
Asian - Other	1	1
Mixed or multiple ethnic groups	8	9
Other ethnic group	5	5
Prefer not to say	836	783
White Gypsy / Traveller	1	1
White Irish	25	23
White Other	86	84
White Other British	504	457
White Polish	7	8
White Roma	1	1
White Scottish	1792	1697
Unknown	1724	1897

<b>All Non-Teaching Employees (Race)</b>	<b>2021</b>	<b>2022</b>
African / Scottish African / British African	16	16
Asian - Bangladeshi / Scottish Bangladeshi / British Bangladeshi	3	2
Asian - Chinese / Scottish Chinese / British Chinese	4	5
Asian - Indian / Scottish Indian / British Indian	11	11
Asian - Other (please specify at bottom of page)	44	41
Asian - Pakistani / Scottish Pakistani / British Pakistani	5	5
Caribbean or Black	4	5
Mixed or multiple ethnic groups	24	26
Other ethnic group	22	19
Prefer not to say	1845	1707
White Irish	51	47
White Other	192	172
White Other British	1559	1423
White Polish	108	94
White Scottish	7825	7330
Unknown	4552	5587

## Retention

With regards to leavers the data is broadly consistent with overall figures, with most reporting either as White Scottish, Prefer not to say or Unknown.

<b>All Leavers: Teaching Employees (Race)</b>	<b>2021</b>	<b>2022</b>
Asian - Indian / Scottish Indian / British Indian	0	1
Mixed or multiple ethnic groups	1	0
Other ethnic group	1	0
Prefer not to say	26	32
White Irish	1	2
White Other	3	3
White Other British	36	28
White Scottish	73	72
Unknown	137	106

<b>All Leavers: Non-Teaching Employees (Race)</b>	<b>2021</b>	<b>2022</b>
African / Scottish African / British African	2	1
Asian - Bangladeshi / Scottish Bangladeshi / British Bangladeshi	0	1
Asian - Indian / Scottish Indian / British Indian	3	0
Asian - Other	3	2
Mixed or multiple ethnic groups	1	2
Other ethnic group	0	2
Prefer not to say	142	104
White Irish	4	5
White Other	11	26
White Other British	108	108
White Polish	10	8
White Scottish	488	451
Unknown	560	546

### **Religion / Belief**

Consistent with the previous mainstreaming report the highest number of teaching employees are in the Unknown category. The unknown category for Teaching has increased by 3.89% between 2021 and 2022. For Non-Teaching Unknown has increased by 6.07%. For both Teaching and Non-Teaching there has been a reduction, or no change, the majority of the other categories.

<b>All Teaching Employees (Religion or Belief)</b>	<b>2021</b>	<b>2022</b>
Buddhist	5	5
Church of Scotland	812	776
Hindu	5	5
Muslim	11	11
None	783	732
Other	36	33

Other Christian	416	387
Prefer not to say	1199	1120
Roman Catholic	120	108
Sikh	1	1
Unknown	1623	1809

<b>All Non Teaching Employees (Religion of Belief)</b>	<b>2021</b>	<b>2022</b>
Buddhist	24	24
Church of Scotland	3264	2995
Hindu	5	4
Jewish	3	2
Muslim	40	33
None	3464	3299
Other	103	98
Other Christian	974	907
Pagan	1	2
Prefer not to say	3636	3352
Roman Catholic	423	385
Sikh	2	2
Unknown	4326	5387

## Retention

The data was consistent with the overall proportion of teaching and non-teaching employees.

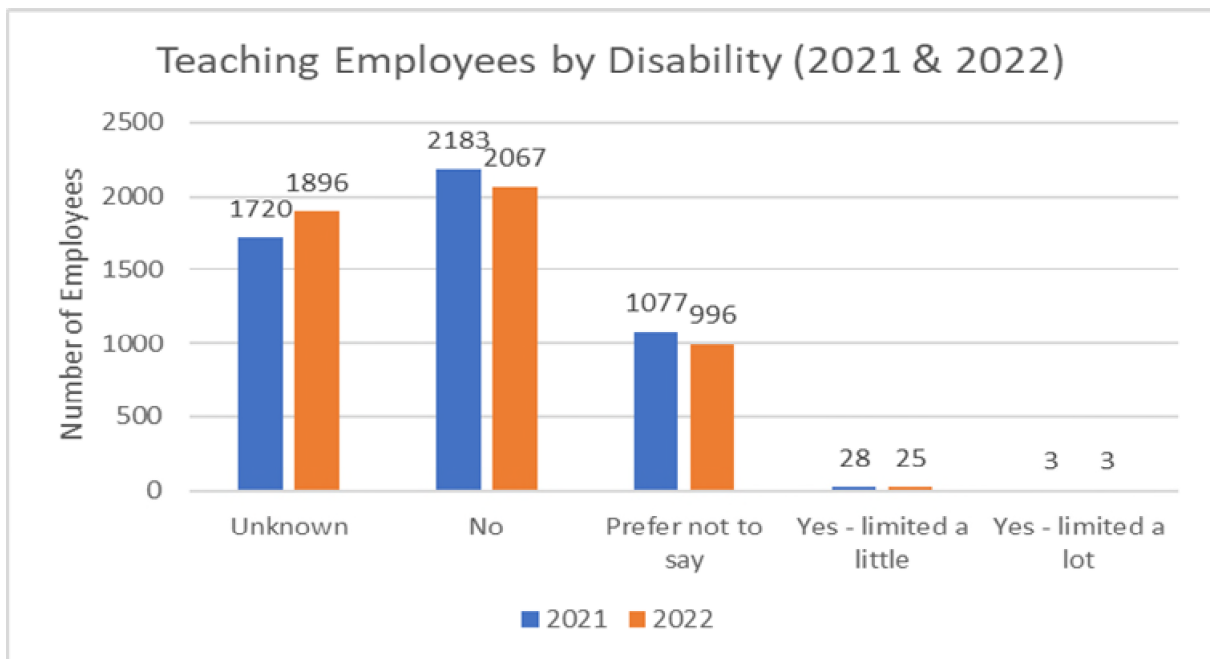
<b>All Leavers: Teaching Employees (Religion or Belief)</b>	<b>2021</b>	<b>2022</b>
Church of Scotland	43	32
None	23	31
Other (please specify at bottom of page)	3	2
Other Christian (please specify at bottom of page)	22	18
Prefer not to say	53	56
Roman Catholic	1	5
Unknown	133	100

