

THE ABERDEENSHIRE LICENSING BOARD

A Meeting of the Aberdeenshire Licensing Board appointed in terms of the Licensing (Scotland) Act 2005 will be held by VIRTUAL MEETING, on **Wednesday, 28 June 2023 at 10:15 am.**

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

Tuesday, 20 June 2023

Fiona Stewart

Clerk to the Licensing Board

BUSINESS

1. **SEDERUNT AND DECLARATION OF MEMBERS' INTERESTS**
2. **PUBLIC SECTOR EQUALITY DUTY** 4
Consider, and if so desired, adopt the following resolution:-
 - (1) to have due 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 is provided, to consider its contents and take those into account when reaching a decision.
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9. DATE OF NEXT BOARD MEETING

The date of the next meeting is 16 August 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

THE ABERDEENSHIRE LICENSING BOARD

Minute of the Meeting of the ABERDEENSHIRE LICENSING BOARD, held by MICROSOFT TEAMS only on WEDNESDAY 26th April 2023 at 10.15 a.m.

Sederunt:

Board Members:

Mrs Marion Ewenson (Convenor); Mr Geoff Crowson; Mr Jeff Goodhall; Mr Trevor Mason; Mr Richard Menard; Mrs Jenny Nicol; Ms Mel Sullivan; Mr Iain Taylor

In Attendance:

Fiona M. Stewart and Lynsey Kimmitt, Depute Clerks to the Board; Lisa Godini, Keith Simpson and Kevin MacDonald Licensing Standards Officers; Sergeant Neil Grant, Police Scotland;

Observing:

Jenny Mearns, Administrator (Livestream), Harriet Tevendale and Clark Simpson, Paralegals; Beatrice Hay and Delsya Borland, Administrators

Forum Members:

None

The Convenor welcomed everyone to the meeting.

1. APOLOGIES FOR ABSENCE

Ms Dawn Black and Mr Stewart Adams had tendered their apologies for the meeting.

Apologies were also received from Lauren Cowie and Jill Joss, Depute Clerks and Sarah Ward, Licensing Standards Officer

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 22nd FEBRUARY 2023 – 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 19th April 2023 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. **Ardoe House Hotel, South Deeside Road, Blairs, Aberdeen**

Granted subject to

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

2. **Aspire, St. John the Baptist Church, Seafield Terrace, Portsoy**

Granted subject to

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

3. **Cammies, Cammachmore, Stonehaven**

Granted subject to

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

4. **Fraserburgh Hotel, 5-13 Mid Street, Fraserburgh**

Granted subject to

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

5. **Almondine, Unit 2 Burn Lane, Inverurie**

Granted subject to

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

6. The Residence and Hummingbird Café, Rebecca Carr Resident, Midmill, Kintore, Inverurie

Following receipt of the Certificate of Compliance, Granted subject to

- the local conditions set out in the Board report,
- the specific 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 19th April 2023 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. Aldi Stores Ltd, Harlaw Road, Inverurie

Granted subject to

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

7. LICENSING (SCOTLAND) ACT 2005 – APPLICATION FOR PROVISIONAL PREMISES LICENCE - HEARING – THE TSB BUILDING, 12 MAIN STREET, TURRIFF

1. The applicant was represented by Christine Hosie.
2. The objectors were neither present nor represented at the hearing, but their written submission had been circulated to the Board and all parties in advance of the hearing
3. Sgt Neil Grant represented the Chief Constable
4. Sarah Ward, Licensing Standards Officer was not present but was represented by Kevin MacDonald, Licensing Standards Officer
5. Louise Manson represented Environmental Health
6. The applicant was invited to speak to the application
7. Sgt Grant spoke to the Chief Constable's Representation
8. Keving MacDonald spoke to the Licensing Standards Officer's representation
9. Louise Manson spoke to the Environmental Health representation
10. The applicant was afforded an opportunity to respond to the submissions made by the other parties
11. An opportunity was afforded to Members to ask questions of all parties
12. The Board invited concluding remarks in reverse order
 - a. Louise Manson had nothing to add

- b. *Kevin MacDonald had nothing to add*
- c. *Sgt Grant had nothing to add*
- d. *The applicant had nothing to add*

13. *No legal advice was required from the Depute Clerk*

14. *The Depute Clerk read out the terms of the legal test*

15. *The Board opted not to adjourn to deliberate the application*

16. *The Board was satisfied they had sufficient information to make a decision*

17. *Mr Goodhall, seconded by Mr Mason, moved as a motion that there was no evidence before the Board to support any of the grounds of refusal and that the application be granted subject to the recommended local and specific conditions outlined in the report.*

18. *No amendment was proposed.*

19. *The Board confirmed the decision was unanimous*

The decision of the Board was, therefore, that the application was GRANTED, there being no evidence to support any of the grounds of refusal, subject to the recommended local and specific conditions set out in the report.

8. **LICENSING (SCOTLAND) ACT 2005 – APPLICATION FOR REVIEW OF PREMISES LICENCE – HEARING – THE LEARNEY ARMS, TORPHINS**

- 1. *Louise Manson represented Environmental Health*
- 2. *The Licence Holder was represented by David Scott, Solicitor, Aberdeen*
- 3. *Mr Chowdhury was neither present nor represented at the hearing*
- 4. *Lisa Godini, Licensing Standards Officer was present at the hearing.*
- 5. *Louise Manson was invited to speak to the Complaint*
- 6. *Lisa Godini was invited to speak to her report*
- 7. *David Scott was invited to address the Board in respect of the Complaint, the report and the submissions made in respect thereof.*
- 8. *An opportunity was afforded to Members to ask questions of all parties.*
- 9. *The Board invited concluding remarks in reverse order*
 - a. *David Scott made concluding remarks*
 - b. *Lisa Godini made concluding remarks*
 - c. *Louise Manson made concluding remarks*

10. *The Board adjourned to deliberate the application*
11. *On resuming the bench, the Depute Clerk summarised what had been discussed during the adjournment*
12. *The Board confirmed they had sufficient evidence upon which to make a decision*
13. *The Board firstly dismissed the following grounds of review as set out in the complaint:*
 - a. *The Premises Licence Holder has failed to comply with the requirements of Noise Abatement Notices issued by Environmental Health Service on the basis that this was outwith the Board's remit and was enforceable under other legislative means*
 - b. *The manner in which the premises are operating breached local condition No 6 attached to the current premises licence – on the basis that there were no local conditions currently attached to the premises licence.*
14. *The Board found that the first ground for review, namely that the premises were operating in a manner which failed to comply with the Preventing Public Nuisance Licensing Objective was a relevant ground for review in terms of Section 36(3)(b) of the Licensing (Scotland) Act 2005. Mr Taylor, seconded by Mr Menard, moved as a motion that this ground for review was upheld on the basis of the number of complaints that had been brought forward, that management had been able to control the noise for certain times but not for others and that the situation had been deteriorating.*
15. *No Amendment was proposed.*
16. *The Board confirmed the decision was unanimous*
17. *Thereafter, the Board considered the steps open to them in terms of Section 39 of the 2005 Act.*
18. *Mr Crowson, seconded by Mrs Sullivan, moved as a motion that it was necessary for the purposes of the Preventing Public Nuisance Licensing Objective to issue a written warning to the Premises Licence Holder and to vary the terms of the Premises Licence to attach Conditions 1 and 5 of the Board's local conditions to the licence.*
19. *No amendment was proposed.*
20. *The Board confirmed the decision to be unanimous*
21. *Thereafter, the Board unanimously agreed that there was no requirement to take action against the Designated Premises Manager in respect of Section 84 of the 2005 Act.*

The decision of the Board was therefore that the premises were operating in a manner which failed to comply with the Preventing Public Nuisance Licensing Objective which was a relevant ground for review in terms of Section 36(3)(b) of the Licensing (Scotland) Act 2005 on the basis of the number of complaints that had been brought forward, that management had been able to control the noise for certain times but not for others and that the situation had been deteriorating. The activity was linked to the sale of alcohol in

that there would be no noise issues if the sale of alcohol was not taking place within the licensed premises.

Further the Board agreed that it was necessary for the purposes of the Preventing Public Nuisance Licensing Objective to issue a written warning to the Premises Licence Holder and to vary the terms of the Premises Licence to attach Conditions 1 and 5 of the Board's local conditions to the licence.

Finally, the Board agreed that no action in terms of Section 84 of the 2005 Act was required in relation to the Designated Premises Manager.

9. **LICENSING (SCOTLAND) ACT 2005 – APPLICATION FOR MAJOR VARIATION OF PREMISES LICENCE – HEARING – THE PORT PAPER SHOP, PORT ELPHINSTONE, INVERURIE**

1. *The applicant was represented by Mrs Rajwant at the Hearing*
2. *The applicant's agent was neither present nor represented at the hearing but had lodged written submissions, which had been circulated to the Board and all parties in advance of the hearing*
3. *Lisa Godini, Licensing Standards Officer was present at the hearing*
4. *The applicant was invited to speak to the application*
5. *Lisa Godini was invited to speak to her representation*
6. *The applicant was afforded an opportunity to respond to the submissions of the LSO.*
7. *An opportunity was afforded to Board Members to ask questions of both parties*
8. *The Board invited concluding remarks in reverse order*
 - a. *Lisa Godini made concluding remarks*
 - b. *The Applicant made concluding remarks*
9. *Legal advice was not required from the Depute Clerk*
10. *The Depute Clerk read out the terms of the Legal Test*
11. *The Board opted not to adjourn to deliberate the application*
12. *The Board confirmed they had sufficient information upon which to make a decision*
13. *Mrs Ewenson, seconded by Mr Menard, moved as a motion that the application be refused in terms of Section 30(5)(b) of the 2005 Act on the basis that it would contravene the licensing objectives relating to the protection of children and young persons from harm and preventing public nuisance and in terms of Section 30(5)(c)(iii) of the 2005 Act on the basis that, having regard to the types of persons likely to frequent the premises, particularly children and young persons, the premises being located on a main route to schools, the Board considered the premises to be unsuitable for use for the sale of alcohol in accordance with the proposed variation given the sizeable increase in the alcohol display compared to the size of the shop overall.*
14. *No amendment was proposed.*
15. *The Board confirmed the decision to be unanimous*

The Board decision was therefore that the application be REFUSED in terms of Section 30(5)(b) of the 2005 Act on the basis that it would contravene the licensing objectives relating to the protection of children and young persons from harm and preventing public nuisance and in terms of Section 30(5)(c)(iii) of the 2005 Act on the basis that, having regard to the types of persons likely to frequent the premises, particularly children and young persons, the premises being located on a main route to schools, the Board considered the premises to be unsuitable for use for the sale of alcohol in accordance with the proposed variation given the sizeable increase in the alcohol display compared to the size of the shop overall.

10 LICENSING (SCOTLAND) ACT 2005 – APPLICATION FOR MAJOR VARIATION OF PREMISES LICENCE – HEARING – THE DROUTHY LAIRD, INVERURIE

1. *Mr & Mrs Parker were present at the hearing*
2. *Lorna McHardy was neither present nor represented at the hearing*
3. *Iona Mathieson was neither present nor represented at the hearing*
4. *Sergeant Grant represented the Chief Constable at the Hearing*
5. *Building Standards were neither present nor represented at the hearing*
6. *Lisa Godini, Licensing Standards Officer was present at the hearing*
7. *Louise Manson represented Environmental Health at the hearing*
8. *The Applicant was invited to speak to the application*
9. *Sgt Grant spoke to the Chief Constable's representation*
10. *Lisa Godini spoke to her representation*
11. *Louise Manson spoke to the Environmental Health representation*
12. *The Applicant was afforded an opportunity to respond to the submissions made.*
13. *An opportunity was afforded to Board Members to ask questions of all parties.*
14. *The Board invited concluding remarks in reverse order*
 - a. *Louise Manson had nothing to add*
 - b. *Lisa Godini made concluding remarks*
 - c. *Sgt Grant had nothing to add*
 - d. *The Applicant made concluding remarks*
15. *The Board did not require legal advice from the Depute Clerk*
16. *The Depute Clerk read out the terms of the Legal Test*

17. *The Board opted not to adjourn to deliberate the application*

18. *The Board confirmed they had sufficient evidence upon which to make a decision*

19. *Mr Menard, seconded by Mr Crowson, moved as a motion that a justification to depart from the Board's Policy on hours had been made on the basis that the LSO had given assurances that the proposed conditions meant the premises could be managed properly, the diversity of activities provided in the premises and that the proposed local and specific conditions, with the addition of:-*

a. *a door steward being in place from midnight on the days the late hours were operating being added as a specific condition*

b. *7 days advance notification to the Police and LSO of when the 2am opening will apply*

and that, none of the grounds of refusal being found to apply, the application should be granted in those terms.

20. *No amendment was proposed.*

21. *The Board confirmed the decision to be unanimous*

The Board therefore granted the application as applied for, subject to the recommended local and specific conditions and the additional specific condition that a door steward be in place at the door from 12.00 midnight on the days when late opening was operated at the premises.

11. LICENSING (SCOTLAND) ACT 2005 – APPLICATION FOR PERSONAL LICENCE - HEARING – ALEXANDRA ESSON

1. *The applicant was neither present nor represented at the hearing having indicated in advance that she would not be attending, that the terms of the report were clear, and she had nothing to add, and she was happy for the Board to proceed in her absence.*

2. *Sgt Grant represented the Chief Constable at the hearing*

3. *The Board agreed to proceed with the hearing in the absence of the applicant.*

4. *The Board heard Sgt Grant speak to the Chief Constable's report.*

5. *An opportunity was provided to Board Members to ask questions of Sgt Grant*

6. *Sgt Grant was afforded an opportunity to make concluding remarks but made none.*

7. *The Board did not require legal advice from the Clerk*

8. *The Board opted not to adjourn to deliberate the application*

9. *The Board concluded they had sufficient information upon which to make a determination*

10. Mr Menard, seconded by Mr Mason, moved as a motion that, on the basis of the time that had passed since the relevant offence, that there was no evidence before the Board that the applicant had reoffended in any way, that none of the grounds of refusal applied, the applicant was a fit and proper person to hold a personal licence and the application should be granted.

11. No amendment was proposed.

12. The Board confirmed the decision to be unanimous

The decision of the Board was therefore to GRANT the application

12. **LICENSING (SCOTLAND) ACT 2005 – APPLICATION FOR EXTENDED HOURS – HEARING – THE MARINE HOTEL, STONEHAVEN**

1. The applicant was represented by Mr Robert Lindsay
2. Keith Simpson, Licensing Standards Officer was present at the hearing
3. The Clerk advised the Board that the application required to be made by the premises licence holder, 6DN Limited, but that the application had been made by Mr Robert Armstrong as an individual person.
4. Having established that Mr Armstrong was not a director of 6DN Limited, the Board unanimously determined that the application was not competent.

No further action was therefore required in relation to the application

13. **LICENSING (SCOTLAND) ACT 2005 - REVIEW OF STATEMENT OF LICENSING POLICY 2023 – 2028 – ANALYSIS OF ENGAGEMENT EXERCISE**

Having considered the terms of a report by the Depute Clerk setting out the responses to the engagement exercise and providing an analysis of the evidence submitted to date in respect of the main issues agreed by the Board, dated February 2023, copies of which had been circulated to members in advance, the Board agreed the following for the purposes of drafting a Licensing Policy Statement to be submitted to the Board for approval for consultation on 28th June 2023:

1. That permitted operating hours be harmonised across Aberdeenshire
2. That the permitted hours be as follows:

Opening hours – 10.00am

Terminal hour for premises other than nightclubs – 01.00am

Terminal hour for nightclubs – 02.00am (Sun – Thurs)

- 03.00am (Fri-Sat)

There should be no additional operating hours for private functions

Festive Hours

For premises other than nightclubs – 01.30am

Fri & Sat preceding 25th December

24-26th December inclusive

Fri & Sat preceding 31st December

1st January

31st December – 03.00am

3. Hours applicable to Occasional Licences and Occasional extensions

10.00 – 0100

4. That the localities for the purpose of overprovision be local settlements based on the evidence provided in Appendix 2 to the report

5. that there was no evidence to date of overprovision in relation to on sale premises

6. That there was evidence to date that in relation to Off sale premises, 3 settlements were overprovided for, 4-5 required a watching brief and there was no evidence of overprovision in the remaining settlements

7. Authorised officers to consider options for setting an approved capacity for alcohol displays in off sales and present them at the June Board

8. Noted that further statistical data was still to be obtained

9. Agreed to retain the late applications policy for occasional licences

10. Noted that the local conditions for occasional licences would be reviewed

11. Agreed that the Premises Licence Conditions be reviewed and that they should incorporate the suggested additional conditions recommended in the report and that the terminal hour for outside drinking areas be amended to 10.00pm

12. Agreed to retain the provisions relating to the end of aisle alcohol displays

13. Agreed to retain the policy provisions relating to vertical drinking establishments

14. Noted that the formal consultation process would include exploring interest in and the potential for reinstating the Aberdeenshire Licensing Forum

10. DATE OF NEXT MEETING – 28th June 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](#)

[Part Four](#)

[Part Five](#)

THE ABERDEENSHIRE LICENSING BOARD

REPORT TO LICENSING BOARD – 28th June 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 12th 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

Subject	Yes	No	N/A
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 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 : Jill Joss, Senior Solicitor (Governance), Depute Clerk to the Board and Harriet Tevendale, Paralegal

Date: 15TH June 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>1. The National Trust for Scotland Enterprises Ltd</p> <p>Agent: TLT Solicitors</p> <p>LAPREM/00181/22</p>	<p>Haddo House Methlick Ellon AB41 7EQ</p>	<p>An elegant and luxurious stately home designed by William Adam, comprising of Scottish stately home in the Palladian style, terrace garden, cafe, and shop, set out over three floors.</p> <p>The venue is situated within Haddo Country Park.</p> <p>Activities/services provided include accommodation, conference facilities, restaurant facilities, bar meals, receptions, including weddings, funerals, birthdays, retirements, clubs and other group meetings, recorded music, live performances, dance facilities, theatre, films, gaming, indoor/outdoor sports, televised sport, outdoor drinking areas.</p> <p>There will be an offering of sale of alcohol for consumption off the premises in addition to the on sales.</p> <p>Children and young persons will be permitted to access the premises.</p> <p>Seasonal variations as per the Licensing Boards Policy are included</p>	<p>Representations</p> <p>Police Scotland</p> <p><u>Outdoor Drinking Facilities</u></p> <p>Signage to be displayed indicating that alcohol is not to be removed from the licensed areas.</p> <p>Any amplified music to be played at what would be considered to be a reasonable level.</p> <p><u>Children and Young Persons Access</u></p> <p>All children and young persons to be allowed access to the premises as described and are to be excluded from all areas where gaming activities are taking place.</p> <p>All children and young persons are not to be permitted to attend at the main bar areas during times when alcohol is available for sale.</p> <p>Licensing Standards Officer</p> <p>The Licensing Standards Officer has recommended a number of local conditions as noted below (copy of local conditions is attached to the end of this letter).</p> <p>As there are multiple uses and multiple areas within the application the requested conditions may relate directly to some of these areas, the Licensing Standards Officer has highlighted some of these and made clarification points as marked by the asterisks.</p>

Name of Applicant and IDOX reference	Name and address of Premises	Details of Application	Remarks and Recommended Conditions
			<p>1, 2, 3, 4, 5*, 6, 8, 9, 10, 11, 19, 20*, 21, 31*, 32, 33*, 35, 36, 37, 38, 39</p> <p>5* - Where events are held outside in the grounds where music is part of the celebration/event it is requested that Police and Licensing be notified at least 72 hours prior to the event and that appropriate consideration is given to neighbouring properties.</p> <p>20* - SIA stewards to be used as appropriate dependent on the function and/or event</p> <p>31* - It may be accepted that outside drinking is part of the event where it does not form the main part of the event, i.e., Weddings, celebrations, concerts etc. In these circumstances then outside drinking can only be until the terminal hour of the premises licence.</p> <p>33* - Consideration for use of glass alternatives where appropriate to the event.</p> <p>Building Standards – no comments to make Planning – no comments to make. Environmental Health - no comments to make Firemaster – standard observation submitted.</p>










Name of Applicant and IDOX reference	Name and address of Premises	Details of Application	Remarks and Recommended Conditions
			<p>Certificate of Confirmation</p> <p>The applicant has submitted the certificate of compliance relating to display of the site notice at the premises.</p> <p>Recommended Conditions for Licence:</p> <ol style="list-style-type: none"> 1. General Management for All Premises – Conditions 1-4 2. Noise – All Premises – Condition 5 * (where events are held outside in the grounds where music is part of the celebration/event it is requested that Police and Licensing be notified at least 72 hours prior to the event and that appropriate consideration is given to neighbouring properties) 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* (SIA Stewards to be used as appropriate dependent on the function and/or event) 7. CCTV – All Premises – Condition 21 8. Beer Gardens and outside Drinking Areas – Conditions 31 – 33 * (condition 31 – It may be accepted that outside drinking is part of the event where it does not form the main part of the event, i.e., Weddings, celebrations, concerts etc. In these circumstances then outside drinking can only be until the terminal hour of the premises licence)



























Name of Applicant and IDOX reference	Name and address of Premises	Details of Application	Remarks and Recommended Conditions
			<p>** (Condition 33 – Consideration for the use of glass alternatives where appropriate to the event)</p> <p>9. Festive Season Conditions for Premises opening after 1.00am – Conditions 35-39</p> <p>Conditions specific to the application</p> <p>In respect of the outside areas the following conditions be applied:</p> <ul style="list-style-type: none"> • Signage to be displayed indicating that alcohol is not to be removed from the licensed areas. • Any amplified music to be played at what would be considered to be a reasonable level. <p>Children and Young Person Access</p> <ul style="list-style-type: none"> • All children and young persons to be allowed access to the premises as described and are to be excluded from all areas where gaming activities are taking place. • All children and young persons are not to be permitted to attend at the main bar areas during times when alcohol is available for sale.


APPENDIX 2

LOCAL CONDITIONS: PREMISES LICENCES




A. THE ABERDEENSHIRE LICENSING BOARD









Local Conditions		Objective
General Management for All Premises		
1	The provisions relating to management of licensed premises contained within the Board's current policy statement, particularly Appendix 1 thereto, must be complied with.	PCD, SPS, PPN PIPH, PCYPFH 
2	Premises Licence Holders must ensure that the premises, internally and externally, are maintained in good, clean and tidy condition at all times.	SPS, PPN 
3	Premises Licence Holders must ensure that Refusal Registers and Daily Incident logs are accessible for inspection by Police and Licensing Standards Officers	PCD, SPS 
4	The Licence Holder must ensure that any general authorisation for the sale of alcohol required within the premises is – <ul style="list-style-type: none"> • in writing • available for inspections by Police and Licensing Standards Officers • brought to the attention of and signed by all parties; and • enforced by the premises manager 	PCD, SPS, PPN, PIPH, PCYPFH 
Noise – All Premises		
5	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.	PPN 
Lockfast Store – All Premises		
6	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.	PCD, SPS 
Children and Young Persons – On Sale Premises		
7	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.	PCYPFH 
8	The Licence Holder shall provide safe high chairs for the use of young children	SPS, PCYPFH 
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  
Premises Providing Late Night Entertainment – On Sale Premises		
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    
Adult Entertainment – On Sale Premises		
18	Children and young persons are not permitted to attend any event involving adult entertainment.	PCYPFH 
Vulnerability – All Premises		

19	<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




20	<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"> Confirm that persons who seek access to the premises have paid for admission or have appropriate passes/invitations; Identify and refuse entry to drunken persons Identify and refuse entry to any persons banned through pubwatch or by any other means; Actively police the premises and to perform all activities in line with their role under the Private Security Act 2001; Supervise entrance doors/access points at all times to ensure that no fire or other exits are blocked; Be aware of the fire safety precautions and procedures and all other policies and practices; Be aware of the premise's drug prevention policy; Provide assistance to patrons, including customer care, directions to facilities and health and safety; Ensure that no patron removes glasses, or open or closed vessels from the premises when exiting for any reason. 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; Be aware of the provisions of the Licensing (Scotland) Act 2005 which impact on the running of the premises; 	<p>PCD, SPS, PPN PIPH</p> 
CCTV – All Premises		
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> 
Members Clubs		
22	<p>Members Clubs must comply with the provisions of Supplementary Policy Statement 7 of the Board's current policy statement.</p>	<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 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>PCD, SPS, PPN, PIPH, PCYPFH</p> 
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.	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 
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.	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 
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.	<p>SPS, PPN</p> 
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"	<p>SPS, PPN</p> 
Beer Gardens and Outside Drinking Areas		

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"> • The evacuation of the premises; and • The prevention of the misuse of drugs on the premises. • Duty of care (‘Vulnerability through Intoxication’) 	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 - 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. Section 4 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 – 28th June 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

Subject	Yes	No	N/A
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 Jill Joss, Senior Solicitor (Governance), Depute Clerk to the Board and Harriet Tevendale, Paralegal.