<b>All Leavers: Non- Teaching Employees (Religion or Belief)</b>	<b>2021</b>	<b>2022</b>
Buddhist	0	1
Church of Scotland	211	186
Hindu	2	0
Jewish	0	1

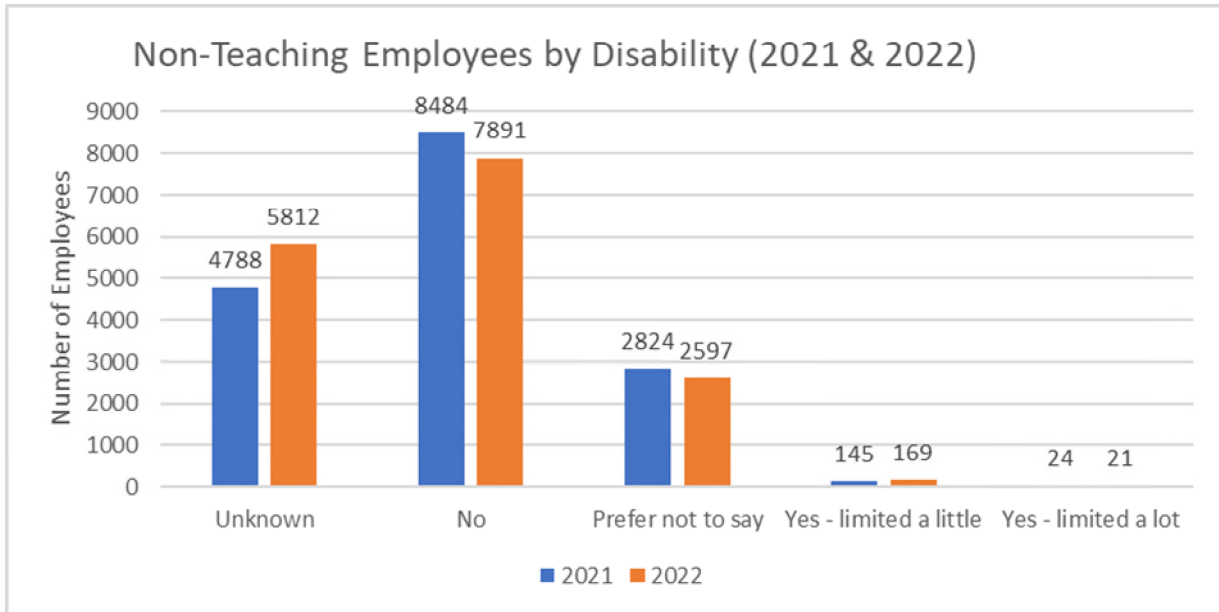
Muslim	0	3
None	200	225
Other	4	8
Other Christian	73	75
Pagan	0	1
Prefer not to say	267	194
Roman Catholic	26	28
Sikh	0	1
Unknown	549	533

**Disability**

The number of teaching employees identifying as Yes - limited a little or Yes - limited a lot has not changed significantly. For non-teaching employees the number identifying as Yes – limited a little has increased from 0.89% in 2021 to 1.02% in 2022. The number of employees in the Unknown category has increased slightly for both teaching and non-teaching employees.

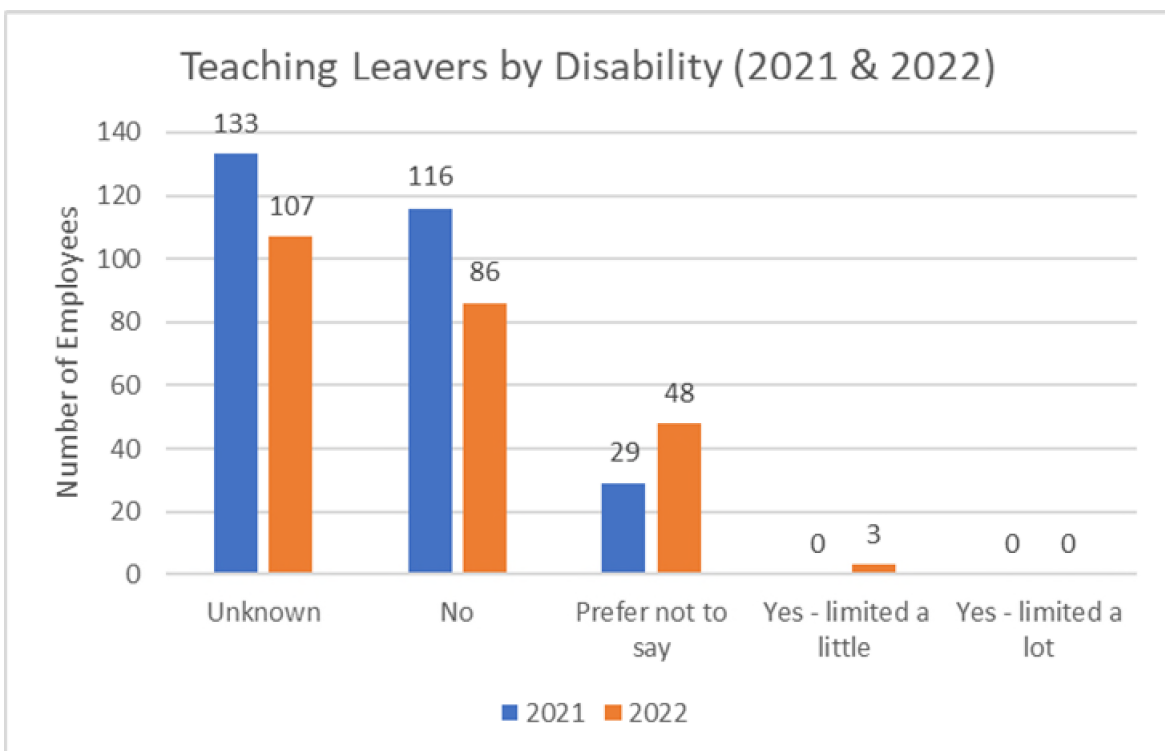


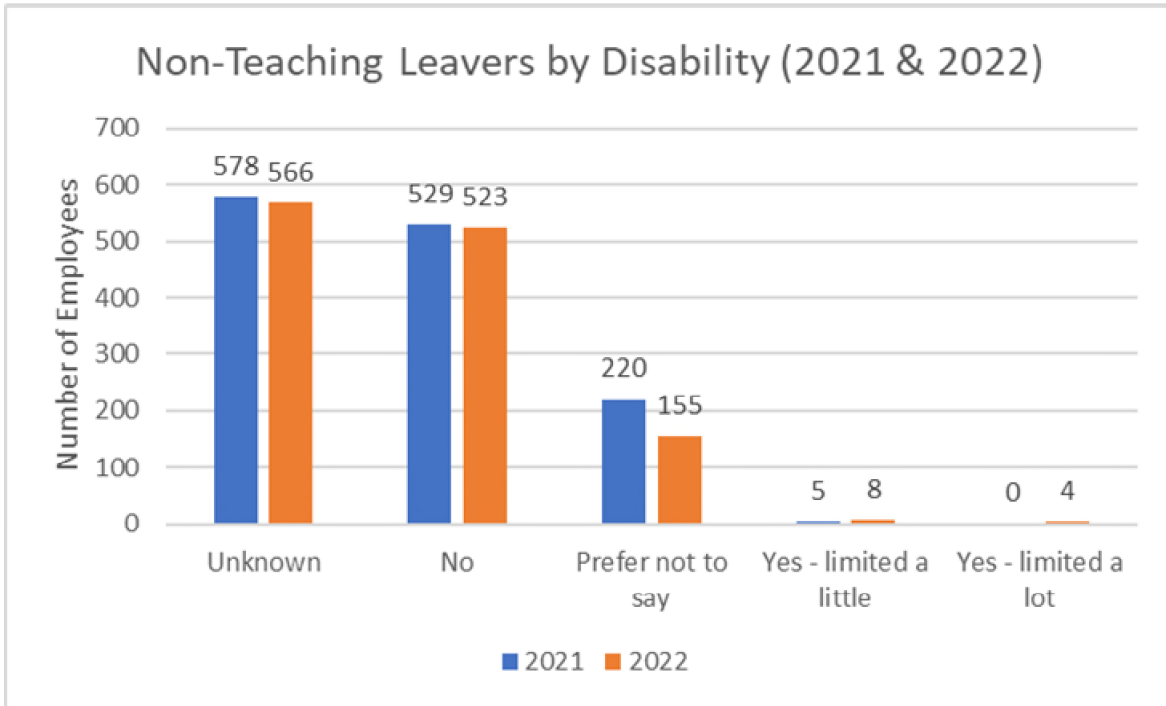




## Retention

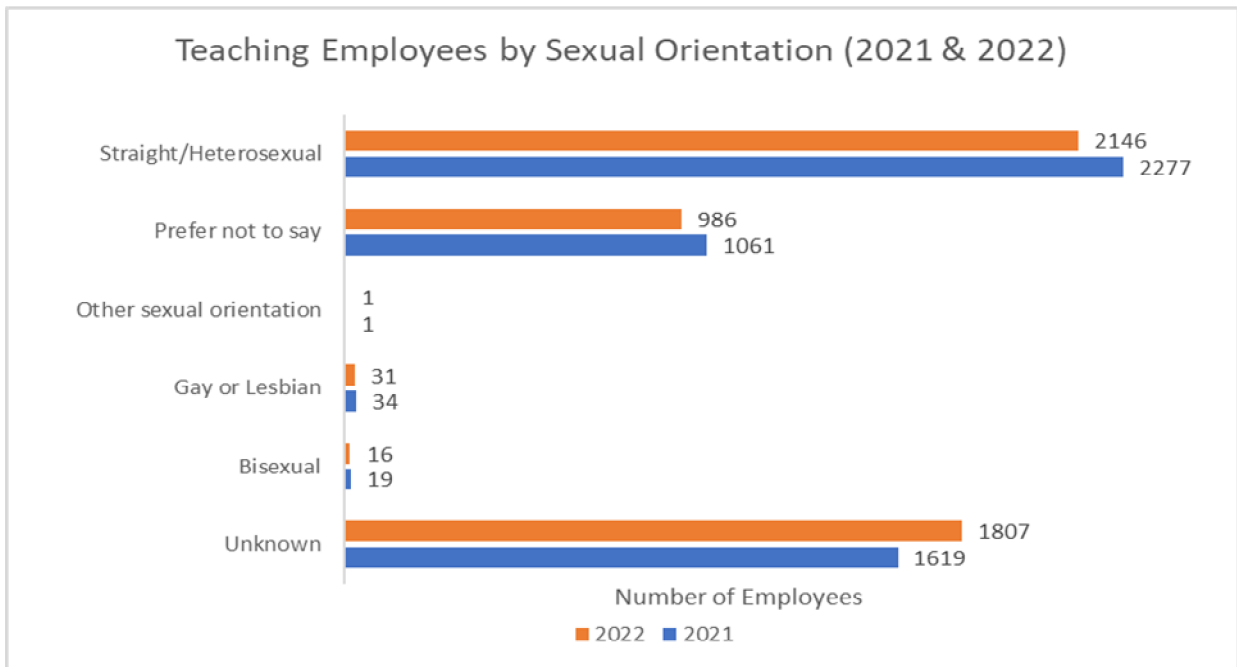
The number of leavers identifying as Yes – limited a little or Yes – limited a lot has remained minimal in both 2021 and 2022.



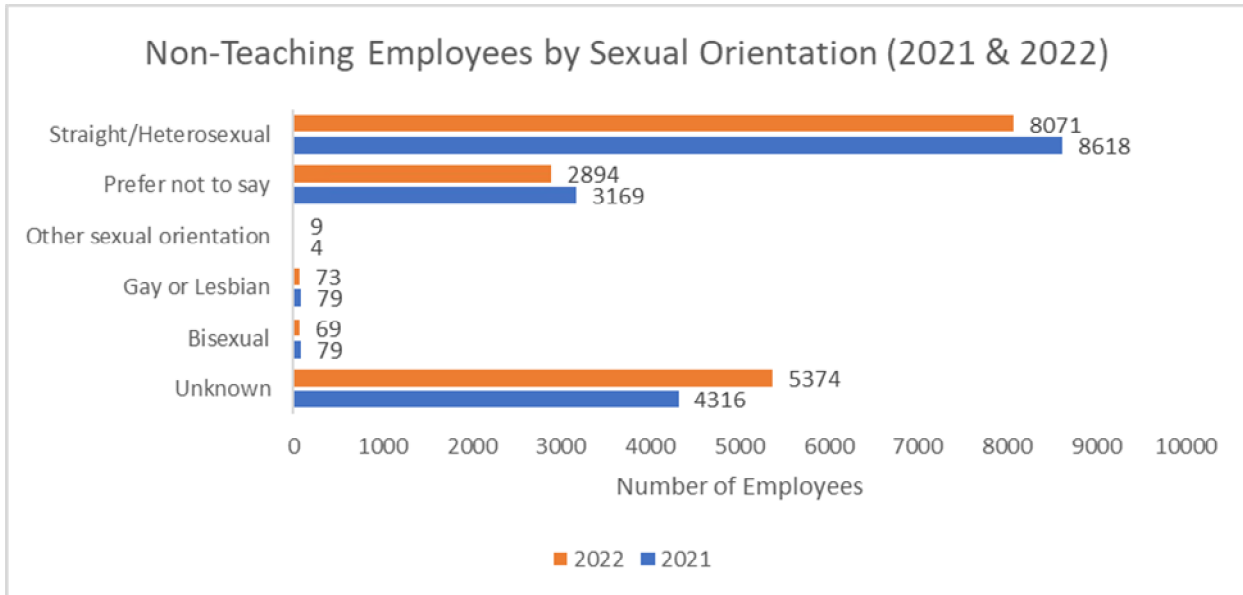


**Sexual Orientation**

The highest number of teaching employees identified as Heterosexual, with an increase in the number Unknown. This is consistent with previous mainstreaming reports. The number of teaching employees identifying as Bisexual, Gay or Lesbian has remained consistent.