Date: 15th June 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/00234/22/HT

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

Balmoral Estates
Balmoral Castle
Crathie
Ballater
Aberdeenshire
AB53 5TB

Per Raeburn Christie & Wallace Solicitors

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

Balmoral Estate
Ballater
Aberdeenshire
AB53 5TB

	EXISTING LICENSED HOURS Plan A: 1 st April – 31 st July		EXISTING LICENSED HOURS Plan B: 1 st August – 31 st March	
	ON SALE	OFF SALE	ON SALE	Off Sale
Monday	1000 - 1700	1000 - 1700	1800 - 2330	1000 - 1700
Tuesday	1000 - 1700	1000 - 1700	1800 - 2330	1000 - 1700
Wednesday	1000 - 1700	1000 - 1700	1800 - 2330	1000 - 1700
Thursday	1000 - 1700	1000 - 1700	1800 - 2330	1000 - 1700
Friday	1000 - 1700	1000 - 1700	1800 - 2330	1000 - 1700
Saturday	1000 - 1700	1000 - 1700	1800 - 2330	1000 - 1700
Sunday	1000 - 1700	1000 - 1700	1800 - 2330	1000 - 1700

	PROPOSED LICENSED HOURS	
	ON SALE	Off Sale
Monday	1000 - 0030	No Change
Tuesday	1000 - 0030	No Change
Wednesday	1000 - 0030	No Change
Thursday	1000 - 0030	No Change
Friday	1000 - 0030	No Change
Saturday	1000 - 0030	No Change
Sunday	1000 - 0030	No Change

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

The applicant wants to:

- Vary the core times that alcohol will be sold for consumption on the premises to Monday to Sunday 10am – 00:30am, through out the year. The premises will no longer operate in terms of 'Plan B' and all reference to that are deleted from the operating plan, including section 4. The premises will still operate as a lounge bar / function room, but will do so in terms of 'Plan A'.
- The terminal hour for on premises consumption will normally be restricted to 6:00pm during the periods of the year when the public has access. Rare organised events will use the later terminal hour of 00:30am. This change also necessitated a change to the terms/times under which children and young people have access. The change is not a relaxation of the terms/times as such, but is reflective of the changed on premises core hours.

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

Police Scotland have made a representation to the application and ask that the application be granted with the following conditions.

Children and Young Persons

1. Children from, 0-15 year, and young persons, 16-17 years, will only be allowed entry accompanied by a responsible adult aged 18 years, at all times.
2. No children or young people to be permitted at bar areas.

LSO

The LSO has recommended the following conditions be applied to the licence:

Local Conditions

- 1,2,3,4,5,8,9,10,11,19,21

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

5. Applicant's response to representations

- The Applicant has accepted all recommended conditions

Recommended Conditions for Licence: - Existing Conditions to be retained:

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
7. Beer Gardens and outside drinking areas – Conditions 31 – 33 ** Condition 31 to have a terminal hour of 2200

Conditions specific to the application

In respect of the outside areas the following conditions be applied:

Existing Specific Conditions to be retained:

8. The Licence Holder shall ensure that –
 - The area is delineated by a physical barrier or similar
 - Signage is displayed indicating that no alcohol is to be removed beyond the licensed area
 - No amplified music to be played therein.

Specific Condition to be added:

Children and Young Persons

1. Children from, 0-15 year, and young persons, 16-17 years, will only be allowed entry accompanied by a responsible adult aged 18 years, at all times.
2. No children or young people to be permitted at bar areas.

**Licensing (Scotland) Act 2005, section 29
APPLICATION FOR MAJOR VARIATION OF PREMISES LICENCE
LAPREM/00129/22/HT**

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

The Rustic Grill Ltd
Backburn
Woolmill Road
Turriff
AB53 4SD

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

The Rustic Grill
13-15 Balmellie Street
Turriff
AB53 4DW

	EXISTING LICENSED HOURS		PROPOSED LICENSED HOURS	
	ON SALE	OFF SALE	ON SALE	Off Sale
Monday	11:00 – 23:00	11:00 – 22:00	No Change	No Change
Tuesday	11:00 – 23:00	11:00 – 22:00	No Change	No Change
Wednesday	11:00 – 23:00	11:00 – 22:00	No Change	No Change
Thursday	11:00 – 23:00	11:00 – 22:00	No Change	No Change
Friday	10:00 – 00:00	10:00 – 22:00	No Change	No Change
Saturday	10:00 – 00:00	10:00 – 22:00	No Change	No Change
Sunday	10:00 – 23:00	10:00 – 22:00	No Change	No Change

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

The applicant wants to:

The applicant is adding live music within the current licenced hours to the activities on their operating plan and making amendments to their layout plan to reflect the proposed changes to their kitchen layout.

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.

LSO

The LSO has recommended the following conditions be applied to the licence:

Local Conditions:

1 - 11, 19 & 21

Environmental Health

Environmental Health have the following observations regarding the above noted Liquor Licence.

- Local Condition 5 - 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. to be applied.

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

5. Applicant's response to representations they have accepted all conditions stated.

Recommended Conditions for Licence: Existing Conditions to be retained:

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 – On Sale Premises – Condition 20
7. 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/00135/22 HT

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

Clerkhill Inns Limited
Clerkhill Inn
Baylands Crescent
Peterhead
AB42 2YA

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

Clerkhill Inn
Baylands Crescent
Peterhead
AB42 2YA

	EXISTING LICENSED HOURS		PROPOSED LICENSED HOURS	
	ON SALE	OFF SALE	ON SALE	Off Sale
Monday	11:00 -14:30 17:00 -23:00	N/A	No Change	11:00 – 14:30 17:00 – 22:00
Tuesday	11:00 -14:30 17:00 -23:00	N/A	No Change	11:00 – 14:30 17:00 – 22:00
Wednesday	11:00 -14:30 17:00 -23:00	N/A	No Change	11:00 – 14:30 17:00 – 22:00
Thursday	11:00 -14:30 17:00 -00:00	N/A	No Change 17:00 - 23.00	11:00 – 14:30 17:00 – 22:00
Friday	11:00 -00:30	N/A	11:00 – 00:00	11:00 – 22:00
Saturday	11:00 -00:00	N/A	No Change	11:00 – 22:00
Sunday	11:00 – 14:30 17:00 – 23:00	N/A	No Change	12:30 – 22:00

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

The applicant wants to:

- Reduction in core hours for on-sales on Thursday and Friday
- Addition of off-sales Monday to Sunday
- Changes to seasonal variations during public holidays and private functions and specially featured events held by the premises.
- Changes to activities to include provision of food at private functions/featured events during core and non – core hours.
- Change to children and young persons access to the premises.
- Addition of an outdoor drinking area
- Change to layout plan and activities matrix.

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

Wish to make representation to the application and recommend the following conditions are imposed on the licence in respect of the outdoor drinking facilities:

1. All outdoor drinking areas are to be suitably delineated by a physical barrier or similar.
2. These areas to be subject to a terminal hour of 2200 hours daily.
3. Signage to be displayed indicating that no alcohol is to be removed beyond the identified delineated outdoor drinking areas.
4. No amplified music will be played within the outdoor drinking areas

LSO

In respect of the attached application for variation by the Clerkhill Inn, Peterhead, can I please recommend the following Local Conditions for said premises.

1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 19, 20, 21, 31*, 32 and 33

Additional Conditions.

Children and Young Persons must be accompanied by a responsible adult within the premises and the outside area (as per application Operating Plan)

*Outside Drinking area to close at 2200 hrs. (as per application Operating Plan)

Building Standards

Building Standards advise that the outside drinking area and its protective barrier should be designed in accordance with the following: -

1. Openings in the protective barrier should prevent the passage of a 100 mm diameter sphere and it should be designed so that it cannot be easily climbed by young children.
2. The barrier should be a minimum of 1100mm high.
3. Emergency lighting to the outside drinking area.

Building standards were satisfied with the response from the applicant and withdrew their representation.

Environmental Health

The proposed outdoor drinking area is in a close proximity to residential dwellings and consequently has the potential to cause noise disturbance to these noise sensitive receptors. To mitigate the noise impact, the Environmental Health Service would request that the following conditions are attached should the licence application be granted.

1. No amplified noise making equipment shall be used externally.
2. The outdoor drinking shall close no later than 22:00 Monday to Sunday.

Scottish Fire and Rescue*

Scottish Fire and Rescue Service have asked that, if not done so already, the applicant should complete a Fire Risk Assessment for the premises as required under the Fire (Scotland) Act 2005.

Such an assessment should ensure all reasonable steps are taken to ensure suitable fire safety measures are implemented to protect relevant persons from harm caused by fire. They have highlighted that the process of risk assessment should be ongoing and should be reviewed to ensure compliance with fire safety legislation.

***This is the standard representation made by the Scottish Fire & Rescue Service which we copy to the applicant. It does not form a condition of any Licence issued and does not prevent the Board from determining this application.**

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

5. **Applicant's response to representations** – The applicant has accepted all conditions stated.

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. Beer Gardens and outside Drinking Areas – Conditions 31 – 33 **Condition 31 to have a terminal hour of 22:00

Conditions specific to the application

In respect of the outside areas the following conditions be applied:

In respect of the outside drinking facilities:

1. No amplified noise making equipment shall be used externally.
2. All outdoor drinking areas are to be suitably delineated by a physical barrier or similar.
3. Signage to be displayed indicating that no alcohol is to be removed beyond the identified delineated outdoor drinking areas.
4. No amplified music will be played within the outdoor drinking areas.

In respect of children and Young Persons:

5. Children and Young Persons must be accompanied by a responsible adult within the premises and the outside area.

**Licensing (Scotland) Act 2005, section 29
APPLICATION FOR MAJOR VARIATION OF PREMISES LICENCE**

LAPREM/00254/22 HT

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

Alasdair Neil Cable
2 Jackson Street
Inverurie
AB51 3QB

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

Butchers Arms
14 West High Street
Inverurie
AB51 3SA

	EXISTING LICENSED HOURS		PROPOSED LICENSED HOURS	
	ON SALE	OFF SALE	ON SALE	Off Sale
Monday	10:00 – 01:00	10:00 – 22:00	No Change	No Change
Tuesday	10:00 – 01:00	10:00 – 22:00	No Change	No Change
Wednesday	10:00 – 01:00	10:00 – 22:00	No Change	No Change
Thursday	10:00 – 01:00	10:00 – 22:00	No Change	No Change
Friday	10:00 – 02:00	10:00 – 22:00	No Change	No Change
Saturday	10:00 – 02:00	10:00 – 22:00	No Change	No Change
Sunday	10:00 – 01:00	10:00 – 22:00	No Change	No Change

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

The applicant wants to:

- Adding accommodation as an activity
- Increasing capacity by 12 persons from 177 to 189 persons
- Amending terms, times, parts and conditions of children and young persons access to the premises.

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

Planning

In relation to the above premises licence, planning has spoken to the applicant, and it has been confirmed that the four en-suite letting rooms on the first floor are existing. However, planning permission should have been sought for a change of use from Use Class 9 (flat) to Use Class 7 (letting rooms).

Planning have advised the applicant that a Certificate of Lawfulness of Existing Use should be applied for to formalise the rooms.

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

5. Applicant's response to representations

- Applicant has accepted the representations and a certificate of lawfulness of existing use has been applied for.

Recommended Conditions for Licence:

These are the existing local conditions to be retained on the 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. Members Clubs – Conditions 22 - 30
7. Beer Gardens and outside Drinking Areas – Conditions 32

Conditions specific to the application : Existing Specific conditions

1. Beer Gardens and outside drinking areas must not be used for activities linked to the sale or consumption of alcohol after 22:00 hours. Only customers of the premises are permitted to use the area during core hours for the purpose of smoking. Customers should not be able to enter the premises by the outdoor area after 22.00 hours.
2. Noise from amplified and non-amplified music, signing and speech sourced from licensed premises (including the outdoor drinking area) shall not be audible in adjoining properties after 23:00.

**Licensing (Scotland) Act 2005, section 29
APPLICATION FOR MAJOR VARIATION OF PREMISES LICENCE
LAPREM/00020/23 HT**

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

Café Boheme Restaurant Ltd
21-23 Windmill Brae
Aberdeen
AB11 6HU

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

Tolbooth Restaurant
Old Pier
Stonehaven
AB39 2JU

	EXISTING LICENSED HOURS		PROPOSED LICENSED HOURS	
	ON SALE	OFF SALE	ON SALE	Off Sale
Monday	N/A	N/A	12:00 – 00:00	No Change
Tuesday	12:00 – 16:00 18:00 – 00:00	N/A	12:00 – 00:00	No Change
Wednesday	12:00 – 16:00 18:00 – 00:00	N/A	12:00 – 00:00	No Change
Thursday	12:00 – 16:00 18:00 – 00:00	N/A	12:00 – 00:00	No Change
Friday	12:00 – 16:00 18:00 – 00:00	N/A	12:00 – 00:00	No Change
Saturday	12:00 – 16:00 18:00 – 00:00	N/A	12:00 – 00:00	No Change
Sunday	12:00 – 20:00	N/A	12:00 – 00:00	No Change

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

The applicant wants to:

- Increase to core terminal hours when alcohol will be sold for consumption on the premises
- Addition of opening on a Monday
- Removal of seasonal variations to allow trading in January and on Sundays all year

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.

No objections or representations were made in respect of the application

5. Applicant has accepted all the conditions.

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

There are no conditions specific to the application.

Licensing (Scotland) Act 2005, section 29

APPLICATION FOR MAJOR VARIATION OF PREMISES LICENCE

LAPREM/00108/22 HT/JJ

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

Fraserburgh Indoor Leisure Centre, North Links, Seaforth Street, Fraserburgh, AB43 9BB

2. Name & address of premises (inc. postcode)

Fraserburgh Indoor Leisure Centre, North Links, Seaforth Street, Fraserburgh, AB43 9BB

	EXISTING LICENSED HOURS		PROPOSED LICENSED HOURS	
	ON SALE	OFF SALE	ON SALE	Off Sale
Monday	11:00-23:00	N/A	No change	11:00-22:00
Tuesday	11:00-23:00	N/A	No change	11:00-22:00
Wednesday	11:00-23:00	N/A	No change	11:00-22:00
Thursday	11:00-23:00	N/A	11.00-23:30	11:00-22:00
Friday	11:00-00:00	N/A	No change	11:00-22:00
Saturday	11:00-00:00	N/A	No change	11:00-22:00
Sunday	11:00-23:00	N/A	11.00-22:00	11:00-22:00

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

The applicant wants to:

- Addition of pool room area (games room)
- Changes to seasonal variations to include closure on 3 January, removal of May Day and local holiday hours
- Add to seasonal variation that where a pool or darts competition is being held, bar is to open at 9am with a terminal hour of 12 am
- Changes to core terminal hours, increasing on Thursdays, decreasing on a Sunday
- Addition of off-sales (Monday to Sunday 11am to 10pm)
- Amendment to activities including activities outwith core hours and addition of films and adult entertainment
- Restrictions to children's access in terms of times and areas
- Increase capacity for pool rooms

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

Police Scotland submitted a representation recommending specific conditions in relation to the part of the major variation seeking to add a seasonal variation where a pool or darts competition is being held and the bar is to open at 9am with a terminal hour of 12 am. Police Scotland had no representations to make in relation to the other parts of the major variation. The applicant initially did not agree to the initial

conditions recommended, however following discussions between parties these were amended to the following specific conditions:-

In respect of all darts events only:

1. All darts events to be ticket only;
2. No Children or Young Persons are permitted to attend darts events;
3. A sufficient number of SIA licensed stewards to be on duty for the duration of all darts events to ensure routine stewarding duties carried out, which support the five licensing objectives;
4. All refreshments to be decanted into a safety alternative to glass at the point of sale.

Licensing Standards Officer

The Licensing Standards Officer submitted a representation as summarised:-

At Question 4 of the operating plan the following statement is entered twice:

- In respect of the hours required for pool competitions, where such events takes place, bar will open at 9am, with a terminal hour of 12am. These may take place any day of the week.

Recommend removal of one of the statements.

The layout plan reflects a Games room, however this is the New pool room, as stated in the variation application form and operating plan; please arrange for the layout plans to be updated to reflect name of room as "Pool Room" to avoid any confusion in respect of "Gaming / Games room".

Recommended local conditions which were subsequently amended to the following conditions in line with licensing boards policy:

- 1 - 11, 18 - 19,20 (only when management recognise the requirement for i.e. large events)
21, 35-39

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

5. Applicant's response to representations

In response to the Police representation, the applicant agreed to the revised specific conditions. Police Scotland have confirmed that this addresses their representation.

In response to the LSO representation, the applicant subsequently:-

- Amended the Operating Plan
- Amended the Activities matrix
- Accepted the recommended local conditions

The LSO has confirmed that these amendments addressed her representations.

Local Conditions for Licence:

- General Management for All Premises – Conditions 1 – 4
- Noise – All Premises – Condition 5
- Lockfast Store – All Premises – Condition 6

- Children and Young Persons – On Sale Premises – Conditions 7-11
- Adult Entertainment - Condition 18
- Vulnerability – All Premises – Condition 19
- Door Supervisors – Condition 20 (only when management recognise the requirement for i.e. large events)
- CCTV – All Premises – Condition 21
- Festive Season Conditions for Premises opening after 01:00 – Conditions 35 – 39

Conditions specific to the application:





























In respect of all darts events only:


1. All darts events to be ticket only;
2. No Children or Young Persons are permitted to attend darts events;
3. A sufficient number of SIA licensed stewards to be on duty for the duration of all darts events to ensure routine stewarding duties carried out, which support the five licensing objectives;
4. All refreshments to be decanted into a safety alternative to glass at the point of sale.


APPENDIX 2 LOCAL CONDITIONS: PREMISES LICENCES








A. THE ABERDEENSHIRE LICENSING BOARD








Local Conditions	Objective
General Management for All Premises	
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>
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>
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>
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"> • in writing • available for inspections by Police and Licensing Standards Officers • brought to the attention of and signed by all parties; and • enforced by the premises manager
Noise – All Premises	
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>
Lockfast Store – All Premises	
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>
Children and Young Persons – On Sale Premises	
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>
8	<p>The Licence Holder shall provide safe high chairs for the use of young children</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  
Premises Providing Late Night Entertainment – On Sale Premises		
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    
Adult Entertainment – On Sale Premises		
18	Children and young persons are not permitted to attend any event involving adult entertainment.	PCYPFH 
Vulnerability – All Premises		






19	<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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20	<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> <ul style="list-style-type: none">a. Confirm that persons who seek access to the premises have paid for admission or have appropriate passes/invitations;b. Identify and refuse entry to drunken personsc. Identify and refuse entry to any persons banned through pubwatch or by any other means;d. Actively police the premises and to perform all activities in line with their role under the Private Security Act 2001;e. Supervise entrance doors/access points at all times to ensure that no fire or other exits are blocked;f. Be aware of the fire safety precautions and procedures and all other policies and practices;g. Be aware of the premise's drug prevention policy;h. Provide assistance to patrons, including customer care, directions to facilities and health and safety;i. Ensure that no patron removes glasses, or open or closed vessels from the premises when exiting for any reason.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;k. Be aware of the provisions of the Licensing (Scotland) Act 2005 which impact on the running of the premises;	<p>PCD, SPS, PPN PIPH</p> 
CCTV – All Premises		

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> 
Members Clubs		
22	<p>Members Clubs must comply with the provisions of Supplementary Policy Statement 7 of the Board's current policy statement.</p>	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 
23	<p>Members Clubs shall 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 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>	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 
25	<p>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>	<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 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, 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 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</p>	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 

	the Clerk within two months of change in personnel.	
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 
Beer Gardens and Outside Drinking Areas		
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	<p>SPS, PIPH, PCYPFH</p> 
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	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 
37	<p>There must be written policies in existence concerning -</p> <ul style="list-style-type: none"> • The evacuation of the premises; and • The prevention of the misuse of drugs on the premises. • Duty of care ('Vulnerability through Intoxication') 	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 
38	There must be persons responsible for checking on the safety and wellbeing of persons using any toilet facilities on the premises.	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 
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.	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 

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

**Licensing (Scotland) Act 2005
Part 3 & Sections 29-32
Application for Variation of a Premises Licence**

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)¹**
 - (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-**

¹ 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. Section 4 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 – 28 JUNE 2023

LICENSING (SCOTLAND) ACT 2005

APPLICATION FOR MAJOR VARIATION OF PREMISES LICENCE - HEARING

FRASERBURGH INDOOR LEISURE CENTRE

1 Executive Summary/Recommendations

- 1.1 This report relates to an application for a major variation of premises licence where a representation has been received which requires consideration by the Board.

Recommendations

1.2 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 for further material to be made available;**
- (b) Where the Board has concluded that there is sufficient evidence to allow a decision to be made, to consider the application, the representation made, the submissions made by the parties at the hearing and determine whether the application should be granted or refused in line with the legal test; and**
- (c) If granting the application, to determine whether to attach the specific conditions as set out at Section 3.13 of this report and grant same subject to the local conditions set out at Section 3.15 of this report.**

2 Decision-Making Route

- 2.1 An application was lodged for a Major Variation of premises licence for Fraserburgh Indoor Leisure Centre, North Links, Seaforth Street, Fraserburgh, AB43 9BB. The application was lodged on 18th July 2022. A revised application form was subsequently lodged on 16th November 2022.

2.2 A copy of the Application including the proposed Operating Plan, proposed Layout Plan, proposed Activities Matrix and Risk Assessment are attached as **Appendix 1** to this report and referred to for their terms.

2.3 This application has not previously been before the Board.

3 Discussion

3.1 The premises licence was granted by the North Aberdeenshire Divisional Licensing Board on 1st September 2009. The licence number is AB-N-P142.

3.2 This variation is seeking:-

- Addition of pool room area (games room)
- Changes to seasonal variations to include closure on 3 January, removal of May Day and local holiday hours
- Add to seasonal variation that where a pool or darts competition is being held, bar is to open at 9am with a terminal hour of 12 am
- Changes to core terminal hours, increasing on Thursdays, decreasing on a Sunday
- Addition of off-sales (Monday to Sunday 11am to 10pm)
- Amendment to activities including activities outwith core hours and addition of films and adult entertainment
- Restrictions to children's access in terms of times and areas
- Increase capacity for pool rooms

3.3 The table below shows the current and proposed Licensed hours:-

LICENSED HOURS				
CURRENT Licensed Hours			PROPOSED Licensed Hours	
	On Sales	Off Sales	On Sales	Off Sales
Mon	11:00 – 23:00	N/A	No change	11:00-22:00
Tue	11:00 – 23:00	N/A	No change	11:00-22:00
Wed	11:00 – 23:00	N/A	No change	11:00-22:00
Thur	11:00 – 23:00	N/A	11.00-23:30	11:00-22:00
Fri	11:00 – 00:00	N/A	No change	11:00-22:00
Sat	11:00 – 00:00	N/A	No change	11:00-22:00
Sun	11:00 – 23:00	N/A	11.00-22:00	11:00-22:00

Consultations

3.4 The Depute Clerk examined the application in detail and the Applicant then addressed any issues requiring to be addressed. Thereafter, the Depute Clerk forwarded the application to the following persons or bodies as part of the consultation process:

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

3.5 At the same time as the application was consulted on, the applicant 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 to vary the Premises Licence had been made.