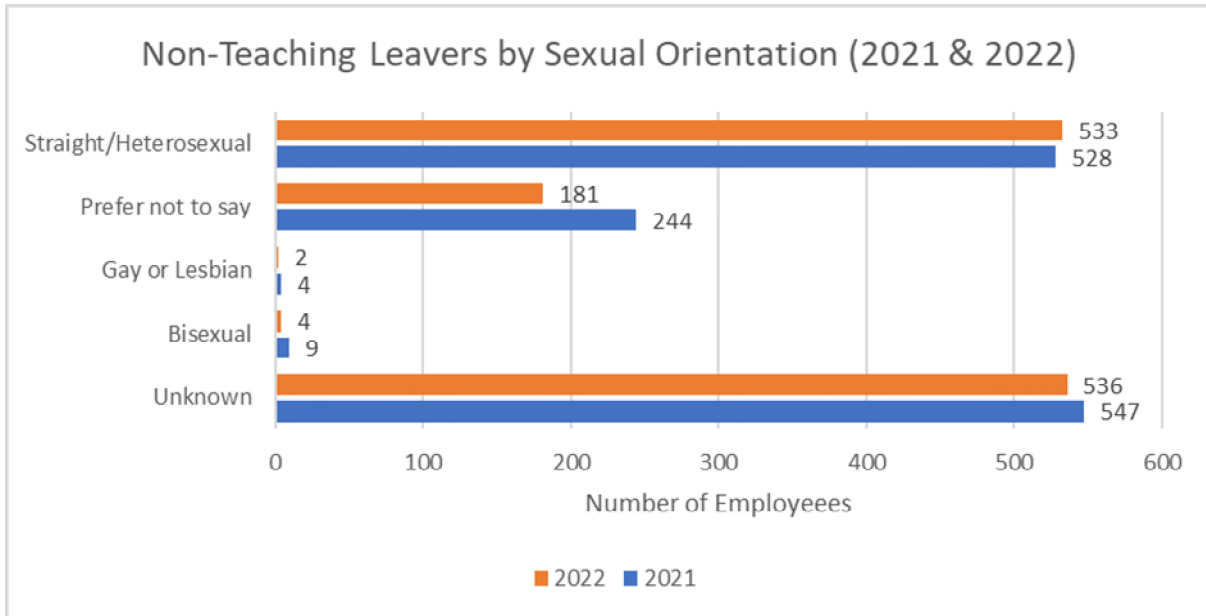
As with teaching employees, non-teaching employees predominately identify themselves as Heterosexual and the number Unknown has increased. The number of employees identifying as Bisexual, Gay or Lesbian has remained static at just under 1% in total.



## Retention

The number of employees, both teaching and non-teaching identifying as Bisexual, Gay or Lesbian is consistently low.





**Pregnancy/Maternity and Marriage/Civil Partnership**

Unfortunately we are unable to gather data on these characteristics for recruitment, retention and development.

## Appendix 3: Case Studies

### Case Study 1 – Community Learning and Development (CLD)

Equality, diversity and inclusion is core to everything we do within CLD and our performance reflects against HGIOCLD. Example below demonstrates this:

#### ***Adult Learning - Banff Aberchirder Men's Shed – ICT***

Following referrals for digital learning support in Aberchirder, the CLD adult learning worker has been developing a partnership approach with the men's shed to support ICT learning locally.



The learners have met in the men's shed and have been working towards SQA ICT Level 2. Most of the referrals came via Department of Work and Pensions in the first instance and were learners who had received a Connecting Communities device during lockdown. Developing the collaborative approach means that the Men's Shed is becoming recognised by the learners and new opportunities may now develop there more widely. It is also a safe space with connectivity in the current economic climate.

The learners are reporting feeling positive about the opportunity to learn locally given the limited public transport to and from Aberchirder.

#### ***Community Development - People First Fraserburgh – Capacity Building***

People First in Fraserburgh, run by and for adults with learning disabilities, offered a valuable drop-in centre providing a safe space for members to socialise, access support and engage in projects. The centre was forced to close during the pandemic and it has proved difficult to resume services. Their main concern was finding funding to keep the drop-in open.



People First worked alongside a CLD practitioner to gain clarity on their strengths, vulnerabilities and opportunities to grow more resilience. They sourced appropriate

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funding and made successful applications of over £35,000. They now have the core funding they need to continue running the drop-in centre and its activities for at least 12 months.

The successful funding bids combined with holistic support from CLD has increased People First's confidence, helped make them feel more hopeful for the future of the charity and instilled a sense of new energy and enthusiasm back to the committee and staff members.

### ***Aberdeenshire CLD Learner Voices - Community Resilience Storm Arwen Experience***

As part of the wider Aberdeenshire Council engagement exercise, Community Learning and Development (CLD) staff spoke to targeted communities and individuals to capture their voices and experiences in order to better understand their preparedness and resilience following the Storms of early 2022. It was recognised many of these learners and communities are known to be more vulnerable and face barriers and less likely to engage in broad consultation methods such as online surveys.

CLD staff engaged with communities and individuals supported by CLD from identified population groups thought to be less likely to complete broad digital consultation but also those who may experience barriers to preparedness and resilience. In total we engaged with 97 individuals over 15 Group sessions and three 1:1 sessions from the following communities; alcohol and drugs recovery community, ESOL and New Scots community, people with adult literacies needs, young people and vulnerable geographic communities including those with high deprivation/low income and rural areas.

### ***Working with Young People - Banff Academy Mental Health & Wellbeing Peer Educators***



Banff academy Mental Health and Wellbeing Peer Educators have successfully concluded on the proposed goal to deliver sessions to all S1s.

The three peer educators have been informing S1s how to look after their mental health and wellbeing and where they can go for help and support. They have also set up a 'drop-in' space for young people who might be feeling overwhelmed in the school day and need some quiet time.

As a result, approximately 200 young people now have a greater understanding of mental health and how they can respond if they themselves, or a friend, is struggling.

The peer educators continue to develop their programme and another 5 young people have expressed an interest in taking part in the next Mental Health and Wellbeing Peer Educators training.