3.6 The Licensing Standards Officers checked to ensure the site notice had been appropriately displayed, and had been displayed for the correct time period, as part of the consultation exercise for the application.

3.7 The application was also advertised on the Council's website.

Objections and Representations

3.8 No objections or representations were made by any members of the public.

3.9 The following Consultees advised they had no comments on the application:

- 1. Planning Service
- 2. Building Standards
- 3. Environmental Health

3.10 The following Consultees lodged representations:

- 1. Police Scotland by letter dated 20th December 2022.
- 2. Licensing Standards Officer by letter dated 22nd December 2022.

3.11 The applicant was provided with a copy of the representation in an Observations letter dated 18th January 2023. Copies of the representations from the Licensing Standard Officer and Police Scotland and are attached at **Appendix 2** to this report.

3.12 In response to the LSO representation, the applicant subsequently:-

- Amended the Operating Plan
- Amended the Activities matrix
- Accepted the recommended local conditions.

The LSO has confirmed that these amendments addressed her representations.

Conditions

3.13 Police Scotland in their representation have recommended specific conditions in relation to the part of the major variation which seeks to add a seasonal variation where a pool or darts competition is being held and the bar is to open at 9am with a terminal hour of 12 am. Police Scotland had no representations to make in relation to the other parts of the major variation. The recommended specific conditions are detailed below:-

1. Making the events ticketed;
2. During any event children and young persons to be accompanied by a responsible person aged 18 years or over;
3. No Children and Young Persons to be permitted at the bar areas;
4. A sufficient number of SIA licensed stewards to be on duty to ensure routine stewarding duties carried out, which support the five licensing objectives;
5. All refreshments to be decanted into a safety alternative to glass at the point of sale;
6. The Alcohol Management Plan, Drug Awareness Policy, Medical Plan, Event Plan, and Stewarding Plan must be submitted to Police Scotland within 12 weeks prior to the event and must be adhered to for the duration of the event.

3.14 The Board may attach conditions which are specific to the premises where required. The applicant has not agreed to these specific conditions recommended by Police Scotland, therefore it will be a matter for the Board to determine whether to attach these or not.

Local Conditions

3.15 It is recommended that if the Board grants the application, it is subject to the following local conditions, which have been agreed by the applicant in principle. These have been reduced slightly from those stated within the LSO representation, with the approval of the LSO.

- General Management for All Premises – Conditions 1 – 4
- Noise – All Premises – Condition 5
- Lockfast Store – All Premises – Condition 6
- Children and Young Persons – On Sale Premises – Conditions 7-11
- Adult Entertainment - Condition 18
- Vulnerability – All Premises – Condition 19
- Door Supervisors – Condition 20 (only when management recognise the requirement for i.e. large events)
- CCTV – All Premises – Condition 21
- Festive Season Conditions for Premises opening after 01:00 – Conditions 35 – 39

3.16 **Appendix 3** contains the full list of available local conditions, as set out in the Board's Policy Statement.

Procedure

3.17 Each application should be considered on its own merits.

3.18 The legal test is attached as **Appendix 4** to this report.

3.19 The Applicant and those persons who made a representation/objected to the application have been invited to attend the Hearing.

3.20 Copies of this report together with the Legal Test and the Board's Guidance on procedures for Hearings, were issued to all parties.

- 3.21 The procedure to be followed is attached at **Appendix 5**.
- 3.22 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.
- 3.23 Members' options in disposing of the application are:-
- (a) To grant the application;
 - (b) Refuse the application;
 - (c) Grant subject to varied hours and/or additional conditions or to partially grant the application; or
 - (d) Determine that further evidence is required in which case the applications should be referred to the next available Board Meeting in order that the applicants may present their case in full or further information can be obtained in the interim.
- 3.24 When coming to a decision the Board must consider the evidence provided and the contents of this report and 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 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 table below shows whether risks and implications apply if the recommendations 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 An Integrated Impact Assessment (IIA) has not been carried out as the processing of the application 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. The Council's Corporate and Directorate Risk Registers do not apply to the Licensing Board as it is a separate legal entity.
- 4.6. 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 paragraph 1.6 of the Scheme of Delegation which provides that consideration of a major variation to a premises licence is a matter reserved to the Board.

Karen Wiles

Clerk to the Board

Report Prepared by Jill Joss, Senior Solicitor (Governance), Depute Clerk to the Board, Solicitor (Governance)

Date: 8th June 2023

IDOX REFERENCE NUMBER: LAPREM/00108/22

List of Appendices:

Appendix 1: Major Variation Application, Proposed Operating Plan, Layout Plan, Activities Matrix and Risk Assessment.

Appendix 2: Copy of Representations

Appendix 3: Local Conditions

Appendix 4: Legal Test

Appendix 5: Procedure for Hearing

Appendix 6: Written Submissions – where made

APPENDIX 1

**COPY APPLICATION FORM, PROPOSED OPERATING PLAN, PROPOSED LAYOUT
PLAN, ACTIVITIES MATRIX AND RISK ASSESSMENT**

Licensing (Scotland) Act 2005, sections 29 and 31
APPLICATION FOR VARIATION OF PREMISES LICENCE/PROVISIONAL
PREMISES LICENCE*

*Delete as appropriate

If you are completing this form by hand, please write legibly in block capitals using black ink.

To:

*The Depute Clerk to the:-
(please tick the appropriate box)*

North Board – YES

Central Board

South Board

Please send your application to :-

*Depute Clerk to the Licensing Board
Aberdeenshire Council
Legal & Governance
Viewmount
Arduthie Road
Stonehaven
AB39 2DQ*

QUESTION 1: APPLICATION TYPE

Please complete, as appropriate:

a) Does this application relate to a minor variation of the premises licence?			NO	<input type="checkbox"/>
b) Does this application relate to a major variation of the premises licence?	YES	<input type="checkbox"/>		

QUESTION 2: PREMISES DETAILS¹

a. Premises Licence Number	AB - N – P142
b. Name of Premises	FRASERBURGH INDOOR LEISURE CENTRE
c. Address of Premises	NORTH LINKS, SEAFORTH STREET FRASERBURGH
d. Postcode	AB43 9BB

¹ Please submit the premises licence with this application

QUESTION 3: APPLICANT INFORMATION

a. Full Name of Applicant	FRASERBURGH INDOOR LEISURE CENTRE
b. Address (please insert registered address if applicant is a company/partnership or address of club or body)	NORTH LINKS, SEAFORTH STREET FRASERBURGH
c. Postcode	AB43 9BB
d. Contact Telephone Number	██████████
e. E-mail address	████████████████████
f. Correspondence address if different from above	

Now, either –

- ◆ complete PART A if you are applying for a minor variation; or
- ◆ complete PART B if you are applying for a major variation.

PART A: MINOR VARIATIONS

1) Do you propose a variation that does not result in any inconsistency with the operating plan?	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
If the answer to 1) is YES, please give details of the proposed variation below²				

2) Do you propose to restrict the terms on which children and young persons are admitted to the premises?³	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
If the answer to 2) is YES, please give details of the proposed variation below				
<u>Terms</u>				
Children				
Young Persons				
<u>Ages: Children being (0-15 years) and Young Persons being (16-17 years)⁴</u>				
Children				
Young Persons				
<u>Times⁵</u>				
Children				
Young Persons				

² Please submit 7 layout plans of the proposed layout with this application.

³ Please submit an amended operating plan reflecting the changes relating to children and young persons.

⁴ NOTE: Any amendment to increase the minimum age of children or young persons is classed as a minor variation. However, any amendment to reduce the minimum age of children or young persons is classed as a major variation in which case you should complete the relevant section at Question 5 on this form.

⁵ NOTE: Any amendment to reduce the times at which children or young persons are allowed onto the premises is classed as a minor variation. Any relaxation of the times at which children or young persons are allowed on the premises is classed as a major variation in which case you should complete the relevant section at Question 5 on this form.

Parts of the Premises specifically set aside for use by Children and Young Persons⁶	
Children	
Young Persons	
Parts of the Premises to which Children and Young Persons have Access^f	
Children	
Young Persons	

3) Do you propose to vary the information contained in the licence relating to the premises manager, including a variation to substitute a new premises manager?⁷	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
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If the answer to 3) is YES, please complete **PART 1** and **PART 2** below

PART 1: Details of Current Designated Premises Manager	
a. Personal Licence Number	
b. Full Name of Current Designated Premises Manager	
c. Address	
d. Postcode	
PART 2: Details of Proposed Designated Premises Manager⁸	
a. Title (delete as appropriate)	Mr/Mrs/Miss/Ms/Other (please state)
b. Surname	

⁶ Any restriction in access of children or young persons to certain parts of the premises is classed as a minor variation. Any increase in access of children or young persons to certain parts of the premises is classed as a major variation and you should complete the relevant section of Question 5 of this form.

⁷ Please submit an amended operating plan showing the details of the proposed premises manager with the application.

⁸ Please submit the personal licence or a certified copy of the personal licence, for the proposed designated premises manager and an amended operating plan showing the details of the proposed premises manager with this application

(include any previous names or maiden name where applicable)					
c. Forename(s)					
d. Address where ordinarily resident					
e. Postcode					
f. Contact Telephone Number					
g. E-mail address					
h. Date of Birth					
i. Place of Birth					
j. Correspondence address, including postcode (if different from c. above)					
k. Personal Licence Number					
l. Date of Issue of Personal Licence					
m. Name of Licensing Board that issued the Personal Licence					
n. Is the variation to take effect during the application period?	<table border="1"> <tr> <td>YES</td> <td><input type="checkbox"/></td> <td>NO</td> <td><input type="checkbox"/></td> </tr> </table>	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
YES	<input type="checkbox"/>	NO	<input type="checkbox"/>		
If the answer to n. above is NO, please provide the date from which the variation is to take effect.					

4) Do you propose to vary the name of the premises?	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
If the answer to 4) is YES, please give details of the proposed variation below				
Please provide details of the proposed name of the premises				

5) Do you propose a reduction in the licensed hours operated at the premises which does not result in the premises opening any earlier or closing any later than stated in the premises licence and operating plan?⁹	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
Is the reduction permanent? If the answer is “yes” please complete the relevant core hours and seasonal variations boxes below	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
Is the reduction temporary? If the answer is “yes” please indicate the variation in the seasonal variations box below	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>

5(a) STATEMENT OF CORE TIMES WHEN ALCOHOL WILL BE SOLD FOR CONSUMPTION ON PREMISES

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

Question 5(b): STATEMENT OF CORE TIMES WHEN ALCOHOL WILL BE SOLD FOR CONSUMPTION OFF PREMISES

Day	OFF Consumption

⁹ Please submit an amended operating plan showing the proposed hours with the application.

	<i>Opening time</i>	<i>Terminal hour</i>
<i>Monday</i>		
<i>Tuesday</i>		
<i>Wednesday</i>		
<i>Thursday</i>		
<i>Friday</i>		
<i>Saturday</i>		
<i>Sunday</i>		

Question 5(c): SEASONAL VARIATIONS

Does the applicant intend to operate according to seasonal demand?	YES/NO*
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*If YES – provide details

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6) Do you propose to reduce the capacity of the premises, whether resulting from a variation to the layout plan or otherwise?¹⁰	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
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If the answer to 6) is YES, please give details of the proposed capacity below

Please provide details of the proposed capacity of the premises	
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7) Do you propose a variation that will result in the cessation of the provision of licence or recorded music at a decibel level exceeding 85 decibels?¹¹	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
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If the answer to 7) is YES, please give details of the proposed variation below

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8) Do you propose a variation which will provide that, when the premises are fully occupied, more customers are likely to be seated than standing?^k	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
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If the answer to 8) is YES, please give details of the proposed variation below

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¹⁰ Please submit an amended operating plan showing the revised capacity for the premises

¹¹ Please submit an amended operating plan, amending Section 5 as appropriate

9) Do you propose any other variation as prescribed by Section 29(6)(d) of the 2005 Act?	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
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If the answer to 9) is YES, please give details of the proposed variation below¹²

¹² Dependent on the nature of the variation, you may require to lodge 7 sets of amended plans and/or an amended operating plan with the application.

PART B: MAJOR VARIATIONS

1) Do you propose a variation to the conditions to which the licence is subject (other than those to which the licence is subject by virtue of Section 27(1))? ¹³			NO	<input type="checkbox"/>
If the answer to 1) is YES, please give details of the proposed variation below				

2) Do you propose a variation to any of the information contained in the operating plan contained in the licence?	YES	<input type="checkbox"/>		
If the answer to 2) is YES, please give details of the proposed variation below¹⁴				
<ul style="list-style-type: none"> • Seasonal variation – where a pool or darts competition is being held, bar to open at 9am, with a terminal hour of 12am. • Amendments of core terminal hours, increasing on a Thursday, decreasing on a Sunday • Closure on 3rd January • Removal of May day and local holiday hours • Add Off Sales • Amendments to activities including activities outwith core hours • Adding Films and Adult Entertainment (Buff butlers for Ladies Days and Drag Acts, strictly no strippers) • Restricting children’s access in terms of times and areas • Increase capacity for pool rooms 				

If you are proposing a relaxation in relation to the children and young persons section of the operating plan, please complete the following section¹⁵				
3) Do you propose to relax the terms on which children and young persons are admitted to the premises?			NO	<input type="checkbox"/>

¹³ Dependent on the nature of the variation, you may require to lodge 7 sets of amended plans and/or an amended operating plan with the application.

¹⁴ Please submit an amended operating plan reflecting the proposed changes with this application.

¹⁵ Please submit an amended operating plan reflecting the proposed changes with this application.

If the answer to 3) is YES, please give details of the proposed variation below¹⁶	
<u>Terms</u>	
Children	
Young Persons	
<u>Ages: Children being (0-15 years) and Young Persons being (16-17 years)¹⁷</u>	
Children	
Young Persons	
<u>Times¹⁸</u>	
Children	
Young Persons	
<u>Parts of the Premises specifically set aside for use by Children and Young Persons¹⁹</u>	
Children	
Young Persons	
<u>Parts of the Premises to which Children and Young Persons have Access ⁿ</u>	
Children	
Young Persons	

¹⁶ Please submit an amended operating plan reflecting the changes to the terms.

¹⁷ NOTE: Any amendment to reduce the minimum age of children or young persons is classed as a major variation. However, any amendment to increase the minimum age of children or young persons is classed as a major variation in which case you should complete the relevant section at Question 4 on this form.

¹⁸ NOTE: Any amendment to relax the times at which children or young persons are allowed onto the premises is classed as a major variation. Any reduction of the times at which children or young persons are allowed on the premises is classed as a minor variation in which case you should complete the relevant section at Question 4 on this form.

¹⁹ Any relaxation in access of children or young persons to certain parts of the premises is classed as a major variation. Any restriction in access of children or young persons to certain parts of the premises is classed as a minor variation and you should complete the relevant section of Question 4 of this form.

4) Do you propose a variation to the layout plan contained in the licence?	YES	<input type="checkbox"/>		
If the answer to 4) is YES, please give details of the proposed variation below²⁰				
<p>Adding new pool room area to the licensed areas</p>				

5) Do you propose to vary any other information contained or referred to in the licence, including an addition, deletion or modification?	YES	<input type="checkbox"/>		
If the answer to 5) is YES, please give details of the proposed variation below²¹				
<ul style="list-style-type: none"> • Application to include matrix of activities • Notification of connected persons • Updated Licensing Risk Assessments 				

Now complete the DECLARATION overleaf

GDPR

The applicant, and, where the applicant is a company, business or other body, any person who has supplied personal information as part of this application **MUST READ AND UNDERSTAND THE ATTACHED PRIVACY NOTICE.**

²⁰ Please submit 7 layout plans of the proposed layout with this application.

²¹ Depending on the nature of the variation, you may also need to lodge 7 amended layout plans and/or an amended operating plan with this application.

DECLARATION BY APPLICANT OR AGENT ON BEHALF OF APPLICANT

If signing on behalf of the applicant please state in what capacity.

The contents of this Application are true to the best of my knowledge and belief **and the appropriate persons have read the attached privacy notice.**

Signature K Sutherland (see note below)

Date 30/06/2022

Capacity APPLICANT

Where the signatory is an agent, please complete the following:

Name	
Telephone Number	
Postal address	
Postcode	
DX Number	
Legal Post Number	
E-Mail address	

*** Data Protection Act 1998**

The information on this form may be held on an electronic public register which may be available to members of the public on request.

<i>I have enclosed the relevant documents with this application – please tick the relevant boxes</i>	
<i>Premises Licence</i>	
<i>Letter explaining why the Premises Licence Has not been produced.</i>	
<i>Operating Plan**</i>	
<i>Layout plans**</i>	
<i>Personal Licence of the Proposed Premises Manager</i>	

Fee	
For use by the Licensing Board only	
Application checklist	
Date received	
Fee amount	
Receipt number	
Received by (INITIALS)	
Consideration date	
Last date for consideration	
Date of initial hearing	
Date of any modification hearing	
Date granted/refused (delete as appropriate)	

FOR OFFICIAL USE ONLY	
DATE RECEIVED AT SERVICE POINT	
NAME OF CUSTOMER SERVICE ADVISOR	
CUSTOMER SERVICE ADVISOR SIGNATURE	

SUBMITTED AT WHICH SERVICE POINT?						
BANFF	ELLON	HUNTLY	INVERURIE	PETERHEAD	STONEHAVEN	TURRIFF

FEES

1. Application for Minor Variation (except 2. below)	£20
2. Application for Variation which includes an “immediate effect” change of the Premises Manager details	£31
3. Application for Major Variation	£350

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

If you are completing this form by hand, please write legibly in block capitals using ink.

To:

*The Depute Clerk to the:-
(please tick the appropriate box)*

North Board - YES

Central Board

South Board

Please send your application to :-

*Aberdeenshire Council
Viewmount
Arduathie Road
Stonehaven
AB39 2DQ*

Question 1

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

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

Question 2

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

<i>Day</i>	<i>ON Consumption</i>	
	<i>Opening time</i>	<i>Terminal hour</i>
Monday	11AM	11PM
Tuesday	11AM	11PM
Wednesday	11AM	11PM
Thursday	11AM	11.30PM
Friday	11AM	12AM
Saturday	11AM	12AM
Sunday	11AM	10PM

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	11AM	10PM
Tuesday	11AM	10PM
Wednesday	11AM	10PM
Thursday	11AM	10PM
Friday	11AM	10PM
Saturday	11AM	10PM
Sunday	11AM	10PM

Question 4

SEASONAL VARIATIONS

Does the applicant intend to operate according to seasonal demand?	YES
--	-----

*If YES – provide details

- In respect of the hours required for **POOL** competitions, where such events takes place, bar will open at 9am, with a terminal hour of 12am. These may take place any day of the week.
- In respect of the hours required for **DARTS** competitions, where such events takes place, bar will open at 9am, with a terminal hour of 12am. These may take place any day of the week.
- Events and concerts, open to the public, Friday and Saturday – Terminal hour 1am.
- Private functions, Friday and Saturday – Terminal hour 1am.
- Fridays and Saturdays in December, premises terminal hour 1am, with the exception of 31st December, 24th & 25th December and 1st, 2nd & 3rd January.
- Pre-panto ticket sales, last weekend in November, premises open to public from 7am, no sale of alcohol until core hours.
- 24th December – close at 10.30am
- 25th & 26th December – premises closed
- 31st December – terminal hour 1.30am
- 1st, 2nd & 3rd January – premises closed
- Premises may close earlier due to lack of demand

Question 5

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

COL. 1	COL. 2	COL. 3	COL. 4
5(a) Activity	Please confirm YES/NO	To be provided during core licensed hours – please confirm YES/NO	Where activities are also to be provided outwith core licensed hours please confirm YES/NO
<i>Accommodation</i>	N/A	N/A	N/A
<i>Conference facilities</i>	YES	YES	YES
<i>Restaurant facilities</i>	YES	YES	YES
<i>Bar meals</i>	YES	YES	YES
5(b) Activity Social functions including:	Please confirm YES/NO	To be provided during core licensed hours – please confirm YES/NO	Where activities are also to be provided outwith core licensed hours please confirm YES/NO
<i>Receptions including</i> <i>Weddings, funerals,</i> <i>birthdays, retirements</i> <i>etc.</i>	YES	YES	YES
<i>Club or other group</i> <i>meetings etc.</i>	YES	YES	YES
5(c) Activity Entertainment including:	Please confirm YES/NO	To be provided during core licensed hours – please confirm YES/NO	Where activities are also to be provided outwith core licensed hours please confirm YES/NO
<i>Recorded music – see</i> <i>5(g)</i>	YES	YES	YES
<i>Live performances – see</i> <i>5(g)</i>	YES	YES	NO
<i>Dance facilities</i>	YES	YES	NO
<i>Theatre</i>	YES	YES	NO
<i>Films</i>	YES	YES	NO

<i>Gaming</i>	YES	YES	YES
<i>Indoor/outdoor sports</i>	YES	YES	YES
<i>Televised sport</i>	YES	YES	YES
5(d) Activity	Please confirm YES/NO	To be provided during core licensed hours – please confirm YES/NO	Where activities are also to be provided outwith core licensed hours please confirm YES/NO
<i>Outdoor drinking facilities</i>	NO	NO	NO
5(e) Activity			
<i>Adult entertainment</i>	YES	YES	NO

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

Food may be served in restaurant and bar area from 9am, No sale of alcohol until core hours of 11am.

Social functions and meetings may be available from 9am, No sale of alcohol until core hours of 11am.

Recorded music and gaming will be available from 9am.

Indoor sports including pool and darts will be available from 9am with the sale of alcohol

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.