## Case Study 2 - Procurement

Commercial & Procurement Shared Service (CPSS) demonstrate commitments to equalities, local and national socio-economic priorities and fair work practices (FWP)/Real Living Wage (RLW) by providing relevant evidence of inclusion rates of FWP/RLW in Procurement Annual Reports.

In addition, CPSS contribute positively to equalities mainstreaming and anti-poverty strategies. Equalities can be a standalone community benefit, integrated into specifications or an additional component of added value community benefits. Compassionate and considerate approaches to physical, social and information accessibility integral to commitments. CPSS aim for collaborative, progressive excellence in terms of equalities embracing all protected characteristics and recognising socio-economic disadvantage. The overarching aim and commitment is **total inclusivity** and **equality of opportunity** in terms of employability and skills, promoting gateways to high quality, sustainable and stable employment. Where possible, pooling expertise to undertake proactive outreach work, targeting potential barriers and individuals/groups furthest from the employment/training markets is carried out.

A consistently applied, innovative, themed approach to community benefits in public procurement has been developed and embedded by CPSS. The approach is designed to maximise social value impacts across the three pillars (social, economic and environmental) of sustainable procurement for the benefit of citizens/communities directly affected by the procurement.

As an accountable public authority, the overarching objective to secure creative and ambitious social value outcomes at scale, commensurate with the spend, nature and length of the contract. The approach seeks to anticipate and harness unique professional competencies and ethical drivers of prospective suppliers, and partners encouraging supplier/partner creativity and collaboration in furtherance of objectives.

Incorporation of “Fair Work Practices/Real Living Wage” is regarded as a significant form of social and economic value, focus on gender representation/disability inclusion in school/FE activities considered to be progressive coupled with focus on gender pay gap reporting compliance. Fair Work method statements embrace all protected characteristics and payment of Real Living Wage/the benefits of Living Wage employer accreditation are promoted to the extent permitted by law.

In regulated contracts published by Aberdeenshire Council in 2021/2022, 847 community benefit outcomes were imposed or delivered during 2021/2022 (including 800 hours of community support committed, £20,000 committed to local charitable causes and commitment to 8 foodbank collections over a 4 year period) in regulated contracts. In regulated contracts, this represents a community benefit inclusion rate of 96% and an inclusion rate of 91% in terms Fair Work Practices/real Living Wage.

## Case Study 3 – Aberdeenshire Refugee Resettlement Programme

“In Aberdeenshire the weather may be cold, but the people are always warm”

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The Aberdeenshire vision for refugee resettlement and integration, is rooted in the principles of partnership, community development, innovative practice, and co-production – putting new Scots and welcome communities at the centre of decision making, planning and action. We recognise refugees as an asset and a power for change in our communities and not simply victims of conflict, disaster, torture or war.

Aberdeenshire Council and partners have been resettling refugee families since 2015. From 2016 to 2021, the majority of families arrived via the ***Syrian Vulnerable Persons Relocation Scheme***, the ***Vulnerable Children's Resettlement Scheme*** and the ***Afghan Relocation Assistance Programme***.



## War in Europe

The ***Homes for Ukraine*** scheme was launched on 14 March 2022 by the Secretary of State for Levelling Up, Housing and Communities. Ukrainian nationals who were residents in Ukraine prior to 1 January 2022, were entitled to apply for a 3-year UK visa with Displaced Persons status. The scheme allows sponsors in the UK to nominate a named Ukrainian or a named Ukrainian family to stay with them in their home or in a separate property for a 6-to-12-month period.

On 18 March 2022, the Scottish Government launched the '***Super Sponsorship Scheme***' as part of the Warm Scottish Welcome initiative.



Aberdeenshire saw one of the biggest responses across the UK per capita, with residents offering to open their hearts and homes to displaced Ukrainians fleeing war and conflict. The Refugee Resettlement Team moved quickly to ensure that we could provide the safety and sanctuary required. Over the next few months, over 500 Ukrainians were resettled into Aberdeenshire.



The purpose of refugee resettlement and integration in Aberdeenshire, is to ensure that people are able to rebuild their lives from the day they arrive. Refugees are supported and empowered to understand their rights, responsibilities and entitlements; access well-coordinated services that allow them to pursue full and independent lives; build social connections and relationships; and live in safe, welcoming and cohesive communities.

The refugee resettlement process can be brutal for people forced to leave homes, families and friends. Where a journey will end can't always be predicted, but the resettlement team work to ensure that people are supported with every step, dream and goal along the way.

#### **Case Study 4 – Digital Inclusion**

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In Aberdeenshire Council, Digital Inclusion is core piece of work. Within our Options & Homelessness, Housing Services, through joint working, we were successful in procuring flexible funding with approximately £12,000 spent to procure tablets for gypsy/travellers who were not awarded through Connecting Scotland.

Following this the next step was to provide data services through new funding procured for the provision of phone minutes, texts, and data which is now available until 2023, and able to help up to 60 persons per month through Online Centres Network – Databank and uses the networks Three, 02, and Vodafone.

There are different options to suit individuals in need who are experiencing data poverty or inequality. This was granted in late April 2022, Funding opportunities continue to be sought to enable our tenants and those being supported.

### **Case Study 5 – Customer Services**

BSL training is currently being rolled out to front-line Advisors in our Service Points. This was suggested by them as they felt it would be useful to support communication with customers who may have hearing impairment.

Funding was secured for an online training course for 12 Advisors – with the duration of the training being up to a year for completion.

To date, 3 Advisors have completed the training with others working their way through it.