Ten pin bowling / indoor bowling / billiards / snooker / darts / fashion shows / sporting activities / musical entertainment / exhibitions/ quiz nights / competitions / boxing displays / fundraising events including race nights and prize bingo / local pantomime and summer show / fayres /

indoor car boot sales / wrestling exhibitions / sportspersons dinners / kids parties / afternoon teas / ladies days

5(g) Late night premises opening after 1.00am

Where you have confirmed that you are providing live or recorded music will the decibel level exceed 85dB?	
When fully occupied, are there likely to be more customers standing than seated?	
*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?	YES
	*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 12 YEARS AND OVER CAN ACCESS ALL PUBLIC AREAS UNACCOMPANIED

CHILDREN UNDER 12 YEARS CAN ACCESS ALL AREAS SUBJECT TO APPROPRIATE ADULT SUPERVISION EXCEPT GAMES ROOM AREAS (FOR THE PURPOSES OF POOL & SNOOKER)

THIS IS SUBJECT TO THE MANAGEMENT IMPOSING AGE RESTRICTIONS IN RELATION TO ACCESS TO SPECIFIC EVENTS IN EXHIBITION HALL AND FUNCTION HALL

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

CHILDREN 0-15 YEARS

YOUNG PERSONS 16 & 17 YEARS

*NO RESTRICTIONS * SUBJECT TO ABOVE*

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

- *CHILDREN UNDER 12 YEARS OF AGE MAY REMAIN ON THE PREMISES UNTIL 11PM AND MUST BE SUPERVISED BY A RESPONSIBLE ADULT AT ALL TIMES*
- *CHILDREN AGED 12-15 YEARS MAY REMAIN ON THE PREMISES UNACCOMPANIED UNTIL 10PM AND THEREAFTER, UNTIL 11PM THEY MUST BE ACCOMPANIED BY A RESPONSIBLE ADULT*
- *YOUNG PERSONS – MAY REMAIN ON THE PREMISES UNTIL 11PM UNACCOMPANIED, THEREAFTER MUST BE ACCOMPANIED BY A RESPONSIBLE ADULT.*
- *CHILDREN ACCOMPANIED BY A RESPONSIBLE ADULT ATTENDING A SPECIFIC PRIVATE SOCIAL FUNCTION MAY ATTEND UNTIL THE TERMINAL HOUR*

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

YOUNG PERSONS – NO RESTRICTIONS

CHILDREN – ALL PUBLICLY ACCESSABLE AREAS. CHILDREN WILL HAVE NO ACCESS TO GAMING MACHINE IN LOUNGE BAR

Question 7

CAPACITY OF PREMISES

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

ON SALES – 3000

CAPACITY BREAKDOWN –

RESTAURANT 117

BAR & LOUNGE – 85

10 PIN BOWLING – 191

FUNCTION SUITE AND LOUNGE/SPORTS HALL – 332

BOWLING HALL / EXHIBITION HALL – SEATING ONLY 1482, STANDING ONLY 2235

POOL / SNOOKER ROOM – 25

NEW GAMES ROOM - 15

Question 8

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

Personal details

8(a) Name

KERRY IRONSIDE SUTHERLAND

8(b) Date of birth

██████

8(c) Contact address

[Redacted]

8(d) Email address

[Redacted]

8(e) Personal licence

Date of issue	Name of Licensing Board issuing	Reference no. of personal licence
2 APRIL 2013	ABERDEENSHIRE LICENSING BOARD	[Redacted]

DECLARATION BY APPLICANT OR AGENT ON BEHALF OF APPLICANT

If signing on behalf of the applicant please state in what capacity.

The contents of this operating plan are true to the best of my knowledge and belief.

Signature K Sutherland * (see note below)

Date 30/06/2022

Capacity : APPLICANT (delete as appropriate).

Telephone number and email address of signatory

[Redacted]

[Redacted]

Address of Agent (if applicable)

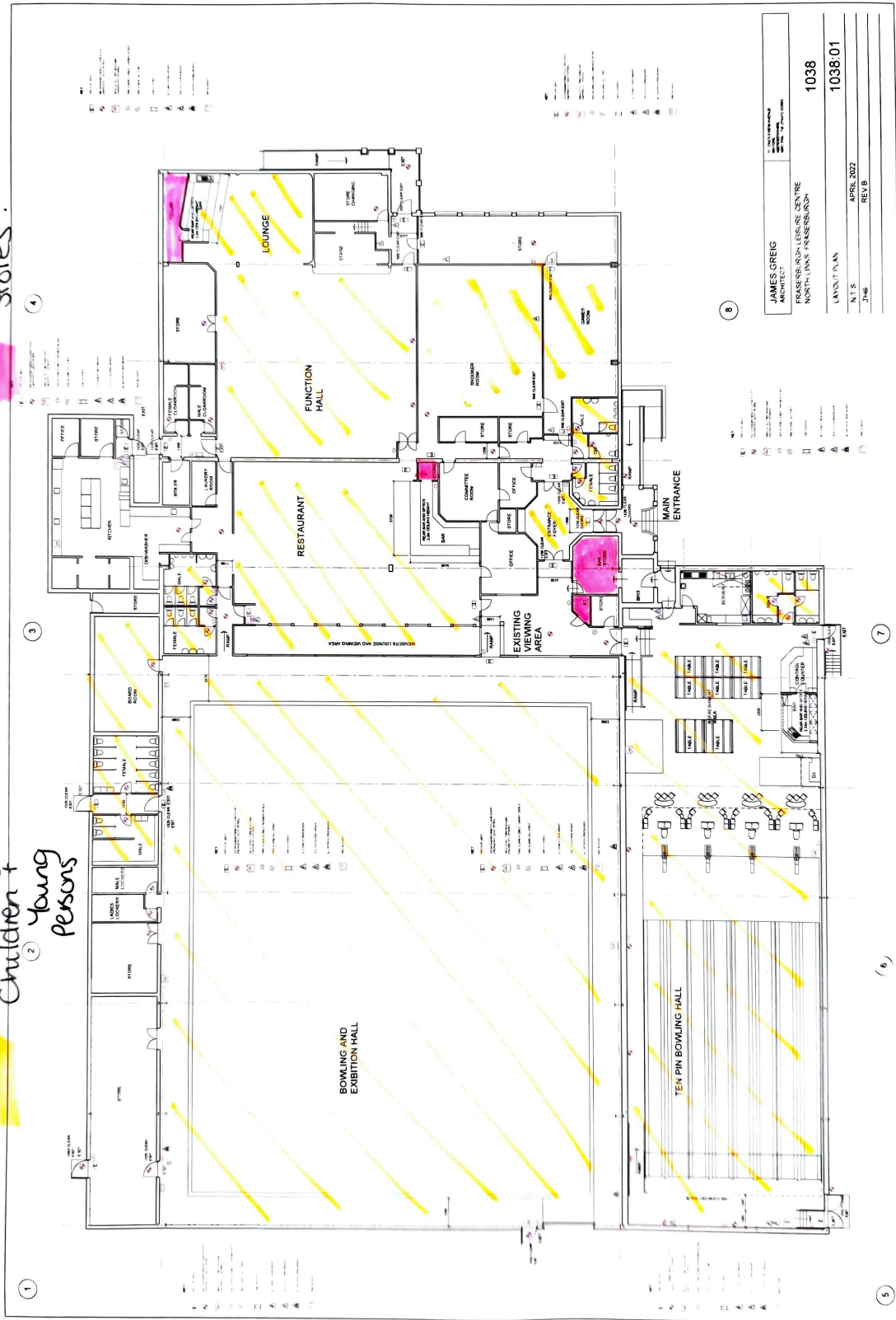
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* Data Protection Act 1998

The information on this form may be held on an electronic public register which may be available to members of the public on request.

lockfast stores

Access by
Children +
Young
Persons



(6)

Activities Matrix

ACTIVITY	ALL AREAS	RESTAURANT	BAR / LOUNGE AREA	TEN PIN BOWLING	EXHIBITION HALL/ INDOOR BOWLING	FUNCTION HALL	GAMES ROOM & POOL/SNORKEL ROOM
CONFERENCE FACILITIES	YES						
RESTAURANT FACILITIES	YES						
BAR MEALS		YES	YES				
RECEPTIONS INCLUDING WEDDINGS, FUNERALS, BIRTHDAYS ETC		YES	YES	YES	YES	YES	
CLUB OR OTHER GROUP MEETINGS		YES	YES			YES	
RECORDED MUSIC	YES						
LIVE PERFORMANCES			YES		YES	YES	
DANCE FACILITIES					YES	YES	
THEATRE					YES	YES	
FILMS					YES	YES	
GAMING				YES	YES	YES	
INDOOR/OUTDOOR SPORTS				YES	YES	YES	YES
TELEVISED SPORT		YES	YES				YES
ADULT ENTERTAINMENT					YES	YES	
FASHION SHOWS					YES	YES	
QUIZ NIGHTS					YES	YES	
FUNDRAISING EVENTS					YES	YES	

PANTOMIME/ SUMMER SHOW					YES		
XMAS FAYRE						YES	
INDOOR CAR BOOT SALES					YES	YES	
KIDS PARTIES						YES	
SPORTSPER SONS DINNERS					YES	YES	
WRESTLING / BOXING DISPLAYS					YES	YES	
POOL / SNOOKER / DARTS					YES	YES	YES
TEN PIN BOWLING				YES			
INDOOR BOWLING					YES		
AFTERNOON TEAS INC LADIES DAYS		YES	YES		YES	YES	

RISK ASSESSMENT FORM

ASSESSOR – Ashleigh Buchan

Date Assessed – 24/06/2022

Location – Fraserburgh Leisure Centre, North Links, Seaforth Street, Fraserburgh, AB43 9BB

Risk Assessment Categories

Persons Exposed (P):	Frequency (F):	Severity (S):	Risk Rating (R)
A Operator H Customers/Visitors	10 Certain to Happen	10 Multiple Deaths	100-48 PROHIBIT ACTIVITY IMMEDIATELY review activity
B Cleaners I Contractors	8 Very Likely	8 Single Deaths	40 Risk not adequately controlled additional control measures required to reduce risk
C Maintenance J Lone Workers	6 Likely	6 Major Injury, Disabling Illness	36-20 Activity requires further in depth assessment to ascertain whether adequately controlled
D Young Person K Disabled Persons	4 May Happen	4 Lost time injury/illness	16-8 Risk adequately controlled. Inform staff of risk
E Trainees L Members of Public	2 Unlikely	2 Minor Injury/nuisance	6-1 Risk deemed trivial. No requirement to inform staff of risk
F New & Expectant Mothers M Others (specify)	1 Very Unlikely	1 Trivial Injury/nuisance	
G Employees			

Ref No	Activity (ref North Aberdeenshire's guidance for licence holders)	Significant Hazard	Persons Affected	Current Control Measures in Place	F (1-10)	S (1-10)	R (1-100)
1	Preventing Crime & Disorder Entry & Exit	1.1 to 1.5 inc	G,H,L	Trained/licensed door staff on the premises for events held in the Centre. Names of door staff available. Staff aware to exclude known trouble makers and those appearing to be intoxicated	1	1	1
		1.6 to 1.9 inc	G,H,L	Staff trained and aware to monitor customers. Anyone found to be in possession of weapon or drugs would be held on the premises if safe to do so until the police arrive. No history of either reported on premises. Knife ban in force through Pubwatch. Posters displayed	1	1	1
1	Preventing Crime and Disorder Entry and Exit Continued	1.10 to 1.12 inc	G,H,L	Premises Manager is involved in local pubwatch and knows the other local landlords/premises owners. Police consulted prior to special events that are to be held at the centre	1	1	1
		1.13	G,H	Known trouble makers are excluded from the premises, including access to private parties / functions	1	1	1
		1.14	G,H,L	Staff aware and door staff monitor premises. Large groups usually at start of night for meals, 10 pin bowling sessions or to attend events	1	1	1
		1.15	G,H,L	Staff trained and aware to look for signs and refuse service	1	1	1
		1.16	G,H,L	Local taxis available, customers can wait in premises	1	1	1

1	Proof of age	1.17, 1.18	G,H	Posters displayed in premises (cant tell, wont sell) Staff trained and aware to ask if in doubt Photo driving licence and passport only accepted as proof	1	1	1
1	Glass & Bottles	1.19	G,H	Log of refusals kept on the premises	1	1	1
		1.20 to 1.23 inc	G,H,L	Staff remove glasses and bottles from tables etc, waitress service in restaurant, glasses collected regularly during opening hours. CCTV in operation. Plastic glassed used during special events/exhibitions	1	1	1
1	Byelaws on alcohol in designated places	1.24	G,H,L	No glasses, bottles or open drink allowed off the premises. Staff monitor and remove where necessary	1	1	1
2	Securing Public Safety	2.1	G,H,L	Selection of Safety/CoSHH related data available on premises (general, kitchen and laundry specific)	1	1	1
		2.2, 2.3	G,H	Staff monitor levels during opening times, mostly passing trade in bar areas. Dining room pre booking system in place. Ten Pin Bowling and events controlled by booking or ticket system	1	1	1
		2.4	G,H,M (emergency personnel)	Procedure in place to evacuate premises in the event of an emergency, staff assists if needed. Good fire exit layout in the premises with fire actions displayed. Break glass points and fire extinguishers located throughout the premises	1	1	1
		2.5	G,H	Accident book held on premises	1	1	1
		2.6	G,H	Checks carried out daily while setting up, any defects noted are reported to manager who arranges remedial works. Ten pin	1	1	1

						bowling technicians/maintenance staff employed					
		2.7		G,H		Checked daily by staff during cleaning/set up operations	1	1	1	1	
		2.8		G,H		Exits checked daily and any obstructions removed by staff when found	1	1	1	1	
		2.9		G,H		Periodic inspections in-house and by 3 rd party trades re PAT Testing, electrical, kitchen extraction system etc	1	1	1	1	
		2.10		G,H		Inspected regularly by staff / manager with remedial works organised by owner as required	1	1	1	1	
		2.11		G,H		Inspected during cleaning / set up activities with any defects noted reported to manager for remedial action to be arranged	1	1	1	1	
		2.12		G,H,L		All hot food prepared in kitchen situated behind restaurant on ground floor, or small kitchen to rear of ten pin bowling, Waitress service of meals throughout the premises and no public access to kitchen areas is allowed. Cook safe system in operation	1	1	1	1	
		2.13		G,H		First Aid boxes (kitchen and general) first aid trained persons	1	1	1	1	
		2.14		N/A		No strobe lighting or smoke machines used on the premises	1	1	1	1	
		2.15		G,H		Ramps to aid access and egress. Staff aware and would assist in the removal of anyone requiring assistance. No lifts on the premises	1	1	1	1	
3	Prevention of Public Nuisance	3.1 to 3.8 inc		G,H,L		All extraction services regularly cleaned and maintained with vents positioned to prevent noise and smell pollution. Doors / windows to be kept closed, self closers fitted to all doors and double glazing fitted to windows.	1	1	1	1	

					No take-aways off any kind sold. Bins are kept locked and kept under cover, disposal at day times only, no external speakers. No noise sensitive premises close by. External illumination limited to signage and to aid access/egress	N/A	N/A	N/A	N/A
		3.9	N/A		No poster type advertising used			1	1
		3.10/3.11	G,H,L		No other licenced premises close at hand. Queuing on premises to gain entry to events controlled by door staff			1	1
		3.12	G		Staff use own transport to travel to and from the premises, car sharing where possible			1	1
		3.13	N/A		Good car park facilities at premises, isolated location overlooking commercial area			N/A	N/A
		3.14, 3.15	G,H		Local taxi companies in operation. Bus service in town. Drivers enter premises to collect customers			1	1
4	Protecting and Improving Public Health	4.1	G,H		Copy of standard kept on the premises			1	1
		4.2	G,H		Good range of non-alcoholic beverages (soft and fizzy drinks), tea and coffee on sale			1	1
		4.3	G,H		Staff monitoring and aware. CCTV in operation. No previous history of drink spiking			1	1
		4.4	G,H		Leaflets available giving information on alcohol units. Unit calculator held on premises			1	1
5	Protection of children from harm	5.1 to 5.7 inc	G,H,L,D		No children only functions held on the premises. Dining, lounge, ten pin bowling and event hall areas have separate accesses and toilet			N/A	N/A

6	General							<p>facilities and baby change facility is available. All alcohol held behind bars with good segregation of alcoholic and non-alcoholic beverages. Security grill fitted to bars to prevent unauthorised access.</p> <p>The premises comprise of a lounge bar, restaurant, pool/snooker halls, ten pin bowling alley and the sports/function all which doubles as an indoor bowling green in the winter. Situated at the edge of the town in a mostly commercial area the centre stands in its own grounds. Premises in good order throughout and show a high level of maintenance, decoration. Externally no evidence of litter etc. Good display of information throughout the premises. Fire extinguishers and break glass alarm point's well laid out within the premises. All exits with push bar type openers and illuminated signage. Good arrangement of Health and Safety posters information displayed on the premises. Kitchen is run on the "Cook Safe" operation system with cleaning and maintenances schedules available. Good arrangement of toilet facilities throughout the premises. Cellar holds well maintained equipment with operating and cleaning instructions to hand, no public access allowed. Cellar and Spirit store kept locked at all times.</p>
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APPENDIX 2

COPY REPRESENTATIONS



Infrastructure Services

Environmental Health

St Leonards

Sandyhill Road

Banff

AB45 1SD

www.aberdeenshire.gov.uk

DX 521328 Banff

LIC Ref: LAPREM/00108/22

SW Ref: SR929517

Ask for: Sarah Ward

Direct Dial: [REDACTED]

Email: [REDACTED]

Date: 22/12/2022

FAO: The Depute Clerk to the Aberdeenshire Licensing Board

Dear Sir / Madam

LICENSING (SCOTLAND) ACT 2005

REPRESENTATION TO APPLICATION FOR MAJOR VARIATION TO PREMISES LICENCE AB-N-P142–
Fraserburgh Indoor Leisure Centre

I confirm that the 21-day site notice was on display and signed, 16th December 2022.

In respect of this application, I have the following comments to make:

At Question 4 of the operating plan the following statement is entered twice:

- In respect of the hours required for pool competitions, where such events takes place, bar will open at 9am, with a terminal hour of 12am. These may take place any day of the week.

Recommend removal of one of the statements.

The layout plan reflects a Games room, however this is the New pool room, as stated in the variation application form and operating plan; please arrange for the layout plans to be updated to reflect name of room as "Pool Room" to avoid any confusion in respect of "Gaming / Games room".

I recommend the following conditions in line with licensing boards policy, as follows:

1 - 11, 18 - 21, 22-30, 31-33, 35-39

I've no further comments or observations.

Yours sincerely,

Sarah Ward

Civic Licensing Standards Officer

If you have difficulty reading this document, please contact

Sarah Ward 

21 December 2022

Your Ref: LAPREM/00108/22
Our Ref: 683822

Depute Clerk to the Licensing
Board
Aberdeenshire Council
Corporate Services
Legal and Governance
Viewmount
Arduthie Road
STONEHAVEN
AB39 2DQ



Dear Sir/Madam,

**LICENSING (SCOTLAND) ACT 2005
APPLICATION FOR THE VARIATION OF A PREMISES LICENCE
FRASERBURGH INDOOR LEISURE CENTRE, SEAFORTH STREET,
FRASERBURGH, ABERDEENSHIRE, AB43 9BB**

I refer to the above variation of a premises licence in terms of Section 29(5) of the Licensing (Scotland) Act 2005.

The variation requested consists of:

1. Seasonal variation – where a pool or darts competition is being held, bar to open at 9am, with a terminal hour of 12am;
2. Amendments of core terminal hours, increasing hours on a Thursday 1100-2330 hours and decreasing on a Sunday 1100 – 2200 hours;
3. Closure on 3rd January;
4. Removal of May day and local holiday hours;
5. Add Off Sales from 1100 – 2200 daily;
6. Amendments to activities including activities outwith core hours, adding Films and Adult Entertainment (Buff butlers for Ladies Days and Drag Acts, strictly no strippers);
7. Restricting children's access in terms of times and areas;
8. Increase capacity for pool rooms.

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

In respect of points 2,3,4,5,6,7 and 8, I have no adverse comment to make.

In terms of Section 22(1)(b)(ii) and (iii) of the Licensing (Scotland) Act 2005, I make the following representation;

In respect of point 1 above, in line with the licensing objective, protecting preventing crime and disorder and the fact the premises capacity is 3000 persons, it would be requested that when darts and pool competitions are organised the licence holder requires;

1. Making the events ticketed;
2. During any event children and young persons to be accompanied by a responsible person aged 18 years or over;
3. No Children and Young Persons to be permitted at the bar areas;
4. A sufficient number of SIA licensed stewards to be on duty to ensure routine stewarding duties carried out, which support the five licensing objectives;
5. All refreshments to be decanted into a safety alternative to glass at the point of sale;
6. The Alcohol Management Plan, Drug Awareness Policy, Medical Plan, Event Plan, and Stewarding Plan must be submitted to Police Scotland within 12 weeks prior to the event and must be adhered to for the duration of the event.

This response is subject to government guidance or measures in place at the time of the event, in respect of COVID-19.

This letter has been submitted for your attention when considering this application.

Yours faithfully

██████████

Graeme Mackie

Chief Superintendent











For enquiries please contact the Licensing Department on ██████████





























APPENDIX 3




LOCAL CONDITIONS









LOCAL CONDITIONS: PREMISES LICENCES

A. THE ABERDEENSHIRE LICENSING BOARD

General Management for All Premises		
1	The provisions relating to management of licensed premises contained within the Board's current policy statement, particularly Appendix 1 thereto, must be complied with.	PCD, SPS, PPN PIPH, PCYPFH 
2	Premises Licence Holders must ensure that the premises, internally and externally, are maintained in good, clean and tidy condition at all times.	SPS, PPN 
3	Premises Licence Holders must ensure that Refusal Registers and Daily Incident logs are accessible for inspection by Police and Licensing Standards Officers	PCD, SPS 
4	The Licence Holder must ensure that any general authorisation for the sale of alcohol required within the premises is – <ul style="list-style-type: none"> • in writing • available for inspections by Police and Licensing Standards Officers • brought to the attention of and signed by all parties; and • enforced by the premises manager 	PCD, SPS, PPN, PIPH, PCYPFH 
Noise – All Premises		
5	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.	PPN 
Lockfast Store – All Premises		
6	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.	PCD, SPS 
Children and Young Persons – On Sale Premises		
7	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.	PCYPFH 
8	The Licence Holder shall provide safe high chairs for the use of young children	SPS, PCYPFH 
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  
Premises Providing Late Night Entertainment – On Sale Premises		
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    
Adult Entertainment – On Sale Premises		
18	Children and young persons are not permitted to attend any event involving adult entertainment.	PCYPFH 
Vulnerability – All Premises		
19	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. 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. The Licence Holder shall ensure that staff training records are made accessible for inspection by Police Scotland and Licensing Standards Officers.	PCD, SPS, PPN PIPH, PCYPFH     




Door Supervisors – On Sale Premises		
20	<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"> a. Confirm that persons who seek access to the premises have paid for admission or have appropriate passes/invitations; b. Identify and refuse entry to drunken persons c. Identify and refuse entry to any persons banned through pubwatch or by any other means; d. Actively police the premises and to perform all activities in line with their role under the Private Security Act 2001; e. Supervise entrance doors/access points at all times to ensure that no fire or other exits are blocked; f. Be aware of the fire safety precautions and procedures and all other policies and practices; g. Be aware of the premise’s drug prevention policy; h. Provide assistance to patrons, including customer care, directions to facilities and health and safety; i. Ensure that no patron removes glasses, or open or closed vessels from the premises when exiting for any reason. 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; k. Be aware of the provisions of the Licensing (Scotland) Act 2005 which impact on the running of the premises; 	<p>PCD, SPS, PPN PIPH</p> 
CCTV – All Premises		
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> 
Members Clubs		
22	<p>Members Clubs must comply with the provisions of Supplementary Policy Statement 7 of the Board’s current policy statement.</p>	<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 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>PCD, SPS, PPN, PIPH, PCYPFH</p> 
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.	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 
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.	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 
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.	<p>SPS, PPN</p> 
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"	<p>SPS, PPN</p> 

Beer Gardens and Outside Drinking Areas

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"> • The evacuation of the premises; and • The prevention of the misuse of drugs on the premises. • Duty of care ('Vulnerability through Intoxication') 	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

	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 4 - Licensing (Scotland) Act 2005
Part 3 & Sections 29-32
Application for Variation of a Premises Licence

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)¹**
 - (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-
 - (a) the Board **MUST** specify the ground for refusal, and

¹ 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

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

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 Boards' 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
 - 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.
1. In terms of Section 17 of the 2005 Act, a premises licence is required to authorise the sale of alcohol on premises.
 2. In terms of Section 29(1) of the Act a premises licence holder may apply to the appropriate Licensing Board for a variation of the licence.
 3. A variation application must be accompanied by –
 - (a) the premises licence to which the application relates, or
 - (b) if that is not practicable, a statement of the reasons for failure to produce the licence.
 4. A “variation” in relation to a premises licences, commonly referred to as a major variation, means any variation of –
 - (a) any of the conditions to which a licence is subject (other than those to which the licence is subject by virtue of section 27(1)²)
 - (b) Any of the information contained in the operating plan contained in the licence
 - (c) the layout plan contained in the licence, or
 - (d) Any other information contained or referred to in the licenceAnd includes an addition, deletion or other modification.
 5. A “minor variation” means –
 - (a) any variation of the layout plan, if the variation does not result in any inconsistency with the operating plan
 - (b) where, under the operating plan contained in the licence, children or young persons are allowed entry to the premises, any variation reflecting any restriction

² The mandatory conditions

- or proposed restriction of the terms on which they are allowed entry to the premises
- (c) 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
 - (d) any other variation of such description as may be prescribed for the purposes of this subsection.

6. A variation application can also be made where –

- (a) the variation sought is the substitution of another individual as the premises manager, and
- (b) the applicant requests in the application that the variation should have immediate effect.

Where this happens, the premises licence to which the application relates has effect during the application period³ as if it were varied as proposed in the application.

7. The Boards' current Scheme of Delegation make the following provisions for determination of applications for variation of licence:-

Section 1.6	Determination of a variation application where the variation sought is not a minor variation (major variation)	Reserved to the Board
Section 3.1	Determination of any variation application where the variation sought is a minor variation	Delegated to the Clerk to the Board or any person appointed to assist them
Section 3.2	Determination of variation application to substitute a new premises manager	Delegated to the Clerk to the Board or any person appointed to assist them
Section 3.3	Determining whether to cite an applicant to a hearing for a variation application where the variation is not a minor variation (major variation)	Delegated to the Clerk to the Board or any person appointed to assist them

Each application must be determined on its own merits.

- 8. The sections of the Act relating to the lodging of objections or representations and the Board's ability to request an anti-social behaviour report⁴ also apply to major variations. These are as undernoted.
- 9. In terms of Section 21(3) of the Act the Chief Constable must provide the Board with either –
 - a. A notice in terms of Section 21(4)(a) stating that neither the applicant, nor, in the case where the applicant is neither an individual nor a council, or where the

³ The application period is the period beginning when the application is received by the Licensing Board and ending when the variation takes effect or, if the application is withdrawn before it is determined, when it is withdrawn.

⁴ Sections 21, 22 and 24A

application is in respect of premises which are to be used wholly or mainly for the purposes of a club, any connected person, has been convicted of any relevant or foreign offence.

b. A notice in terms of Section 21(4)(b) of the Act specifying any convictions of the applicant or any relevant connected person for a relevant or foreign offence.

10. Section 22 of the Act provides that any person may, by notice to the Licensing Board-

a. Object to the application on any ground relevant to one of the grounds for refusal (outlined in the legal test above); or

b. make representations to the Board concerning the application, including, in particular, representations –

(i) in support of the application

(ii) as to modifications which the person considers should be made to the operating plan accompanying the application, or

(iii) as to conditions which the person considers should be imposed.

Such notices of objection or representation may include any information that the person considers may be relevant to consideration by the Board of any ground for refusal, including, in particular, information in relation to –

(a) The applicant,

(b) Where the applicant is neither an individual nor a council, a connected person in relation to the applicant, or

(c) Any person who would be an interested party in relation to the subject premises if the application were to be granted.

11. The Chief Constable, where making a representation concerning a premises licence can give to the Board a report detailing –

a. any cases of antisocial behaviour identified by constables as having taken place on or in the vicinity of the premises.

b. any complaints or other representations made to constables concerning antisocial behaviour on, or in the vicinity or, the premises.

12. The Board must –

a. give a copy of the notice to the applicant in such manner and by such time as may be prescribed; and

b. have regard to the objection or representation (including any information included about the applicant, any connected person or any interested party) in determining the application.

13. A Licensing Board may reject a notice of objection or representation received by the Board if the Board considers the objection or representation to be frivolous or vexatious.

14. A Board may recover any expenses incurred by the Board in rejecting a notice of objection or representation from the person who lodged the notice.

15. 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.

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 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 licences 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 holder's 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).

APPENDIX 5 - Procedure for remote Licensing Hearings –

APPLICATIONS FOR A LICENCE

- (a) Identify whether the applicant and his/her advisors are present.
- (b) Identify whether the Objector(s) and his/her advisors are present. [in turn]
- (c) Invite the applicant to speak to his application (outline to the Board why the application has been made and make any comments in relation to any observation/objection made in respect of the application)
- (d) Ask the Objector(s) to speak to the Objection(s) or Observation(s) [in turn]
- (e) Give the applicant an opportunity to address any issues raised by the Objector(s).

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.**

- (f) Members MAY then question all parties present.
- (g) Convenor should invite concluding remarks (objector(s) then applicant), 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.

- (h) 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 parties will be asked to leave the meeting, failing which, the Depute Clerk will remove the parties and all attendees from the meeting. The recording of the meeting will be paused. On resuming the bench, the Depute Clerk will contact all parties/attendees to re-invite them back into the meeting. On confirming all

parties/attendees are again present, the recording of the meeting will be restarted

- (i) 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 application 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.
- (j) 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 – WILL BE PROVIDED IF LODGED

THE ABERDEENSHIRE LICENSING BOARD

REPORT TO LICENSING BOARD – 28th June 2023

LICENSING (SCOTLAND) ACT 2005

APPLICATION FOR MAJOR VARIATION OF PREMISES LICENCE - HEARING

1 Executive Summary/Recommendations

- 1.1 This report relates to an application for a major variation of premises licence where adverse representations and objections have been received which requires consideration by the Board.

Recommendations

- 1.2 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 for further material to be made available;**
- (b) **Where the Board has concluded that there is sufficient evidence to allow a decision to be made, to consider the application, the representation made, the submissions made by the parties at the hearing and determine whether the application should be granted or refused in line with the legal test; and**
- (c) **If granting the application, to grant same subject to the local conditions set out at Section 3.11 and Section 3.12 of this report.**

2 Decision-Making Route

- 2.1 An application was lodged for a Major Variation of premises licence for the Banchory Lodge Hotel, Dee Street, Banchory, AB31 5HS. The application was dated 11th April 2022 and was lodged by Janet Hood, Solicitor, Edzell on behalf of Banchory Lodge Hotel Ltd, 34 Albyn Place, Aberdeen, AB10 1FW. This

- Change start time for off sales to 1000
- Change of designated premises manager
- Addition of seasonal hours in respect of inside the premises
- Amendment of activities – operation outwith core hours before the operation of the core hours and not after the terminal hour
 - Bar meals
 - Receptions
 - Recorded music, live performances, dance facilities, theatre, film – with events or conferences only, gaming
 - Amended information relating to outdoor drinking facilities to include terrace and pods for service of breakfasts, teas, coffees, snacks and meals until 11pm
- No alcohol to be served outwith core hours or after 11pm in external area
- Children and young persons' access revised to include the annexe known as the Cobbleheugh
- To include use of discreet hotel annexe known as Cobbleheugh and additional external areas
- Change of licensing objectives risk assessment to reflect change in activities
- Amended layout plans to reflect the change in activities, outdoor areas and children and young persons' access.

Consultations

3.3 The Depute Clerk examined the application in detail and the Applicant then addressed any issues requiring to be addressed. Thereafter, the Depute Clerk forwarded the application to the following persons or bodies as part of the consultation process:

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

(g) Health Authority

- 3.4 At the same time as the application was consulted on, the applicant 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 to vary the Premises Licence had been made.
- 3.5 The Licensing Standards Officers checked to ensure the site notice had been appropriately displayed, and had been displayed for the correct time period, as part of the consultation exercise for the application.
- 3.6 The application was also advertised on the Council's website.

Objections and Representations

- 3.7 The following representations have been made by statutory consultees:
1. Police Scotland by letter dated 15th March 2023.
 2. Licensing Standards Officer by email dated 29th March 2023.
- 3.8 The following objections and representations have been made by members of the public:
3. Mr Alan Jackson: Representation received 29th March 2023.
 4. Mr Graeme Coutts: Representation dated 17th March 2023.*
 5. Mr William Gray: Objection by email dated 26th March 2023.
 6. Mr Michael Wilson: Objection by email dated 2nd April 2023.
 7. Dr and Mrs Shanks per Andrew Hunter, Solicitor, Aberdeen: Objection dated 3rd April 2023.

* Mr Coutts is prepared to withdraw his representation upon sight of an amended layout plan which is to be submitted by the applicant's agent, confirming that the applicant had reached agreement with Mr Coutts regarding the position set out in his representation.

** Mr Wilson did not receive notice of this hearing 14 days in advance as set out in the Board's Guidance document. This was due to a glitch in the IDOX licensing database following a system update which meant his objection was not visible in the system. However, following contact by Mr Wilson on 19th June

2023 to query why he had not received notice of the hearing, the oversight was confirmed and both the applicant and Mr Wilson were given notice of the objection on the evening of 19th June 2023. All parties involved in the hearing were issued with a copy of an updated Board report at the same time.

In terms of paragraph 11 of the Licensing (Procedure)(Scotland) Regulations 2007, parties to a hearing for this type of application must be notified not less than 7 days prior to the date of the hearing. The last date for notifying parties legally is therefore 20th June 2023. Members are advised that Mr Wilson intends to request that the Board defer consideration of the application to allow him time to properly prepare.

- 3.9 The applicant was provided with a copy of the representations and Objections in an Observations letter dated 4th May 2023 and Mr Wilson's objection on 19th June 2023. The applicant has confirmed that she wishes to proceed with the hearing on 28th June 2023 having received sufficient notice.
- 3.10 Copies of the representations and objections made are attached as **Appendix 2** to this report. The Applicant's Agent has agreed the recommended local and specific conditions set out in the observation letter which are as set out below.

Conditions

- 3.11 It is recommended that, if the Board grants the application, it is subject to the following local conditions:

Local Conditions

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 – On Sales Premises – Conditions 7-11
5. Vulnerability – All Premises – Condition 19
6. CCTV – All Premises – Condition 21
7. Beer Gardens and Outside Drinking Areas – Conditions 31 – 33

- 3.12 The Board may also attach conditions which are specific to the premises where required. The following specific conditions are recommended:

Specific Conditions

8. All outdoor drinking areas to be suitably delineated by a physical barrier or similar
9. Signage to be displayed indicating that no alcohol is to be removed beyond the identified delineated outdoor drinking areas.

- 3.13 **Appendix 3** contains the full list of available local conditions, as set out in the Board's Policy Statement.

Procedure

- 3.14 Each application should be considered on its own merits.
- 3.15 The legal test is attached as **Appendix 4** to this report.
- 3.16 The Applicant and those persons who made a representation or objected to the application have been invited to attend the Hearing.
- 3.17 Copies of this report together with the Legal Test and the Board's Guidance on procedures for Hearings, were issued to all parties.
- 3.18 The procedure to be followed is attached at **Appendix 5**.
- 3.19 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.
- 3.19 Members' options in disposing of the application are:-
- (a) To grant the application;
 - (b) Refuse the application;
 - (c) Grant subject to varied hours and/or additional conditions or to partially grant the application; or
 - (d) Determine that further evidence is required in which case the applications should be referred to the next available Board Meeting in

order that the applicants may present their case in full or further information can be obtained in the interim.

3.20 When coming to a decision the Board must consider the evidence provided and the contents of this report and 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 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 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 An Integrated Impact Assessment (IIA) has not been carried out as the processing of the application 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. The Council's Corporate and Directorate Risk Registers do not apply to the Licensing Board as it is a separate legal entity.
- 4.6. 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 paragraph 1.6 of the Scheme of Delegation which provides that consideration of a major variation to a premises licence 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: 19th June 2023

IDOX REFERENCE NUMBER: LAPREM/00028/22

List of Appendices:

Appendix 1: Major Variation Application

Appendix 2: Copy of Representations and Objections

Appendix 3: Local Conditions

Appendix 4: Legal Test

Appendix 5: Procedure for Hearing

Appendix 6: Written Submissions – where made

APPENDIX 1

**COPY APPLICATION FORM, PROPOSED OPERATING PLAN, PROPOSED LAYOUT
PLAN AND RISK ASSESSMENT**

<p>Licensing (Scotland) Act 2005, sections 29 and 31 APPLICATION FOR VARIATION OF PREMISES LICENCE/ PROVISIONAL PREMISES LICENCE*</p> <p>*Delete as appropriate</p>
<p>If you are completing this form by hand, please write legibly in block capitals using black ink.</p>
<p>To:</p> <p style="margin-left: 40px;"> The Depute Clerk Aberdeenshire Licensing Board Legal & Governance Viewmount Arduthie Road Stonehaven AB39 2DQ </p>

QUESTION 1: APPLICATION TYPE

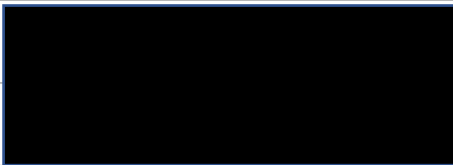
Please complete, as appropriate:				
a) Does this application relate to a minor variation of the premises licence?	YES	X	NO	<input type="checkbox"/>
b) Does this application relate to a major variation of the premises licence?	YES	X	NO	<input type="checkbox"/>

QUESTION 2: PREMISES DETAILS¹

a. Premises Licence Number	AB-S-P002
b. Name of Premises	Banchory Lodge Hotel
c. Address of Premises	Banchory Lodge Hotel Dee Street Banchory AB31 5HS
d. Postcode	AB31 5HS

¹ Please submit the premises licence with this application

QUESTION 3: APPLICANT INFORMATION

a. Full Name of Applicant	Banchory Lodge Hotel Ltd
b. Address (please insert registered address if applicant is a company/partnership or address of club or body)	34 Albyn Place Aberdeen AB10 1FW
c. Postcode	AB10 1FW
d. Contact Telephone Number	
e. E-mail address	
f. Correspondence address if different from above	BANCHORY LODGE HOTEL DEE STREET BANCHORY AB31 5HS

Now, **either** –

- ◆ complete **PART A** if you are applying for a minor variation; or
- ◆ complete **PART B** if you are applying for a major variation.

PART A: MINOR VARIATIONS

1) Do you propose a variation that does not result in any inconsistency with the operating plan?	YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>
If the answer to 1) is YES, please give details of the proposed variation below				
Change of premises manager				


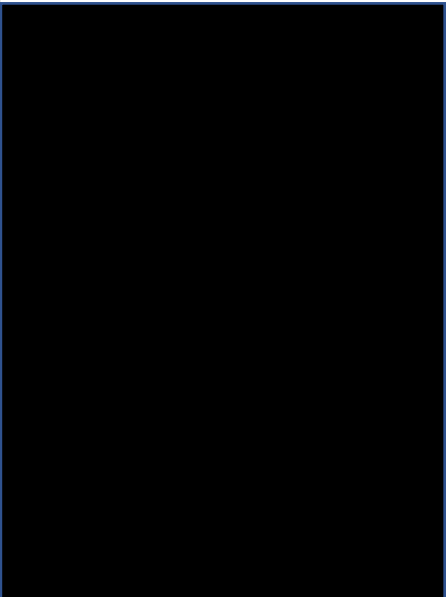
2) Do you propose to restrict the terms on which children and young persons are admitted to the premises?	YES	<input type="checkbox"/>	NO	<input checked="" type="checkbox"/>
If the answer to 2) is YES, please give details of the proposed variation below				
<u>Terms</u>				
Children				
Young Persons				
<u>Ages: Children being (0-15 years) and Young Persons being (16-17 years)</u>				
Children				
Young Persons				
<u>Times</u>				
Children				
Young Persons				
<u>Parts of the Premises specifically set aside for use by Children and Young Persons</u>				
Children				
Young Persons				
<u>Parts of the Premises to which Children and Young Persons have Access^f</u>				

Children	
Young Persons	

3) Do you propose to vary the information contained in the licence relating to the premises manager, including a variation to substitute a new premises	YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>
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If the answer to 3) is YES, please complete **PART 1** and **PART 2** below

PART 1: Details of Current Designated Premises Manager

a. Personal Licence Number	AB-C-PER1365
b. Full Name of Current Designated Premises Manager	Laura Divarquez
c. Address	
d. Postcode	
PART 2: Details of Proposed Designated Premises Manager	
a. Title (delete as appropriate)	Ms
b. Surname (include any previous names or maiden name where applicable)	FOWLER
c. Forename(s)	CAROL ANNE
d. Address where ordinarily resident	
e. Postcode	
f. Contact Telephone Number	
g. E-mail address	
h. Date of Birth	
i. Place of Birth	
j. Correspondence address, including postcode (if different from c. above)	N/A
k. Personal Licence Number	AC/5870

l. Date of Issue of Personal Licence	10 DECEMBER 2019			
m. Name of Licensing Board that issued the Personal Licence	ABERDEEN CITY			
n. Is the variation to take effect during the application period?	YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>
If the answer to n. above is NO, please provide the date from which the variation is to take effect.				

4) Do you propose to vary the name of the premises?	YES	<input type="checkbox"/>	NO	<input checked="" type="checkbox"/>
If the answer to 4) is YES, please give details of the proposed variation below				
Please provide details of the proposed name of the premises				

5) Do you propose a reduction in the licensed hours operated at the premises which does not result in the premises opening any earlier or closing any later than stated in the premises licence and operating plan?	YES	<input type="checkbox"/>	NO	<input checked="" type="checkbox"/>
Is the reduction permanent? If the answer is "yes" please complete the relevant core hours and seasonal variations boxes below	YES	<input type="checkbox"/>	NO	<input checked="" type="checkbox"/>
Is the reduction temporary? If the answer is "yes" please indicate the variation in the seasonal variations box below	YES	<input type="checkbox"/>	NO	<input checked="" type="checkbox"/>

PART B: MAJOR VARIATIONS

1) Do you propose a variation to the conditions to which the licence is subject (other than those to which the licence is subject by virtue of Section 27(1))?	YES	<input type="checkbox"/>	NO	X
If the answer to 1) is YES, please give details of the proposed variation below				

2) Do you propose a variation to any of the information contained in the operating plan contained in the	YES	X	NO	<input type="checkbox"/>
If the answer to 2) is YES, please give details of the proposed variation below				
<p>Q3. Commence start time for off sales 1000 daily the earlier commencement hour to permit sales of selected alcohol to guests checking out of premises - add in seasonal variations as per Aberdeenshire's policy on general extensions Q5.a. Bar Meals - column 4 Q5.b. Receptions -column 4 Q5.c. Recorded music, live performance, dance facilities, -column 4: theatre, film [with events/ conferences], columns 2,3,4 gaming [race nights /casino nights] columns 2,3: indoor / outdoor sports column 4 Q5.f. Outdoor drinking facilities section amend to read "Outdoor drinking dining areas including terrace and pods may be used for the service of breakfasts, teas, coffees, snacks and meals until 11pm - no alcohol to be served outwith core hours or after 11pm in external area " Q6.amend access by Children and Young persons accompanied by an adult as per operating plan Include use of discrete hotel annex known as Cobbleheugh and additional external areas</p>				

If you are proposing a relaxation in relation to the children and young persons section of the operating plan, please complete the following section				
3) Do you propose to relax the terms on which children and young persons are admitted to the premises?	YES	X	NO	<input type="checkbox"/>
If the answer to 3) is YES, please give details of the proposed variation below				
<u>Terms</u>				

Children	<ol style="list-style-type: none">1. All children resident must be accompanied by an adult at all times they are in function room, restaurant and bar parts of the premises2. Non resident children must be accompanied in function room/ bar/restaurant public parts of the premises until 2200 hours for the purposes of having a meal or snack or soft drink or until the end of a meal or private function3. Neither children nor young persons need be accompanied by an adult in the bedroom areas
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Young Persons	<ol style="list-style-type: none"> 1. Resident young persons may be unaccompanied in function room/bar/restaurant public parts of the premises until 2000 hours for the purposes of having a meal or snack or soft drink and must be accompanied by an adult in function room/bar/restaurant public parts of the premises thereafter 2. Non resident young persons must be accompanied in function room/bar/restaurant public parts of the premises until 2200 hours for the purposes of having a meal or snack or soft drink or until the end of a meal or private function 3. Neither children nor young persons need be accompanied by an adult in the bedroom areas
<u>Ages: Children being (0-15 years) and Young Persons being (16-17 years)</u>	
Children	0-15
Young Persons	16 &17
<u>Times</u>	

Children	<ol style="list-style-type: none"> 1. Non resident children must be accompanied in function room/ bar/restaurant public parts of the premises until 2200 hours for the purposes of having a meal or snack or soft drink or until the end of a meal or private function 2. Resident children as per terms above
Young Persons	<ol style="list-style-type: none"> 1. Non resident young persons must be accompanied in function room/bar/restaurant public parts of the premises until 2200 hours for the purposes of having a meal or snack or soft drink or until the end of a meal or private function 2. Resident your persons as per terms above
<u>Parts of the Premises specifically set aside for use by Children and Young Persons</u>	
Children	N/a
Young Persons	N/a
<u>Parts of the Premises to which Children and Young Persons have Access ⁿ</u>	
Children	<ol style="list-style-type: none"> 1. All public areas As per terms above

Young Persons	1. All public areas As per terms above
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4) Do you propose a variation to the layout plan contained in the licence?	YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>
If the answer to 4) is YES, please give details of the proposed variation below				
<p>Add in additional covered terrace area and pods and include annex known as Cobble Heugh - discrete residential/dining facility - overspill from main hotel Permit occasional activities , markets and marquees on lawn facing the river Dee</p> <p>All as per plans submitted with this application</p> <p>Increase capacity of premises</p>				

5) Do you propose to vary any other information contained or referred to in the licence, including an addition, deletion or modification?	YES	<input type="checkbox"/>	NO	<input checked="" type="checkbox"/>
If the answer to 5) is YES, please give details of the proposed variation below				

Now complete the DECLARATION overleaf


GDPR

The applicant, and, where the applicant is a company, business or other body, any person who has supplied personal information as part of this application **MUST READ AND UNDERSTAND THE ATTACHED PRIVACY NOTICE.**

DECLARATION BY APPLICANT OR AGENT ON BEHALF OF APPLICANT

If signing on behalf of the applicant please state in what capacity.

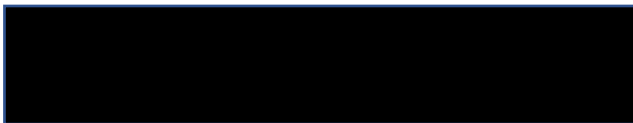
The contents of this Application are true to the best of my knowledge and belief **and the appropriate persons have read the attached privacy notice.**

Signature .  * (see note below)

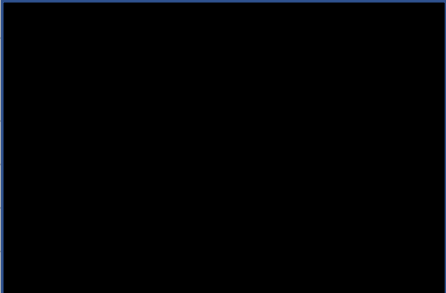
Date  11 April 2022

Capacity AGENT

AGENT: Janet Hood



Where the signatory is an agent, please complete the following:

Name	Janet Hood
Telephone Number	
Postal address	
postcode	
DX Number	
Legal Post Number	
E-Mail address	

*** Data Protection Act 1998**

The information on this form may be held on an electronic public register which may be available to members of the public on request.