Feedback after their completion suggests face-to-face training to allow interaction/practice with others also completing the course. This will be looked at once more of our staff complete.

Training materials can be accessed at any time and Advisors have said they will continue to refresh their knowledge as they do not regularly interact with customers who are hearing impaired.

# Aberdeenshire Council

## Integrated Impact Assessment

### Aberdeenshire Council's Equalities Mainstreaming and Outcomes 2021-25 Progress Report

Assessment ID	IIA-001133
Lead Author	Kakuen Mo
Additional Authors	Jane Wilkinson
Service Reviewers	Fiona McCallum
Subject Matter Experts	Kakuen Mo, Christine McLennan
Approved By	Kate Bond
Approved On	Thursday February 09, 2023
Publication Date	Friday February 10, 2023

# 1. Overview

This document has been generated from information entered into the Integrated Impact Assessment system.

This IIA is assessing the impact of our Equalities Mainstreaming and Outcomes progress report

During screening 5 of 10 questions indicated that detailed assessments were required, the screening questions and their answers are listed in the next section. This led to 2 out of 5 detailed impact assessments being completed. The assessments required are:

- Childrens' Rights and Wellbeing
- Equalities and Fairer Scotland Duty

In total there are 23 positive impacts as part of this activity. There are 0 negative impacts, all impacts have been mitigated.

A detailed action plan with 3 points has been provided.

This assessment has been approved by [kate.bond@aberdeenshire.gov.uk](mailto:kate.bond@aberdeenshire.gov.uk).

The remainder of this document sets out the details of all completed impact assessments.

## 2. Screening

Could your activity / proposal / policy cause an impact in one (or more) of the identified town centres?	No
Would this activity / proposal / policy have consequences for the health and wellbeing of the population in the affected communities?	No
Does the activity / proposal / policy have the potential to affect greenhouse gas emissions (CO2e) in the Council or community and / or the procurement, use or disposal of physical resources?	No
Does the activity / proposal / policy have the potential to affect the resilience to extreme weather events and/or a changing climate of Aberdeenshire Council or community?	No
Does the activity / proposal / policy have the potential to affect the environment, wildlife or biodiversity?	No
Does the activity / proposal / policy have an impact on people and / or groups with protected characteristics?	Yes
Is this activity / proposal / policy of strategic importance for the council?	Yes
Does this activity / proposal / policy impact on inequality of outcome?	Yes
Does this activity / proposal / policy have an impact on children / young people's rights?	Yes
Does this activity / proposal / policy have an impact on children / young people's wellbeing?	Yes

## 3. Impact Assessments

Children's Rights and Wellbeing	No Negative Impacts Identified
Climate Change and Sustainability	Not Required
Equalities and Fairer Scotland Duty	No Negative Impacts Identified
Health Inequalities	Not Required
Town Centre's First	Not Required

## 4. Childrens' Rights and Wellbeing Impact Assessment

### 4.1. Wellbeing Indicators

Indicator	Positive	Neutral	Negative	Unknown
Safe	Yes			
Healthy	Yes			
Achieving	Yes			
Nurtured	Yes			
Active	Yes			
Respected	Yes			
Responsible	Yes			
Included	Yes			

### 4.2. Rights Indicators

UNCRC Indicators upheld by this activity / proposal / policy	Article 3 - Best interests of the child Article 4 - Protection of rights Article 8 - Protection and preservation of identity Article 12 - Respect for the views of the child Article 13 - Freedom of expression Article 23 - Children with disabilities Article 27 - Adequate standard of living Article 28 - Right to education Article 30 - Children of minorities / indigenous groups Article 31 - Leisure, play and culture
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### 4.3. Positive Impacts

Impact Area	Impact
Achieving	The report documents the current positive impacts along with future ones especially within the Education and CLD setting of ECS
Active	The report documents the current positive impacts through current work, for example, through Active Schools
Healthy	The report documents the current positive impacts along with future ones especially within ECS
Included	The report documents the current positive impacts through current work and ongoing work
Nurtured	The report documents the current positive impacts through current work and ongoing work
Responsible	The report documents the current positive impacts through current work and ongoing work
Respected	The report documents the current positive impacts through current work and ongoing work

Impact Area	Impact
Safe	The report documents the current positive impacts along with future ones especially in Education Services

#### 4.4. Evidence

Type	Source	It says?	It Means?
Other Evidence	Engagement with Officers across the organisation	Key pieces of work that demonstrate Children's Rights are fulfilled	This is fed into the report to demonstrate some of the work carried out across the organisation

#### 4.5. Accounting for the Views of Children and Young People

Direct evidence from Officers who work with Children have fed into the report to demonstrate how children's views and input has been taken into account, for instance, the work with Pupil Participation Forum.

#### 4.6. Promoting the Wellbeing of Children and Young People

Aberdeenshire Council's work ECS demonstrates the full breadth of activities and work that promotes and safeguards children and young people's wellbeing.

#### 4.7. Upholding Children and Young People's Rights

Activities documented in the report alongside our Equality Outcomes shows we uphold children's rights.

#### 4.8. Overall Outcome

No Negative Impacts Identified.

There are no Negative Impacts - the report demonstrates some of the work carried out that upholds children's rights.

## 5. Equalities and Fairer Scotland Duty Impact Assessment

### 5.1. Protected Groups

Indicator	Positive	Neutral	Negative	Unknown
Age (Younger)	Yes			
Age (Older)	Yes			
Disability	Yes			
Race	Yes			
Religion or Belief	Yes			
Sex	Yes			
Pregnancy and Maternity	Yes			
Sexual Orientation	Yes			
Gender Reassignment	Yes			
Marriage or Civil Partnership	Yes			

### 5.2. Socio-economic Groups

Indicator	Positive	Neutral	Negative	Unknown
Low income	Yes			
Low wealth	Yes			
Material deprivation	Yes			
Area deprivation	Yes			
Socioeconomic background	Yes			

### 5.3. Positive Impacts

Impact Area	Impact
Age (Older)	The report documents the positive impacts in the work taking place across Aberdeenshire Council
Age (Younger)	The report documents the current positive impacts along with future ones especially in Education Services
Disability	The report documents the positive impacts in the work taking place across Aberdeenshire Council
Gender Reassignment	The report documents the positive impacts in the work the ongoing work of mainstreaming and how we will continue to improve equalities across the organisation.
Marriage or Civil Partnership	The report documents the positive impacts in the work taking place across Aberdeenshire Council, and the ongoing work to mainstream equalities across the organisation.
Pregnancy and Maternity	The report documents the positive impacts in the work taking place across Aberdeenshire Council



Impact Area	Impact
Race	The report documents the positive impacts in the work taking place across Aberdeenshire Council, and the ongoing work to further these through our equality Outcomes
Religion or Belief	The report documents the positive impacts in the work taking place across Aberdeenshire Council, and the ongoing work to further these through our equality Outcomes
Sexual Orientation	The report documents the positive impacts in the work taking place across Aberdeenshire Council, and the ongoing work to further these through our Equality Outcomes
Sex	The report documents the positive impacts in the work taking place across Aberdeenshire Council, and the ongoing work to further these through our Equality Outcomes
Area deprivation	The report documents the positive impacts in the work taking place across Aberdeenshire Council, and the ongoing work to address inequalities
Low income	The report documents the positive impacts in the work taking place across Aberdeenshire Council, and the ongoing work to address inequalities
Low wealth	The report documents the positive impacts in the work taking place across Aberdeenshire Council, and the ongoing work to address inequalities
Material deprivation	The report documents the positive impacts in the work taking place across Aberdeenshire Council, and the ongoing work to address inequalities
Socioeconomic background	The report documents the positive impacts in the work taking place across Aberdeenshire Council, and the ongoing work to address inequalities

## 5.4. Evidence

Type	Source	It says?	It Means?
Other Evidence	Engagement carried out across the whole organisation	With the mainstreaming of equalities and progressing our outcomes, we are moving to ensuring equalities is given the due regard in everything we do.	We are ensuring we address inequalities so the services provided to residents and visitors to Aberdeenshire are inclusive. We are also an inclusive employer promoting fairness and equality for all.

## 5.5. Engagement with affected groups

Engagement has been carried out with internal staff across the whole organisation, who have the evidence from their own areas of work.

## 5.6. Ensuring engagement with protected groups

All protected characteristics will have been involved indirectly to complete the progress report. Evidence of this can be found in the Case Studies and projects mentioned throughout the document.

## **5.7. Evidence of engagement**

The case studies provide real life experiences demonstrating how Aberdeenshire Council are mainstreaming equalities.

## **5.8. Overall Outcome**

No Negative Impacts Identified.

The report documents the work across Aberdeenshire Council and the progress of our actions for the period 2021-2025 in furthering equalities.

## **5.9. Improving Relations**

The report documents the steps taken already in promoting good relations between all Protected Characteristics from Aberdeenshire being an Employer to the Services it delivers, and is intrinsic to everything Aberdeenshire Council does.

## **5.10. Opportunities of Equality**

The report documents a snapshot of the work being carried out across Aberdeenshire that advances equality of opportunity while tackling and addressing inequalities.

## 6. Action Plan

Planned Action	Details	
Continue to support the organisation in mainstreaming equalities and work alongside teams to address inequalities	<b>Lead Officer</b>	Kakuen Mo
	<b>Repeating Activity</b>	No
	<b>Planned Start</b>	Friday April 01, 2022
	<b>Planned Finish</b>	Wednesday April 30, 2025
	<b>Expected Outcome</b>	Equality actions carried out and Equality Outcomes met
	<b>Resource Implications</b>	Staff time when considering the impact on equalities and those affected by socio-economic elements
Continue to support the development of Equality Ambassadors to enable them to be a contact point for Integrated Impact Assessments	<b>Lead Officer</b>	Kakuen Mo
	<b>Repeating Activity</b>	No
	<b>Planned Start</b>	Friday April 01, 2022
	<b>Planned Finish</b>	Wednesday April 30, 2025
	<b>Expected Outcome</b>	Equality Ambassadors to have the knowledge to support the organisation in mainstreaming equalities.
	<b>Resource Implications</b>	Staff time as Equality Ambassadors are volunteers and have their usual day job.
Develop more IIA information and training sessions to allow all staff to have the ability to think wider on the impacts that relate to their project or proposed process/service changes	<b>Lead Officer</b>	Kakuen Mo
	<b>Repeating Activity</b>	No
	<b>Planned Start</b>	Monday January 16, 2023
	<b>Planned Finish</b>	Friday March 31, 2023
	<b>Expected Outcome</b>	Staff to have a better understanding on how to complete an IIA effectively alongside the necessity to engage and consult
	<b>Resource Implications</b>	Staff time