<i>I have enclosed the relevant documents with this application – please tick the relevant boxes</i>	
<i>Premises Licence</i>	<i>Yes - electronically due to covid</i>

<p>Licensing (Scotland) Act 2005, section 20(2)(b)(i) OPERATING PLAN Banchory Lodge AB-S-P002</p>	
<p><i>If you are completing this form by hand, please write legibly in block capitals using ink.</i></p>	
<p>To: The Depute Clerk to the Licensing Board Aberdeenshire Council Viewmount Arduthie Road STONEHAVEN Kincardineshire AB39 2DQ</p> <p>Telephone: 01569 768254 Fax: 01569 768259 Legal Post: LP 5: Stonehaven</p>	<p>Aberdeenshire Licensing Board</p>

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

Question 2

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

<i>Day</i>	<i>ON Consumption</i>	
	<i>Opening time</i>	<i>Terminal hour</i>
<i>Monday</i>	1100	MIDNIGHT
<i>Tuesday</i>	1100	MIDNIGHT
<i>Wednesday</i>	1100	MIDNIGHT
<i>Thursday</i>	1100	MIDNIGHT
<i>Friday</i>	1100	X 0100
<i>Saturday</i>	1100	X 0100
<i>Sunday</i>	1100	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>
<i>Monday</i>	1000	2200
<i>Tuesday</i>	1000	2200
<i>Wednesday</i>	1000	2200
<i>Thursday</i>	1000	2200
<i>Friday</i>	1000	2200
<i>Saturday</i>	1000	2200
<i>Sunday</i>	1000	2200

Question 4

SEASONAL VARIATIONS

Does the applicant intend to operate according to seasonal demand?	YES
--	-----

*If YES – provide details

Fridays and Saturdays preceding 25th and 31st December until 01:30am on the following day. On Hogmanay until 03:00am on 1st January or as per Aberdeenshire Licensing Board policy for Festive season

Question 5

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

COL. 1 5(a) Activity	COL. 2 Please confirm YES/NO	COL. 3 To be provided during core licensed hours – please confirm YES/NO	COL. 4 Where activities are also to be provided outwith core licensed hours please confirm YES/NO
Accommodation	Y		
Conference facilities	Y	Y	Y
Restaurant facilities	Y	Y	Y
Bar meals	Y	Y	Y
5(b) Activity Social functions including:	Please confirm YES/NO	To be provided during core licensed hours – please confirm YES/NO	Where activities are also to be provided outwith core licensed hours please confirm YES/NO
Receptions including Weddings, funerals, birthdays, retirements etc.	Y	Y	Y
Club or other group meetings etc.	Y	Y	Y
5(c) Activity Entertainment including:	Please confirm YES/NO	To be provided during core licensed hours – please confirm YES/NO	Where activities are also to be provided outwith core licensed hours please confirm YES/NO
Recorded music – see 5(g)	Y	Y	Y
Live performances – see 5(g)	Y	Y	Y
Dance facilities	Y	Y	Y
Theatre	Y	Y	Y

<i>Films</i>	Y	Y	Y
<i>Gaming</i>	Y	Y	N
<i>Indoor/outdoor sports</i>	Y	Y	Y
<i>Televised sport</i>	N		
5(d) Activity	Please confirm YES/NO	To be provided during core licensed hours – please confirm YES/NO	Where activities are also to be provided outwith core licensed hours please confirm YES/NO
<i>Outdoor drinking facilities</i>	Y	Y	Y
5(e) Activity			
<i>Adult entertainment</i>	N		

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

1. *ACTIVITIES IN COLUMN 4 CAN TAKE PLACE BEFORE CORE HOURS HOWEVER NO ALCOHOL WILL BE SERVED EXCEPT DURING CORE HOURS AND ANY GRANTED EXTENDED HOURS APPLICATIONS AS MAY FROM TIME TO TIME MADE BY OPERATORS*
2. *PREMISES ARE AN HOTEL THEREFORE SERVICE OF FOOD AND DRINK TO RESIDENTS AND THEIR GUESTS CAN TAKE PLACE 24/7*
3. *CONFERENCES, INCLUDING BUSINESS MEETINGS, CLUB MEETINGS, RECEPTIONS, CHECKING FILM , THEATRE ETC CAN BE SET UP FROM 0700 ONWARDS - NO SOUND CHECKS FOR MUSIC WOULD TAKE PLACE UNTIL AFTER 1000 A.M.*
4. *INDOOR AND OUTDOOR SPORTS EG YOGA ETC COULD COMMENCE FROM 0700*
5. *OUTDOOR DRINKING BEING SERVICE OF BREAKFASTS TEAS COFFEES SNACKS MEALS CAN COMMENCE AT 0700 UNTIL 2300*
6. *MARQUEES OR MARKET STALLS MAY BE ERECTED IN ADVANCE OF ACTIVITIES AS REQUIRED*

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.

1. *OUTDOOR DRINKING SHALL INCLUDE USE OF TERRACE AND PODS SERVICE OF TEAS, COFFEES, SNACKS, MEALS AND BREAKFASTS NO USE OF ANY DESIGNATED EXTERNAL AREA SHALL TAKE PLACE AFTER 11PM*
2. *INDOOR AND OUTDOOR SPORTS WILL INCLUDE YOGA, KEEP FIT, DANCE CLASSES AND SIMILAR AND LAWN SPORTS SUCH AS CROQUET, PETANQUE, QUOITES AND SIMILAR*
3. *LOW BACKGROUND MUSIC SHALL BE PLAYED INTERNALLY AND IN EXTERNAL TERRACE AREAS AND PODS DURING PERIOD THEY ARE IN USE*
4. *GAMING WILL BE FOR OCCASIONAL RACE NIGHTS OR CASINO NIGHTS WHICH WOULD BE PERMITTED IN DISCRETE AREA OF PREMISES IN CONJUNCTION WITH FUNCTIONS ONLY - UNDER 18S WOULD BE PROHIBITED FROM TAKING PART IN THESE ACTIVITIES*
5. *FILM WOULD BE IN CONJUNCTION WITH CONFERENCES AND EVENTS PREMISES WILL NOT BECOME A CINEMA*
6. *LIVE PERFORMANCES WEDDING BANDS AND OTHER MUSICAL ENTERTAINMENT AS MAY FROM TIME TO TIME BE PROVIDED FOR RESIDENTS AND GUESTS*
7. *THEATRE WILL INCLUDE MAGICIANS, COMEDIANS, LITERARY AND POETRY READINGS AND OTHER ARTS OR ARTISTIC PERFORMANCES AS MAY FROM TIME TO TIME BE PROVIDED FOR RESIDENTS AND GUESTS*
8. *MARQUEES MAY BE ERECTED ON LAWN - FOR EXAMPLE TO WELCOME PATRONS AND GUESTS TO START OF FISHING SEASON , FOR THE PURPOSE OF FOOD OR COCKTAIL DEMONSTRATIONS, FOOD TASTINGS AND MATCHINGS*
9. *A CHRISTMAS MARKET MAY BE HELD IN DECEMBER*
10. *COBBLEHEUGH - ANNEX TO BE USED FOR PRIVATE DINNERS AND OVERNIGHT GUESTS OR OVERSPILL FROM MAIN PREMISES*

5(g) Late night premises opening after 1.00am N/A

Where you have confirmed that you are providing live or recorded music will the decibel level exceed 85dB?	NO
When fully occupied, are there likely to be more customers standing than seated?	NO
*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?	YES
	*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

1. All children resident must be accompanied by an adult at all times they are in function room, restaurant and bar parts of the premises
2. Non resident children must be accompanied in function room/bar/ restaurant public parts of the premises until 2200 hours for the purposes of having a meal or snack or soft drink or until the end of a meal or private function
3. Resident young persons may be unaccompanied in function room/bar/ restaurant public parts of the premises until 2000 hours for the purposes of having a meal or snack or soft drink and must be accompanied by an adult in function room/bar/restaurant public parts of the premises thereafter
4. Non resident young persons must be accompanied in function room/bar/ restaurant public parts of the premises until 2200 hours for the purposes of having a meal or snack or soft drink or until the end of a meal or private function
5. Neither children nor young persons need be accompanied by an adult in the bedroom areas

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

0-17

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

All times premises are open subject to terms above

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

All public parts of the premises as per terms above

Question 7

CAPACITY OF PREMISES

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

Total capacity premises including main hotel, Cobbleheugh and pods

269

Cobbleheugh Annex - families residence- private parties and dining 14

Function suite 130

Upper Bar 28

Lower Bar 14

South Lounge 29

Dining Room 26

Dee Room - 12

Pods 16

External terraces will not affect overall capacity as will be utilised only in good weather

Upper terrace 35

Lower terrace 30

Question 8

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

Personal details

8(a) Name

CAROL ANNE FOWLER

8(b) Date of birth

[Redacted]

8(c) Contact address

BANCHORY LODGE HOTEL
DEE STREET
BANCHORY
AB31 5HS

8(d) Email address

[Redacted]

8(e) Personal licence

Date of issue	Name of Licensing Board issuing	Reference no. of personal licence
10 DECEMBER 2019	ABERDEEN CITY	AC/5870

DECLARATION BY APPLICANT OR AGENT ON BEHALF OF APPLICANT

If signing on behalf of the applicant please state in what capacity.


The contents of this operating plan are true to the best of my knowledge and belief.

Signature [Redacted] (e note below)

Date .. [Redacted] 11 April 2022

Capacity : AGENT (delete as appropriate).

Name	Janet Hood
Telephone Number	[Redacted]

Postal address	
postcode	
DX Number	
Legal Post Number	
E-Mail address	

* Data Protection Act 1998

The information on this form may be held on an electronic public register which may be available to members of the public on request.

5 objective compliance

Page 1 of 3

This is the 5 objective risk assessment Banchory Lodge Hotel

Preventing Crime and Disorder

Risk High/Medium/Low	Action	Inform/Remind/Update	Date
Low	Premises are an iconic hotel situated in its own extensive grounds within Banchory adjacent to river Dee - facilities at premises are modern and price point would deter troublemakers Staff trained to monitor and observe customers and ensure no service to persons who are drunk; challenge 25 will obtain		
	challenge 25 will obtain to prevent underaged sales		
	Closer scrutiny will take place for adults accompanying persons underaged		
	Premises are situated in heart of Banchory alongside a pedestrian right of way along the river Dee will be unlikely to attract trouble makers		

Preventing Public Nuisance

Risk High/Medium/Low	Action	Inform/Remind/Update	Date
Low	Premises are an iconic hotel situated in its own extensive grounds within Banchory adjacent to river Dee - facilities at premises are modern and price point would deter troublemakers Staff trained to monitor and observe customers and ensure no service to persons who are drunk; challenge 25 will obtain		
	Premises are situated in heart of Banchory alongside a pedestrian right of way along the river Dee will be unlikely to attract trouble makers		

5 objective compliance

Page 2 of 3

Risk High/Medium/Low	Action	Inform/Remind/Update	Date
	Staff trained to monitor and observe customers and ensure no service to persons who are drunk; challenge 25 will obtain		

Securing Public Safety

Risk High/Medium/Low	Action	Inform/Remind/Update	Date
Low	Premises are an iconic hotel situated in its own extensive grounds - facilities at premises are modern and price point would deter troublemakers Staff trained to monitor and observe customers and ensure no service to persons who are drunk; challenge 25 will obtain		
	Staff are well trained and experienced managers are on duty at all times		

Protecting Children and Young Persons from Harm

Risk High/Medium/Low	Action	Inform/Remind/Update	Date
Low	Premises are an iconic hotel situated in its own extensive grounds - facilities at premises are modern and price point would deter troublemakers - premises are family friendly Staff trained to monitor and observe customers and ensure no service to persons who are drunk; challenge 25 will obtain		

5 objective compliance

Page 3 of 3

Risk High/Medium/Low	Action	Inform/Remind/Update	Date
	Soft drinks and non alcoholic beverages, food on offer at all times		
	Free water available at all times		

Protecting and Improving Public Health

Risk High/Medium/Low	Action	Inform/Remind/Update	Date
Low	Premises are an iconic hotel situated in its own extensive grounds Staff trained to monitor and observe customers and ensure no service to persons who appear drunk; challenge 25 will obtain		
	Free water available at all times		
	Food available at all times		
	Leisure and exercise facilities available as part of the hotel offering		

APPENDIX 2

COPY OF REPRESENTATIONS AND OBJECTIONS

1. Police Scotland by letter dated 15th March 2023.
2. Licensing Standards Officer by email dated 29th March 2023.
3. Mr Alan Jackson: Representation received 29th March 2023.
4. Mr Graeme Coutts: Representation dated 17th March 2023.*
5. Mr William Gray: Objection by email dated 26th March 2023.
6. Mr Michael Wilson: Objection by email dated 2nd April 2023.
7. Dr and Mrs Shanks per Andrew Hunter, Solicitor, Aberdeen: Objection dated 3rd April 2023

* to be withdrawn upon sight of revised layout plan

1. Police Scotland by letter dated 15th March 2023.

15 March 2023

Your Ref:

Our Ref: 706972

Depute Clerk to the Licensing
Board
Aberdeenshire Council
Corporate Services
Legal and Governance
Viewmount
Arduthie Road
STONEHAVEN
AB39 2DQ



North East Division
Marischal College
Broad Street
Aberdeen
AB10 1AB

Dear Sir/Madam,

**LICENSING (SCOTLAND) ACT 2005
APPLICATION FOR THE VARIATION OF A PREMISES LICENCE
BANCHORY LODGE HOTEL, BANCHORY, KINCARDINESHIRE, AB31 5HS**

I refer to the above application for the variation of a premises licence under terms of Section 29(5) of the Licensing (Scotland) Act 2005.

The variation consists of the following amendments to the Operating Plan, namely:

1. Amend Q.3 off sale hours from 1100 to 2200 hours daily to 1000 to 2200 hours daily;
2. Amend Q.4 Seasonal Variations with the wording provided;
3. Amend Q.5(a) to include Bar meals out with core licensed hours;
4. Amend Q.5(b) to include Receptions out with core licensed hours;
5. Amend Q.5(c) to include Recorded Music, Live Performances and Indoor/Outdoor Sports out with core licensed hours and include Theatre, Films and Gaming as described in the wording provided;
6. Amend Q 5(f) 'any other activities' with the wording provided;
7. Amend Q.6(b) Children & Young Persons Terms, Ages, Times and Parts with the wording provided;
8. Amend Q.7 capacity from 376 to 269 to accommodate the Cobbleheugh Annexe and all outdoor areas as described in the layout plan and with the wording provided.
9. Amend the layout plan to extend the outdoor drinking facilities with inclusion of the Cobbleheugh Annexe, lower and upper terraces and hotel garden areas as detailed in the layout plan and with the wording provided;

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

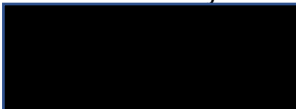
In respect of points 1 to 7, I have no adverse comment to make.

In terms of Section 22(1)(b)(ii) and (iii) of the same Act, at points 8 and 9, I wish to make representation to the application and recommend the following conditions are imposed on the licence in respect of the additional outdoor drinking facilities of the lower and upper terraces and hotel gardens areas:

1. All outdoor drinking areas are to be suitably delineated by a physical barrier or similar;
2. These areas to be subject to a terminal hour of 2300 hours daily;
3. Signage to be displayed indicating that no alcohol is to be removed beyond the identified delineated outdoor drinking areas;
4. No amplified music will be played within after 2300 hours.


This representation is submitted for your attention in considering this application.

Yours faithfully



Graeme Mackie
Chief Superintendent

For enquiries please contact the Licensing Department on



2. Licensing Standards Officer by email dated 29th March 2023.

Keith Simpson

29th March 2023 by email

Dear Colleague

I can confirm that the site notice has been displayed correctly.

In light of this application I wish to impose local conditions as follows:-

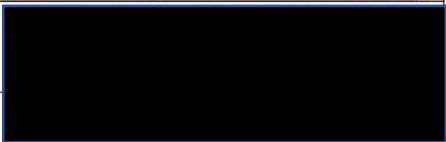
1-11 inclusive, 19,21,31,32,33,

Regards

Keith Simpson
Senior Civic Licensing Standards Officer

3. Mr Alan Jackson: Representation received 29th March 2023.

Licensing (Scotland) Act 2005, section 22 Notice of Objection or Representation	
If you are completing this form by hand, please write legibly in block capitals using ink.	
To: The Depute Clerk Aberdeenshire Licensing Board Legal & Governance Viewmount Arduthie Road Stonehaven AB39 2DQ	
<p>Any person may, by notice to the Licensing Board—</p> <p>(a) Object to the application on any ground relevant to one of the grounds for refusal specified in section 23(5), or</p> <p>(b) Make representations to the Board concerning the application</p> <ul style="list-style-type: none"> • If you are OBJECTING, please complete Part A of this form. • If you are MAKING REPRESENTATIONS, please complete Part B of this form. • All parties should complete Sections 1, 2 and Part C of this form. <p style="text-align: center;">YOU MAY CONSULT YOUR SOLICITOR BEFORE COMPLETING THIS FORM</p>	
Section 1 – Application Details:	
This objection/representation relates to the following Application:	
Applicant's name (if known):	
Name & Address of premises:	THE BANCHORY LODGE HOTEL DEE STREET BANCHORY AB31 5HS
This Application is for	<ul style="list-style-type: none"> • Premises Licence <input type="checkbox"/> • Provisional Premises Licence <input type="checkbox"/> • Variation of an existing Premises Licence <input checked="" type="checkbox"/> • Occasional Licence <input type="checkbox"/>
Application Number (if known)	LAPREM/00028/22

Section 2 – Objector/Representer Details:	
If you fail to complete this section, the objection or representation may not be considered	
(A) COMPLETE IF YOU ARE OBJECTING OR LODGING A REPRESENTATION AS AN INDIVIDUAL	
Individual Title	Mr <input checked="" type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other _____ delete/complete as appropriate
Surname	JACKSON
First Name(s)	ALAN
Address (including postcode):	
Email address:	
(B) COMPLETE IF YOUR ARE OBJECTING OR LODGING A REPRESENTATION ON BEHALF OF AN ORGANISATION	
Title	Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other _____ delete/complete as appropriate
Surname	
First Name(s)	
Address of person lodging objection/representation on behalf of organization (including postcode):	
Email Address:	
Name of Organisation:	
Nature of Organisation e.g. resident's association, ward councilor, trade association	
Address of Organisation (including postcode):	

<u>PART B - REPRESENTATION</u>	
I/We wish to make these representations to the Board concerning the application: —	
In support of the application.	
As to modifications which should be made to the Operating Plan	THE OUTSIDE SPACES, WHICH INCLUDE THE TERRACES & PODS, SHOULD HAVE ALCOHOL SALES CORE HOURS RESTRICTED TO 10.30 PM ALONG WITH ANY MUSIC
As to conditions which should be imposed.	NO MUSIC AFTER 10.30 PM
Other representations	

PART C: Additional Information/Supporting Documents

Please add here any additional comments you wish to make. If you are submitting any background written materials in support of your Objection/Representation it would be helpful if you could list them here:-

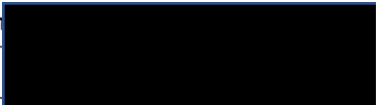
A LOT OF NOISE COULD BE GENERATED BY THE MUSIC, DRINKING & MERRIMENT IN THE OUTSIDE SPACES, ESPECIALLY THE TERRACES & PODS.
EVEN IF THE ALCOHOL LICENCE IS RESTRICTED TO 10.30 PM, THERE IS STILL A RISK THAT THE GENERATED NOISE MAY PROHIBIT RESIDENTIAL NEIGHBOURS FROM SLEEPING.

Please attach supporting documents/further pages as necessary. Please number all extra pages

I have read and understood the attached

Your Signature

Date



29/3/23

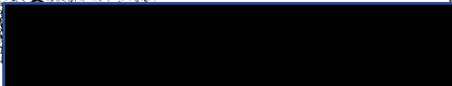
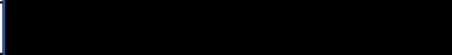
**YOU MAY CONSULT YOUR SOLICITOR BEFORE COMPLETING THIS FORM
GDPR**

**Any person who has supplied personal information as part of this application
MUST READ AND UNDERSTAND THE ATTACHED PRIVACY NOTICE**

4. Mr Graeme Coutts: Representation dated 17th March 2023.

LAPREN/00025/22 - Dolsya.

Licensing (Scotland) Act 2006, section 22 Notice of Objection or Representation									
If you are completing this form by hand, please write legibly in block capitals using ink.									
To: The Depute Clerk Aberdeenshire Licensing Board Legal & Governance Viewmount Arduthie Road Stonehaven AB39 2DQ									
Any person may, by notice to the Licensing Board—									
(a) Object to the application on any ground relevant to one of the grounds for refusal specified in section 23(5), or									
(b) Make representations to the Board concerning the application									
<ul style="list-style-type: none"> • If you are OBJECTING, please complete Part A of this form. • If you are MAKING REPRESENTATIONS, please complete Part B of this form. • All parties should complete Sections 1, 2 and Part C of this form. <p style="text-align: center;">YOU MAY CONSULT YOUR SOLICITOR BEFORE COMPLETING THIS FORM</p>									
Section 1 – Application Details:									
This objection/representation relates to the following Application:									
Applicant's name (if known):	BANCHORY LODGE HOTEL LTD								
Name & Address of premises:	BANCHORY LODGE HOTEL BANCHORY, AB31								
This Application is for	<table border="0"> <tr> <td>• Premises Licence</td> <td><input type="checkbox"/></td> </tr> <tr> <td>• Provisional Premises Licence</td> <td><input type="checkbox"/></td> </tr> <tr> <td>• Variation of an existing Premises Licence</td> <td><input checked="" type="checkbox"/></td> </tr> <tr> <td>• Occasional Licence</td> <td><input type="checkbox"/></td> </tr> </table>	• Premises Licence	<input type="checkbox"/>	• Provisional Premises Licence	<input type="checkbox"/>	• Variation of an existing Premises Licence	<input checked="" type="checkbox"/>	• Occasional Licence	<input type="checkbox"/>
• Premises Licence	<input type="checkbox"/>								
• Provisional Premises Licence	<input type="checkbox"/>								
• Variation of an existing Premises Licence	<input checked="" type="checkbox"/>								
• Occasional Licence	<input type="checkbox"/>								
Application Number (if known)	AB-S-P002								

Section 2 – Objector/Representer Details:	
If you fail to complete this section, the objection or representation may not be considered	
(A) COMPLETE IF YOU ARE OBJECTING OR LODGING A REPRESENTATION AS AN INDIVIDUAL	
Individual Title	Mr <input checked="" type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other _____ delete/complete as appropriate
Surname	COUTTS
First Name(s)	GRAEME
Address (including postcode):	
Email address:	
(B) COMPLETE IF YOU ARE OBJECTING OR LODGING A REPRESENTATION ON BEHALF OF AN ORGANISATION	
Title	Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other _____ delete/complete as appropriate
Surname	
First Name(s)	
Address of person lodging objection/representation on behalf of organization (including postcode):	
Email Address:	
Name of Organisation:	
Nature of Organisation e.g. resident's association, ward councilor, trade association	
Address of Organisation (including postcode):	

PART B - REPRESENTATION	
I/we wish to make these representations to the Board concerning the application: —	
In support of the application.	
As to modifications which should be made to the Operating Plan	THE ATTACHED PLAN SUBMITTED WITH THE APPLICATION IS HIGHLY MISLEADING. THE PLAN OMTS RIVERSIDE RESIDENCE WHICH BORDERS THE HOTEL C/LWARDS. (SEE ADDITIONAL NOTES)
As to conditions which should be imposed.	AS PER ATTACHED NOTES PAGE 6.
Other representations	

PART C: Additional Information/Supporting Documents

Please add here any additional comments you wish to make. If you are submitting any background written materials in support of your Objection/Representation it would be helpful if you could list them here:-

(ADDITIONAL NOTES)

A CORRECTED PLAN IS ENCLOSED. NOTE THE AGREED BOUNDARY DRAWN ACROSS THE HOTEL LAWN. THIS IS THE BOUNDARY LIMIT AGREED DURING THE PREVIOUSLY SUCCESSFUL APPLICATION GIVING THE LICENSE EXTENSION FOR THE "FOX BOY" DRINKS TRAILER. UNDER NO CIRCUMSTANCES CAN ALCOHOL AND/OR TENTS ETC BE PITCHED BEYOND THIS POINT. BE SOLD

THIS WAS THE CONCESSION GIVEN AT THE ABOVE STATED APPLICATION AND MUST BE OBSERVED IN THE LICENSE.

FAILURE TO RESTRICT HAS ALREADY RESULTED IN NOISE, MESS & URINATING IN THE RIVER & WOODS. (SEE PREVIOUS OBJECTION)

ADDITIONALLY, PLEASE MAKE SURE EXTENDED LICENSE HOURS ARE IN HARMONY WITH OTHER PUBLIC HOUSES IN BANCHORY OTHERWISE THE HOTEL WILL BECOME THE GO-TO PLACE FOR THE INTOXICATED LATE NIGHT DRINKERS.

Please attach supporting documents/further pages as necessary. Please number all extra pages

I have read and understood the attached privacy notice

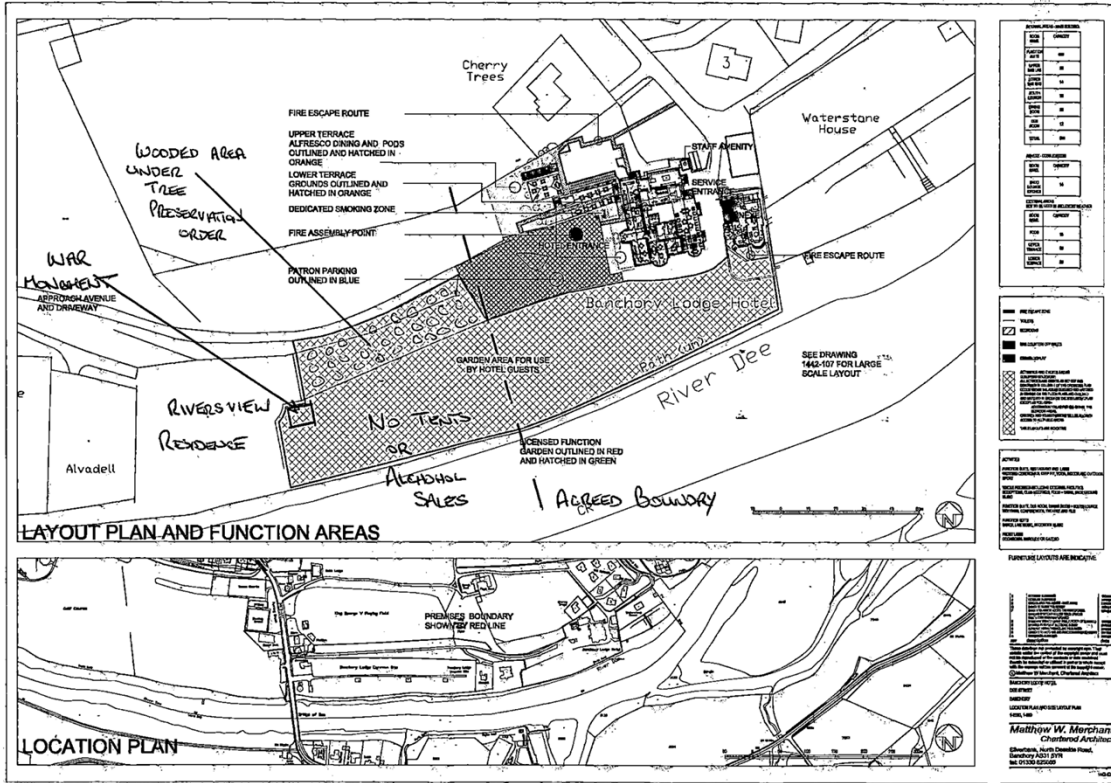
Your Signature

Date 17TH MARCH 2023.

YOU MAY CONSULT YOUR SOLICITOR BEFORE COMPLETING THIS FORM

GDPR

Any person who has supplied personal information as part of this application MUST READ AND UNDERSTAND THE ATTACHED PRIVACY NOTICE



5. Mr William Gray: Objection by email dated 26th March 2023.

By Email dated 26th March 2023

Hello, Good afternoon,

please note the following objection of the Banchory Hotel Licence variation:-

1. The application conveniently fails to consider the location of new 5 House development immediately adjoining the Hotel.
2. See attached corrected location plan and photos which show the residential dwelling, 5 The Paddocks location in relation to the outdoor area.
3. The out door area, Pods, Pergola is currently under a planning application to remove its temporary status which was imposed following the illegal felling of several 'important' trees which were removed to enable the out door area to be built. The woodland is under TPO and despite being told by the Council officers that permission was required prior to felling the trees the Hotel went ahead anyway, ignoring and breaking the law.
4. The out door area generates a lot of noise and smell pollution, and the thought of this continuing to 11.00 pm plus clear-out times, ie probably midnight, is unthinkable for the residents immediately to the north of the boundary.
5. In October 2021, the Hotel were awarded temporary approval for the upper outdoor area due to the Directors being in breach of the TPO....ie they broke the law and are guilty of a Criminal offence. An offence which i do not see any penalty being imposed as of yet??? Is this law breaking not a consideration of the Licensing Board?

Extract from Scottish Planning Series: Planning Circular 1, 2011: Tree Preservation Orders:-

Offences and Penalties

29. It is an offence ¹⁷for any person in contravention of a TPO to cut down, uproot, wilfully destroy a tree or wilfully damage, top or lop a tree in such manner as to be likely to destroy it without the consent of the planning authority.
30. A person guilty of an offence shall be liable on summary conviction to a fine not exceeding £20,000 and on conviction of indictment to a fine.

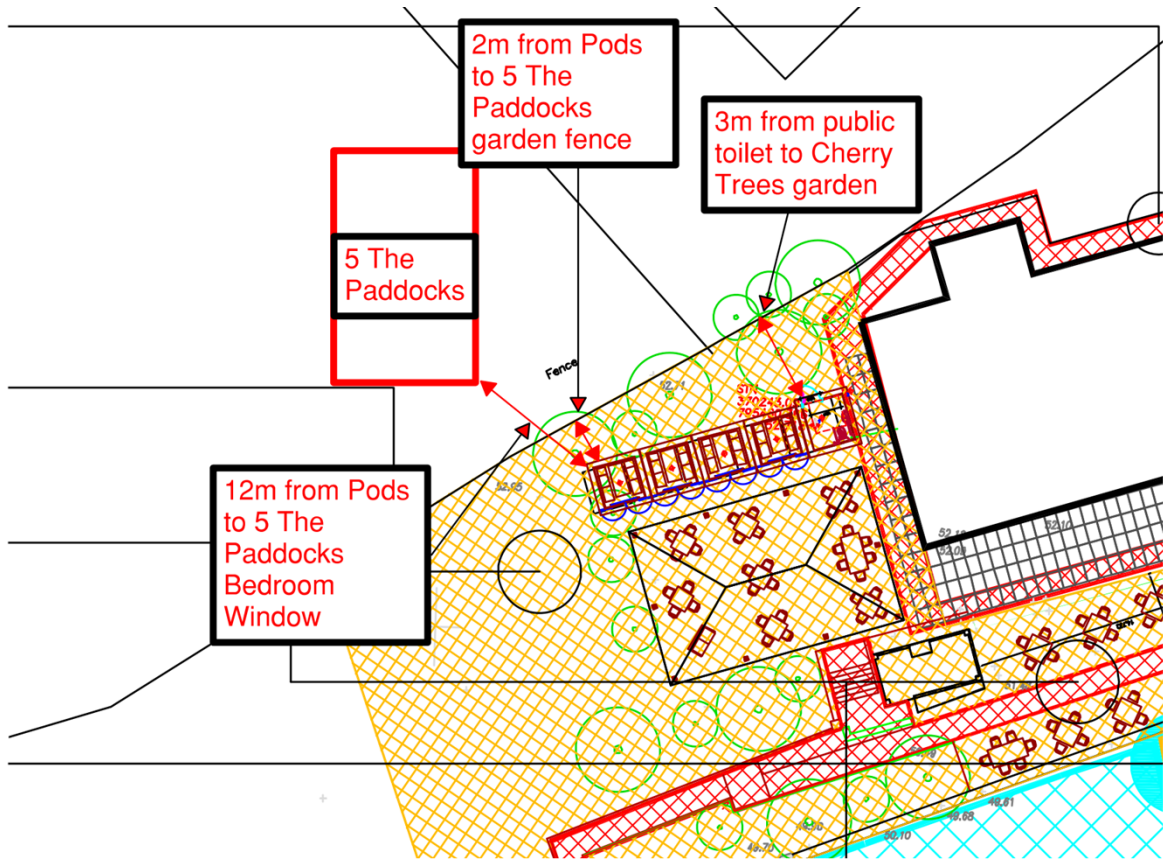
6. The Planning committee stated that the Hotel Directors had disregarded the planning policy on 3 occasions resulting in 3 retrospective planning applications and the Marr Committee Chairman to formally write to the Directors due to the seriousness of the matter.

I have to therefore ask if it is right for the license to include the out door area being able to be used until 11.00 pm as this will further exacerbate an already noisy and smelly situation for the residential neighbours; bearing in mind the upper outdoor area was required to be removed last February? If not then it seems to me that TPO's are irrelevant if not adhered to, and criminal charges are not brought and if the

above penalties are not imposed. Perhaps it is one law for the Directors and another for the General Public,

Yours sincerely

William N Gray





6. Mr Michael Wilson: Objection

Licensing (Scotland) Act 2005, section 22 Notice of Objection or Representation									
If you are completing this form by hand, please write legibly in block capitals using ink.									
To: The Depute Clerk Aberdeenshire Licensing Board Legal & Governance Viewmount Arduthie Road Stonehaven AB39 2DQ									
<p>Any person may, by notice to the Licensing Board—</p> <p>(a) Object to the application on any ground relevant to one of the grounds for refusal specified in section 23(5), or</p> <p>(b) Make representations to the Board concerning the application</p> <ul style="list-style-type: none"> • If you are OBJECTING, please complete Part A of this form. • If you are MAKING REPRESENTATIONS, please complete Part B of this form. • All parties should complete Sections 1, 2 and Part C of this form. <p style="text-align: center;">YOU MAY CONSULT YOUR SOLICITOR BEFORE COMPLETING THIS FORM</p>									
Section 1 – Application Details:									
This objection/representation relates to the following Application:									
Applicant's name (if known):	CANAL FOWLER								
Name & Address of premises:	BANKHILLS LODGE HOTEL BANKHILLS AB31 5HS								
This Application is for	<table border="0"> <tr> <td>• Premises Licence</td> <td><input type="checkbox"/></td> </tr> <tr> <td>• Provisional Premises Licence</td> <td><input type="checkbox"/></td> </tr> <tr> <td>• Variation of an existing Premises Licence</td> <td><input checked="" type="checkbox"/></td> </tr> <tr> <td>• Occasional Licence</td> <td><input type="checkbox"/></td> </tr> </table>	• Premises Licence	<input type="checkbox"/>	• Provisional Premises Licence	<input type="checkbox"/>	• Variation of an existing Premises Licence	<input checked="" type="checkbox"/>	• Occasional Licence	<input type="checkbox"/>
• Premises Licence	<input type="checkbox"/>								
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• Variation of an existing Premises Licence	<input checked="" type="checkbox"/>								
• Occasional Licence	<input type="checkbox"/>								
Application Number (if known)	L A PREM /00028/22								

Section 2 – Objector/Representer Details:	
If you fail to complete this section, the objection or representation may not be considered	
(A) COMPLETE IF YOU ARE OBJECTING OR LODGING A REPRESENTATION AS AN INDIVIDUAL	
Individual Title	Mr <input checked="" type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other _____ delete/complete as appropriate
Surname	WILSON
First Name(s)	MICHAEL
Email address:	
(B) COMPLETE IF YOU ARE OBJECTING OR LODGING A REPRESENTATION ON BEHALF OF AN ORGANISATION	
Title	Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other _____ delete/complete as appropriate
Surname	
First Name(s)	
Address of person lodging objection/representation on behalf of organization (including postcode):	
Email Address:	
Name of Organisation:	
Nature of Organisation e.g. resident's association, ward councilor, trade association	
Address of Organisation (including postcode):	

PART A – OBJECTION							
I/we object to a premises licence being granted to the above premises, on the following grounds (delete any that do not apply):-							
(a)	The premises are excluded premises as defined in Section 123 of the Act.						
(b)	<p>The application must be refused under:-</p> <ul style="list-style-type: none"> Section 25(2) [the Licensing Board has refused a premises licence application in respect the premises less than a year before this application], Section 64(2) [Granting the application would have the effect of allowing alcohol to be sold on the premises during a continuous period of 24 hours or more] or Section 65(3) [Granting the application would have the effect of allowing alcohol to be sold for consumption off the premises before 10am, after 10pm, or both]. 						
(c)	<p>That, having regard to the licensing objectives, the applicant is not a fit and proper person to be the holder of a premises licence for the following reasons:</p> <p>- APPLICATION IS FOR LAND NOT OWNED BY HOTEL</p> <p>- BLH BREAK COVID RESTRICTIONS</p> <p>- BLH SOLD ALCOHOL WITHOUT A LICENCE PREVIOUSLY</p>						
(d)	<p>Granting the application would be inconsistent with one or more of the licensing objectives¹:-</p> <table border="1"> <thead> <tr> <th>Objective</th> <th>Explanation</th> </tr> </thead> <tbody> <tr> <td>Preventing crime and disorder</td> <td>BLH ARE UNABLE TO CONTROL THEIR GUESTS AND KEEP WITHIN THEIR BOUNDARIES</td> </tr> <tr> <td>Securing public safety</td> <td>BLH IS ADJACENT TO FAST RUNNING RIVER. THAT FLOODS WITH LITTLE WARNING.</td> </tr> </tbody> </table>	Objective	Explanation	Preventing crime and disorder	BLH ARE UNABLE TO CONTROL THEIR GUESTS AND KEEP WITHIN THEIR BOUNDARIES	Securing public safety	BLH IS ADJACENT TO FAST RUNNING RIVER. THAT FLOODS WITH LITTLE WARNING.
Objective	Explanation						
Preventing crime and disorder	BLH ARE UNABLE TO CONTROL THEIR GUESTS AND KEEP WITHIN THEIR BOUNDARIES						
Securing public safety	BLH IS ADJACENT TO FAST RUNNING RIVER. THAT FLOODS WITH LITTLE WARNING.						

¹ Please indicate which of the licensing objectives the application would be inconsistent with, along with a concise explanation why. Please delete any of the objectives that do not apply.

Objective	Explanation
Preventing public nuisance	WITHOUT BOUNDARIES OR ENTRY CONTROLS ANY PERSON CAN ENTER THE PREMISES & PURCHASE ALCOHOL INCLUDING CHILDREN
Protecting and improving public health	
Protecting children and young persons from harm	SEE ABOVE

(e) The premises are unsuitable for use for the sale of alcohol, having regard to²—

- (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.

Please explain why: BLH IS ADJACENT TO A FEASIBLE RIVER AND AT ALL TIMES FAST FLOWING WEIR

(f) Granting the application would result in overprovision of licensed premises, having regard to the number and capacity of—


- (i) licensed premises, or
- (ii) licensed premises of the same or similar description as the subject premises,

Please explain why:

.....

.....

² Please indicate which of the factors apply, with a concise explanation why. Please delete any that do not apply.

PART C: Additional Information/Supporting Documents	
Please add here any additional comments you wish to make. If you are submitting any background written materials in support of your Objection/Representation it would be helpful if you could list them here:-	
I WILL ALSO SEND PICTURES OF THE RIVER IN SPATE.	
BLH DOES NOT OWN ALL THE LAND IT IS APPLICABLE FOR LITTERAGE SOME OF IT IS MINE. SEE PREVIOUS APPLICATION. 2018/2019	
BLH SOLD ALCOHOL IN BREACH OF CONDITIONS PREVIOUSLY.	
Please attach supporting documents/further pages as necessary. Please number all extra pages	
I have read and understood the attached privacy notice	
Your Signature	
Date	02/04/2023

YOU MAY CONSULT YOUR SOLICITOR BEFORE COMPLETING THIS FORM
GDPR
Any person who has supplied personal information as part of this application
MUST READ AND UNDERSTAND THE ATTACHED PRIVACY NOTICE

7. Dr and Mrs Shanks per Andrew Hunter, Solicitor, Aberdeen: Objection dated 3rd April 2023

From Andrew Hunter on behalf of Dr and Mrs Shanks by email dated 3rd April 2023

**Notice of Objection – Banchory Lodge AB-S-P002
Application for Variation of Premises Licence
Objection by Dr and Mrs Shank, 3 The Mews, Banchory Lodge**

We wish to object to the application for major variation for premises licence made by the Banchory Lodge Hotel, Dee Street, Banchory, AB31 5HS.

We confirm our objections are on the following statutory basis:

- 1 In terms of section 30(5)(b), the granting of the application would be inconsistent with one or more of the licensing objectives, namely preventing public nuisance and protecting and improving public health.
- 2 That in terms of section 30(5)(c) having regard to (i) the nature and activities or proposed to be carried on in the premises and (ii) the location, character and condition of the premises, the premises are unsuitable for the sale of alcohol in accordance with the proposed variation.

The Banchory Lodge Hotel ("the Hotel") is located in a quiet residential area of Banchory along the banks of the River Dee. Prior to the purchase of the Hotel by the present owners, the Hotel was operated for many years a quiet country hotel. The variation application, if granted, will cause an increase in activities at the Hotel which will lead to a significant change in character of the local area with the associated loss of amenity to the surrounding properties.

Variation of "Activities"

The proposal is extremely broad and general in nature, covering a whole host of activities both during and out with core licensing hours and, both inside and outside the Hotel. In particular, the operating plan sets out that certain activities will take place out with core hours but it does not restrict the operation of those hours. This causes us concern that certain activities would likely cause undue public nuisance when taking place during non-core hours.

When the draft operating plan and application for variation are considered, only the proposed external drinking area (within the terrace areas) has clearly defined operating hours. All other activities are unspecified in their hours. Bearing in mind that residents and their guests can lawfully consume alcohol on a 24/7 basis, we have real concerns that "other activities" could be carried out at all hours.

For example, unspecified indoor and outdoor sport may take place from 7am each day but with no specified terminal hour. Further, there is no specification as to what the external outdoor sports are. The premises have a large garden area. Is the sport taking place there? It was open to the applicant to say in clear terms what is proposed but they have chosen not to do. On the face of the application, the whole character of the Hotel could change.

We accordingly have a legitimate concern that public nuisance could arise as a result of such activities. Separately, late night games in the garden area by persons under the influence of alcohol would, in our view, be contrary to the public health objective.

Outdoor drinking Hours

We consider that external drinking until 11pm each night is too late and would be likely to cause undue nuisance and loss of amenity for us. We would respectfully suggest that the termination of outdoor drinking at 9pm. This would balance the interest of the Hotel as a commercial operator and us as neighbours who are entitled to enjoy peace and quiet in this residential area.

Our concerns are manifested by the fact that we have had cause complain to them directly about noise nuisance emanating from the function room. We do not consider the applicants can be entrusted to take sufficient measures to mitigate noise and nuisance if the premises licence allows late night consumption of alcohol in external areas. We do not consider it should be for us to police the use of external areas to ensure compliance.

For example, the current function room is neither soundproof or air conditioned. As a result of this, the windows and patio door are often open due to control the temperature within the Hotel. When live music is being played, we experience nuisance. We had previously raised this with the Hotel. Live music should only be permitted when doors and windows are closed. It is for the Hotel to take sufficient measures to control temperature, such as using air con, without causing nuisance.

If external drinking was permitted until 11pm (as proposed), we have significant concerns that the difficulties we have had in the past regarding loud music from the venue would be exacerbated by Hotel residents and their guests going back and forth from the premises and function area to consume alcohol outside. This could lead to doors being left open as customers go in and out causing unacceptable nuisance.

Our concerns about public nuisance are further exacerbated by the fact that terminal hour for live performances are not restricted in the operating plan and separately the operating plan proposes to play music in the external tenancy areas and pods. Playing music in the outdoor area until 11pm every night is, in our view, wholly unacceptable.

Outdoor Drinking Capacity

The draft operating plan states that the external area would have a total capacity of 65 persons, comprising 35 in the upper terrace and 30 in the lower terrace. However, the layout plan submitted with the application for variation would suggest that the larger areas could be used for external drinking.

For example, the drawing which appears to be numbered 1442-104 shows a section headed "layout plan and function areas" which would appear to show a vast expansive garden area delineated in red which would strongly suggest to us that this area could be used for the consumption of alcohol.

The whole garden area could support a capacity well in excess of 65 persons. As a result we have a significant concern that external drinking could take place for large numbers of persons in this area until 11pm at night as proposed or even later, since residents and their guests could consume alcohol lawfully on the premises 24/7 as well as other activities which have no restrictions in the operating plan!

Notwithstanding that it is a separate remit for the local authority planning department, we understand that planning permission for use of the upper terrace has expired. The Board should therefore delay any decision in respect of the outdoor areas until use of it has been permitted by the planning department.

Summary

Our objections are that the proposed use of the premises are contrary to the licence objectives of preventing public use and protecting and improving public health, and separately, the premises are not suitable for the totality of the changes proposed, having regard to the character and location of the premises.











- The majority of activities proposed out with core hours have no clear times, meaning that activities such as outdoor sports would take place through the night. With alcohol being available to residents and their guests on a 24/7 basis, we consider that nuisance is likely.
- Whilst the proposed operating plan limits alcohol consumption in the terrace and pods to 11pm at night, the layout plans seeks to authorise the whole garden ground as a licensed area. Residents of the hotel and their guests would be permitted to consume alcohol at all times and therefore we are concerned that use of the garden area could be during all hours of the day.
- Given that we have had cause to complain in the past about the use of the function area and loud music noise from it, we are concerned that the use of external areas to 11pm at night could cause undue nuisance and loss of amenity to us. The proposal seeks to play music in the external area is unacceptable. We would propose at the time of 9pm balances the interests of the Hotel and us as objectors.
- If the Hotel does not intend to undertaken "activities" at all hours of the day and night, the operating plan should be re-drafted to reflect what is intended and should not be open ended.





























APPENDIX 3




LOCAL CONDITIONS









LOCAL CONDITIONS: PREMISES LICENCES

A. THE ABERDEENSHIRE LICENSING BOARD

General Management for All Premises		
1	The provisions relating to management of licensed premises contained within the Board's current policy statement, particularly Appendix 1 thereto, must be complied with.	PCD, SPS, PPN PIPH, PCYPFH 
2	Premises Licence Holders must ensure that the premises, internally and externally, are maintained in good, clean and tidy condition at all times.	SPS, PPN 
3	Premises Licence Holders must ensure that Refusal Registers and Daily Incident logs are accessible for inspection by Police and Licensing Standards Officers	PCD, SPS 
4	The Licence Holder must ensure that any general authorisation for the sale of alcohol required within the premises is – <ul style="list-style-type: none"> • in writing • available for inspections by Police and Licensing Standards Officers • brought to the attention of and signed by all parties; and • enforced by the premises manager 	PCD, SPS, PPN, PIPH, PCYPFH 
Noise – All Premises		
5	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.	PPN 
Lockfast Store – All Premises		
6	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.	PCD, SPS 
Children and Young Persons – On Sale Premises		
7	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.	PCYPFH 
8	The Licence Holder shall provide safe high chairs for the use of young children	SPS, PCYPFH 
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  
Premises Providing Late Night Entertainment – On Sale Premises		
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    
Adult Entertainment – On Sale Premises		
18	Children and young persons are not permitted to attend any event involving adult entertainment.	PCYPFH 
Vulnerability – All Premises		
19	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. 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. The Licence Holder shall ensure that staff training records are made accessible for inspection by Police Scotland and Licensing Standards Officers.	PCD, SPS, PPN PIPH, PCYPFH     




Door Supervisors – On Sale Premises		
20	<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"> a. Confirm that persons who seek access to the premises have paid for admission or have appropriate passes/invitations; b. Identify and refuse entry to drunken persons c. Identify and refuse entry to any persons banned through pubwatch or by any other means; d. Actively police the premises and to perform all activities in line with their role under the Private Security Act 2001; e. Supervise entrance doors/access points at all times to ensure that no fire or other exits are blocked; f. Be aware of the fire safety precautions and procedures and all other policies and practices; g. Be aware of the premise’s drug prevention policy; h. Provide assistance to patrons, including customer care, directions to facilities and health and safety; i. Ensure that no patron removes glasses, or open or closed vessels from the premises when exiting for any reason. 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; k. Be aware of the provisions of the Licensing (Scotland) Act 2005 which impact on the running of the premises; 	<p>PCD, SPS, PPN PIPH</p> 
CCTV – All Premises		
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> 
Members Clubs		
22	<p>Members Clubs must comply with the provisions of Supplementary Policy Statement 7 of the Board’s current policy statement.</p>	<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 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>PCD, SPS, PPN, PIPH, PCYPFH</p> 
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.	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 
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.	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 
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.	<p>SPS, PPN</p> 
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"	<p>SPS, PPN</p> 

Beer Gardens and Outside Drinking Areas

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"> • The evacuation of the premises; and • The prevention of the misuse of drugs on the premises. • Duty of care ('Vulnerability through Intoxication') 	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

	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 4 - Licensing (Scotland) Act 2005
Part 3 & Sections 29-32
Application for Variation of a Premises Licence

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)¹**
 - (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-
 - (a) the Board **MUST** specify the ground for refusal, and

¹ 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

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

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 Boards' 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
- 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.

1. In terms of Section 17 of the 2005 Act, a premises licence is required to authorise the sale of alcohol on premises.
2. In terms of Section 29(1) of the Act a premises licence holder may apply to the appropriate Licensing Board for a variation of the licence.
3. A variation application must be accompanied by –
 - (a) the premises licence to which the application relates, or
 - (b) if that is not practicable, a statement of the reasons for failure to produce the licence.
4. A “variation” in relation to a premises licences, commonly referred to as a major variation, means any variation of –
 - (a) any of the conditions to which a licence is subject (other than those to which the licence is subject by virtue of section 27(1)²)
 - (b) Any of the information contained in the operating plan contained in the licence
 - (c) the layout plan contained in the licence, or
 - (d) Any other information contained or referred to in the licenceAnd includes an addition, deletion or other modification.
5. A “minor variation” means –
 - (a) any variation of the layout plan, if the variation does not result in any inconsistency with the operating plan
 - (b) where, under the operating plan contained in the licence, children or young persons are allowed entry to the premises, any variation reflecting any restriction

² The mandatory conditions

- or proposed restriction of the terms on which they are allowed entry to the premises
- (c) 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
 - (d) any other variation of such description as may be prescribed for the purposes of this subsection.

6. A variation application can also be made where –

- (a) the variation sought is the substitution of another individual as the premises manager, and
- (b) the applicant requests in the application that the variation should have immediate effect.

Where this happens, the premises licence to which the application relates has effect during the application period³ as if it were varied as proposed in the application.

7. The Boards' current Scheme of Delegation make the following provisions for determination of applications for variation of licence:-

Section 1.6	Determination of a variation application where the variation sought is not a minor variation (major variation)	Reserved to the Board
Section 3.1	Determination of any variation application where the variation sought is a minor variation	Delegated to the Clerk to the Board or any person appointed to assist them
Section 3.2	Determination of variation application to substitute a new premises manager	Delegated to the Clerk to the Board or any person appointed to assist them
Section 3.3	Determining whether to cite an applicant to a hearing for a variation application where the variation is not a minor variation (major variation)	Delegated to the Clerk to the Board or any person appointed to assist them

Each application must be determined on its own merits.

- 8. The sections of the Act relating to the lodging of objections or representations and the Board's ability to request an anti-social behaviour report⁴ also apply to major variations. These are as undernoted.
- 9. In terms of Section 21(3) of the Act the Chief Constable must provide the Board with either –
 - a. A notice in terms of Section 21(4)(a) stating that neither the applicant, nor, in the case where the applicant is neither an individual nor a council, or where the

³ The application period is the period beginning when the application is received by the Licensing Board and ending when the variation takes effect or, if the application is withdrawn before it is determined, when it is withdrawn.

⁴ Sections 21, 22 and 24A

application is in respect of premises which are to be used wholly or mainly for the purposes of a club, any connected person, has been convicted of any relevant or foreign offence.

- b. A notice in terms of Section 21(4)(b) of the Act specifying any convictions of the applicant or any relevant connected person for a relevant or foreign offence.

10. Section 22 of the Act provides that any person may, by notice to the Licensing Board-

- a. Object to the application on any ground relevant to one of the grounds for refusal (outlined in the legal test above); or
- b. make representations to the Board concerning the application, including, in particular, representations –
 - (i) in support of the application
 - (ii) as to modifications which the person considers should be made to the operating plan accompanying the application, or
 - (iii) as to conditions which the person considers should be imposed.

Such notices of objection or representation may include any information that the person considers may be relevant to consideration by the Board of any ground for refusal, including, in particular, information in relation to –

- (a) The applicant,
- (b) Where the applicant is neither an individual nor a council, a connected person in relation to the applicant, or
- (c) Any person who would be an interested party in relation to the subject premises if the application were to be granted.

11. The Chief Constable, where making a representation concerning a premises licence can give to the Board a report detailing –

- a. any cases of antisocial behaviour identified by constables as having taken place on or in the vicinity of the premises.
- b. any complaints or other representations made to constables concerning antisocial behaviour on, or in the vicinity or, the premises.

12. The Board must –

- a. give a copy of the notice to the applicant in such manner and by such time as may be prescribed; and
- b. have regard to the objection or representation (including any information included about the applicant, any connected person or any interested party) in determining the application.

13. A Licensing Board may reject a notice of objection or representation received by the Board if the Board considers the objection or representation to be frivolous or vexatious.

14. A Board may recover any expenses incurred by the Board in rejecting a notice of objection or representation from the person who lodged the notice.

15. 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.

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 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 licences 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 holder's 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).

APPENDIX 5 - Procedure for remote Licensing Hearings –

APPLICATIONS FOR A LICENCE

- (a) Identify whether the applicant and his/her advisors are present.
- (b) Identify whether the Objector(s) and his/her advisors are present. [in turn]
- (c) Invite the applicant to speak to his application (outline to the Board why the application has been made and make any comments in relation to any observation/objection made in respect of the application)
- (d) Ask the Objector(s) to speak to the Objection(s) or Observation(s) [in turn]
- (e) Give the applicant an opportunity to address any issues raised by the Objector(s).

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.**

- (f) Members MAY then question all parties present.
- (g) Convenor should invite concluding remarks (objector(s) then applicant), 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.

- (h) 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 parties will be asked to leave the meeting, failing which, the Depute Clerk will remove the parties and all attendees from the meeting. The recording of the meeting will be paused. On resuming the bench, the Depute Clerk will contact all parties/attendees to re-invite them back into the meeting. On confirming all

parties/attendees are again present, the recording of the meeting will be restarted

- (i) 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 application 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.
- (j) 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.

THE ABERDEENSHIRE LICENSING BOARD

REPORT TO ABERDEENSHIRE LICENSING BOARD – 28th June 2023

LICENSING (SCOTLAND) ACT 2005 REVIEW OF STATEMENT OF LICENSING POLICY 2023-2028 APPROVAL OF DRAFT POLICY STATEMENT FOR CONSULTATION

1 Executive Summary / Recommendations

- 1.1 The Aberdeenshire Licensing Board must, by statute, review their Licensing Policy Statement within 18 months of the local government election in May 2023.

Following reports to the Board identifying main issues relating to the preparation of a new Policy Statement, and advising of the outcome of an engagement exercise in respect of the main issues identified by the Board, this report asks the Board to consider and approve the terms of a Draft Policy Statement, as set out at **Appendix 2** to this report, for the purposes of a formal consultation exercise thereon, before considering and approval a Final Policy Statement in October 2023 to take effect from 1st November 2023.

1.2 It is recommended that the Board: -

- 1.2.1 Note the terms of the updated Timeline for Review of the Policy Statement as set out in Appendix 1 to this Report;**
- 1.2.2 Considers and approves the Draft Statement of Licensing Policy, as set out in Appendix 2 to this Report for the purposes of carrying out a formal consultation exercise;**
- 1.2.3 Approves the terms of the Consultation Timeline attached as Appendix 3 to this Report, and, in particular –**
- **Agrees to consider approval of the Final Statement of Licensing Policy at a Special Meeting of the Licensing Board to be held on 25th October 2023**
 - **Authorises the Clerk to the Board to conduct the consultation exercise on behalf of the Board**
- 1.2.4 Notes the terms of the updated draft Integrated Impact Assessment in relation to the review process.**
- 1.2.5 Notes that an update Report will be brought to the Board at their meeting on 16th August 2023.**

2 Purpose and Decision-Making Route

- 2.1 At the meetings of each of the three former Divisional Licensing Boards held in October 2018 the Divisional Boards approved a Statement of Policy for the then three Aberdeenshire Divisional Board areas. The Divisional Boards agreed that the Statements of Policy should be amalgamated into one document, whilst respecting the regional variations. Aberdeenshire Council dissolved the three Divisional Boards, and the new Aberdeenshire Licensing Board adopted the previous policy, including the regional variations from the previous Boards, at their meeting on 29th April 2020, and following the local government election in May 2022 the Board adopted the existing policy.

- 2.2 The Board agreed there were a number of main issues to consider in the review of the existing Policy and approved the undertaking of an engagement exercise at their meeting on 12th October 2022 (Item 9(i)). The report can be accessed [here](#).¹
- 2.3 The engagement exercise was carried out between 31st October 2022 and 6th January 2023. A report on the results of the engagement exercise was presented to the Board at their meeting on 22nd February 2023 (Item 9(ii)). The report can be accessed [here](#).²
- 2.4 Following review of the evidence ingathered from the engagement exercise by the Licensing Team, the Board considered an analysis Report at their meeting on 28th April 2023 (item 13). The report can be accessed [here](#).³ The Board agreed the following for the purposes of drafting a Licensing Policy Statement to be submitted to the Board for approval on 28th June 2023 for the purposes of carrying out a formal consultation exercise:
1. That permitted operating hours be harmonised across Aberdeenshire.
 2. That the permitted hours be as follows:
 - Opening hours – Onsales
 - 10.00am
 - Terminal hour – Onsales
 - for premises other than nightclubs – 01.00am
 - Terminal hour for nightclubs – 02.00am (Sun – Thurs)
03.00am (Fri-Sat)
 - Private Function Hours – Onsales
 - There should be no additional operating hours for private functions
 - Festive Hours – Onsales
 - For premises other than nightclubs – 01.30am, 31st December only – 03.00am
 - Nightclubs – no additional hours
 - Dates Festive Hours Apply
 - Friday & Saturday preceding 25th December
 - 24th – 26th December inclusive
 - Friday & Saturday preceding 31st December
 - 31st December
 - 1st January
 - Hours for Occasional Licences and Occasional Extensions
 - 10.00am – 1.00am
 3. That the localities for the purpose of overprovision be local settlements based on the evidence provided in **Appendix 2** to the report

¹ <https://committees.aberdeenshire.gov.uk/committees.aspx?commid=516&meetid=20294> Item 9(i)

² <https://committees.aberdeenshire.gov.uk/committees.aspx?commid=516&meetid=20461> Item 9(ii)

³ <https://committees.aberdeenshire.gov.uk/committees.aspx?commid=516&meetid=20486> (Item 13)

4. that there was no evidence to date of overprovision in relation to on sale premises
5. That there was evidence to date that in relation to Off sale premises –
 - Overprovided:
 - Fraserburgh
 - Peterhead
 - Banff
 - Watching brief:
 - XXX
 - No overprovision
 - Remaining settlements
6. Authorised officers to consider options for setting an approved capacity for alcohol displays in off sales and present them at the June Board
7. Noted that further statistical data was still to be obtained
8. Agreed to retain the late applications policy for occasional licences
9. Noted that the local conditions for occasional licences would be reviewed
10. Agreed that the Premises Licence Conditions be reviewed and that they should incorporate the suggested additional conditions recommended in the report and that the terminal hour for outside drinking areas be amended to 10.00pm
11. Agreed to retain the provisions relating to the end of aisle alcohol displays
12. Agreed to retain the policy provisions relating to vertical drinking establishments
13. Noted that the formal consultation process would include exploring interest in and the potential for reinstating the Aberdeenshire Licensing Forum

For the avoidance of doubt, if the policy is changed in any respect, those existing licence holders retain their existing licensing arrangements unless they submit a variation to change to take advantage of any new policy changes. The new policy will be applicable to new applications only.

3 Discussion

Legislative Background

- 3.1 Section 6 of the Licensing (Scotland) Act 2005 requires all Licensing Boards to have a written statement of policy and to have regard to it when exercising functions under the Act. The Policy Statement sets out the Board's policies on the sale and supply of alcohol in accordance with the Licensing (Scotland) Act 2005.

- 3.2 There is revised statutory guidance which sets out the areas that the Licensing Policy Statement must cover. This was included in the report to the Board on 22nd February 2022 and can be accessed [here](#)⁴. The draft Policy Statement has been reviewed and updated in line with the revised statutory guidance.
- 3.3 The current Statement of Licensing Policy can be found [online](#)⁵. The report presented to the Committee on [31st of August](#)⁶ set out the legislative requirements is therefore not repeated in this report.

Time Line Update

- 3.4 The Timeline for Reviewing the current Statement of Licensing Policy is as set out in **Appendix 1** to this report for noting.

Draft Statement of Licensing Policy

- 3.5 Following the decisions made by the Board at their meeting on 28th April 2023, as referred to at Section 2.4 above, Officers have reviewed the current Statement of Licensing Policy and revised its terms creating a draft Statement of Licensing Policy to be consulted on. The draft Statement of Licensing Policy is attached as **Appendix 2** to this Report. Changes are set out in red text for ease of reference.
- 3.6 The Board is asked to consider the revisions made, and approve the Draft for the purposes of carrying out a formal consultation exercise, the details of which are set out at Section 3.7 of this Report, below.

Formal Consultation Process

- 3.7 To enable the Board to meet the statutory deadline of publication of a new Statement of Licensing Policy by 1st November 2023 officers have drafted a Consultation Timeline to ensure the process stays on track. The draft Timeline is attached as **Appendix 3** to this Report and referred to for its terms.
- 3.8 The Board should note that the October Meeting of the Board is set for 4th October 2023 so as to avoid the Council's vacation period during October. However, this does not enable officers sufficient time to review the evidence ingathered from the Consultation Exercise and to finalise the terms of the Statement of Licensing Policy. The Board is therefore asked to approve a Special Meeting of the Board to be held on 25th October 2023 solely for the purpose of approving the Final Statement of Licensing Policy, as set out in the draft Timeline in the Appendix. Officers are aware that this is during the October

⁴ <https://www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2023/01/licensing-scotland-act-2005-section-142-guidance-licensing-boards/documents/licensing-scotland-act-2005-section-142-guidance-licensing-boards/licensing-scotland-act-2005-section-142-guidance-licensing-boards/govscot%3Adocument/licensing-scotland-act-2005-section-142-guidance-licensing-boards.pdf#:~:text=Licensing%20%28Scotland%29%20Act%202005%20Statutory%20Guidance%201.1%20As,Scottish%20Ministers%20issued%20statutory%20guidance%20to%20Licensing%20Boards.>

⁵ <https://www.aberdeenshire.gov.uk/media/26667/licensing-policy-statement-2018-2023.pdf>

⁶ (<https://committees.aberdeenshire.gov.uk/FunctionsPage.aspx?dsid=113412&action=GetFileFromDB>)

vacation period, but this is unavoidable given the timescales for approval of the final Policy Statement.

- 3.9 Potential Engagement Sessions have been included in the draft Timeline. The need for these, and the format that will be used, will be kept under review and will be dependent upon the responses and evidence lodged as a result of the formal consultation exercise. An update will be provided to the Board at their meeting on 16th August 2023.

4 Council Priorities, Implications and Risk

- 4.1 This report is brought in accordance with the requirements of the Licensing (Scotland) Act 2005.

- 4.2 The table shows whether risks and implications apply if the recommendations (s) is (are) agreed:

Subject	Yes	No	N/A
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		

- 4.3 An Integrated Impact Assessment (IIA) has been drafted for the overall policy review. This has been updated considering the evidence gathered from the engagement exercise. A copy of the draft IIA is attached as **Appendix 4** to this Report. The IIA will continue to be reviewed and analysed as the Consultation exercise is undertaken and a final IIA will be submitted to the Board along with the final Policy Statement for approval in October 2023.

5 Governance

- 5.1 The Board can consider this matter as formulating Licensing Policy is a matter reserved to the Licensing Board in terms of the Licensing (Scotland) Act 2005.

Karen Wiles
Clerk to the Aberdeenshire Licensing Board

Report prepared by Fiona M Stewart, Senior Solicitor (Governance), Depute Clerk to the Board
Date 20th June 2023

List of Appendices

Appendix 1 – Updated Timeline for Review of the Policy Statement

Appendix 2 – Draft Statement of Licensing Policy

- Main Policy Statement
 - Appendix 1
 - Appendix 2
 - Appendix 3
- Supplementary Policy Statement 1
- Supplementary Policy Statement 2
- Supplementary Policy Statement 3
- Supplementary Policy Statement 4
- Supplementary Policy Statement 5
- Supplementary Policy Statement 6
 - Appendix 1
 - Appendix 2
 - Appendix 3
- Supplementary Policy Statement 7
- Supplementary Policy Statement 8

Appendix 3 – Formal Consultation Timeline

Appendix 4 - Revised Draft Integrated Impact Assessment

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 st 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 th 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 and Lauren Cowie	Officer review information from engagement.	Jan & Feb 2023		
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		
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		Postponed – to be carried out as part of the formal consultation exercise
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 regarding consultation on draft policy.	April 2023		Going to June Board meeting instead

9B	TBC	Prepare Engage HQ page to include survey covering issues.	April 2023		Formal consultation now happening over the summer
9C	TBC	Issue link to the Engage HQ questionnaire to partners and the public.	May-July 2023		Formal Engagement now happening over the summer
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		

THE ABERDEENSHIRE LICENSING BOARD



Licensing (Scotland) Act 2005 STATEMENT OF LICENSING POLICY **2023-2028**












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LOCAL OUTCOME IMPROVEMENT PLAN PRIORITIES



Connected and Cohesive Communities	
Changing Aberdeenshire's Relationship with Alcohol	
Reducing Child Poverty	
Health & Wellbeing	

EQUALITIES – PROTECTED CHARACTERISTICS

Age	
Disability	
Gender Reassignment	
Pregnancy and Maternity	
Race (Includes: ethnic origin, national origin, colour and nationality)	
Religion or Belief (Includes: a lack of any belief)	
Sex (Gender)	
Sexual Orientation	
Marriage and Civil Partnerships (But only in respect of the duty to consciously consider the need to eliminate discrimination, harassment and victimisation and other conduct prohibited by the Act).	

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Version 1.1 (published ...)

FOREWORD BY THE CONVENOR

DRAFT FOREWORD

*This Licensing Policy Statement sets out the Aberdeenshire Licensing Board's Policies on the sale and supply of alcohol in accordance with the Licensing (Scotland) Act 2005 from **November 2023**.*

This Policy Statement was approved by the Board at their meeting on XXX

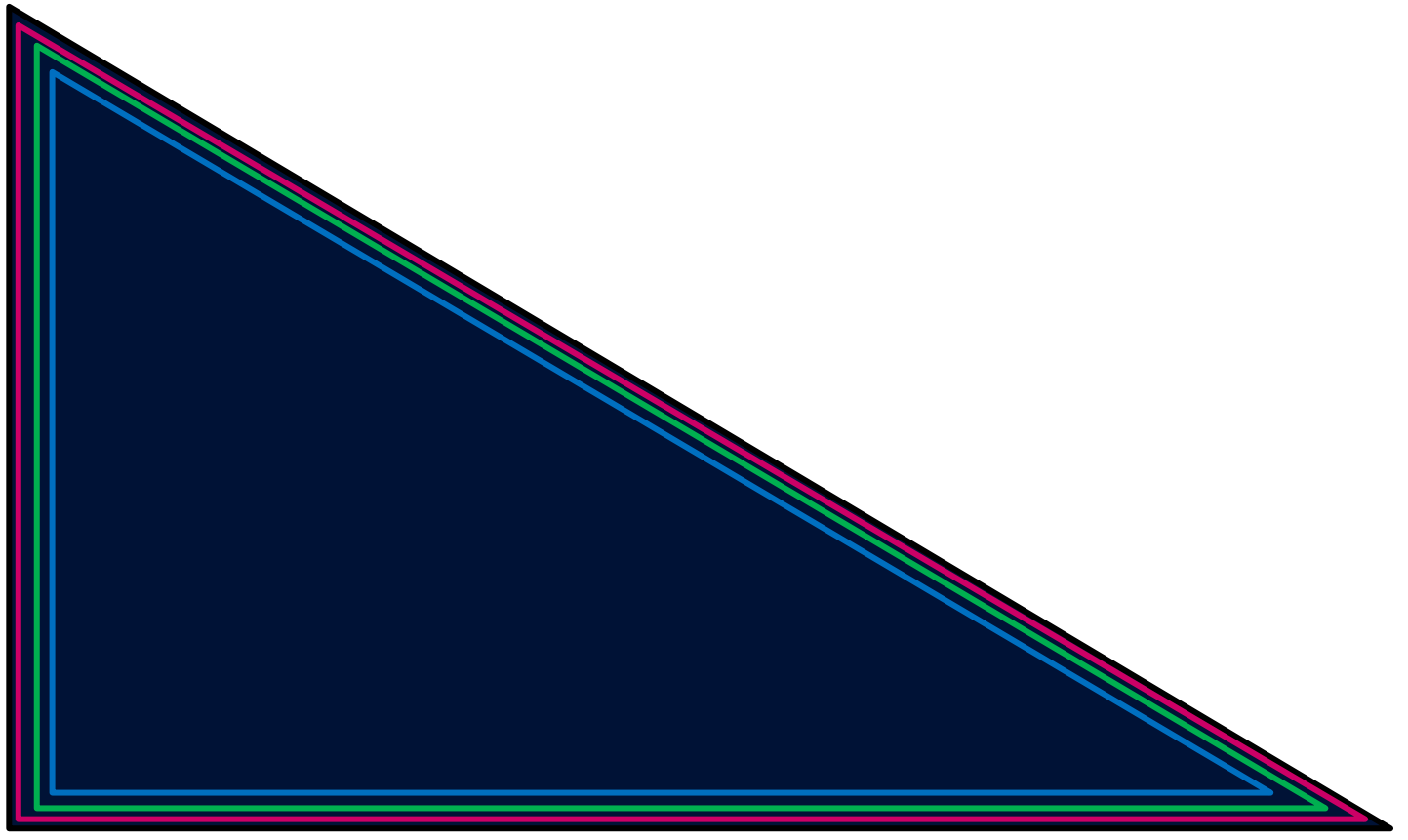
The policy was developed and refined through a collaborative process involving public consultation and direct consultation with the Licensed Trade including Members Clubs, Police Scotland, NHS Grampian, Aberdeenshire Alcohol and Drug Partnership (as well as members of the public) and Community Councils. The Board is very grateful for the excellent demonstration of partnership working that has culminated in this Policy.

The Licensing Board aims for a consistent approach across Aberdeenshire. Our aim will be to promote the Licensing Objectives as set out in the legislation and all decisions that we make will be based firmly upon reliable evidence and on individual merit.








Marion Ewenson
Convener of The Aberdeenshire Licensing Board

PART ONE: THE LICENSING OBJECTIVES



LICENSING OBJECTIVES

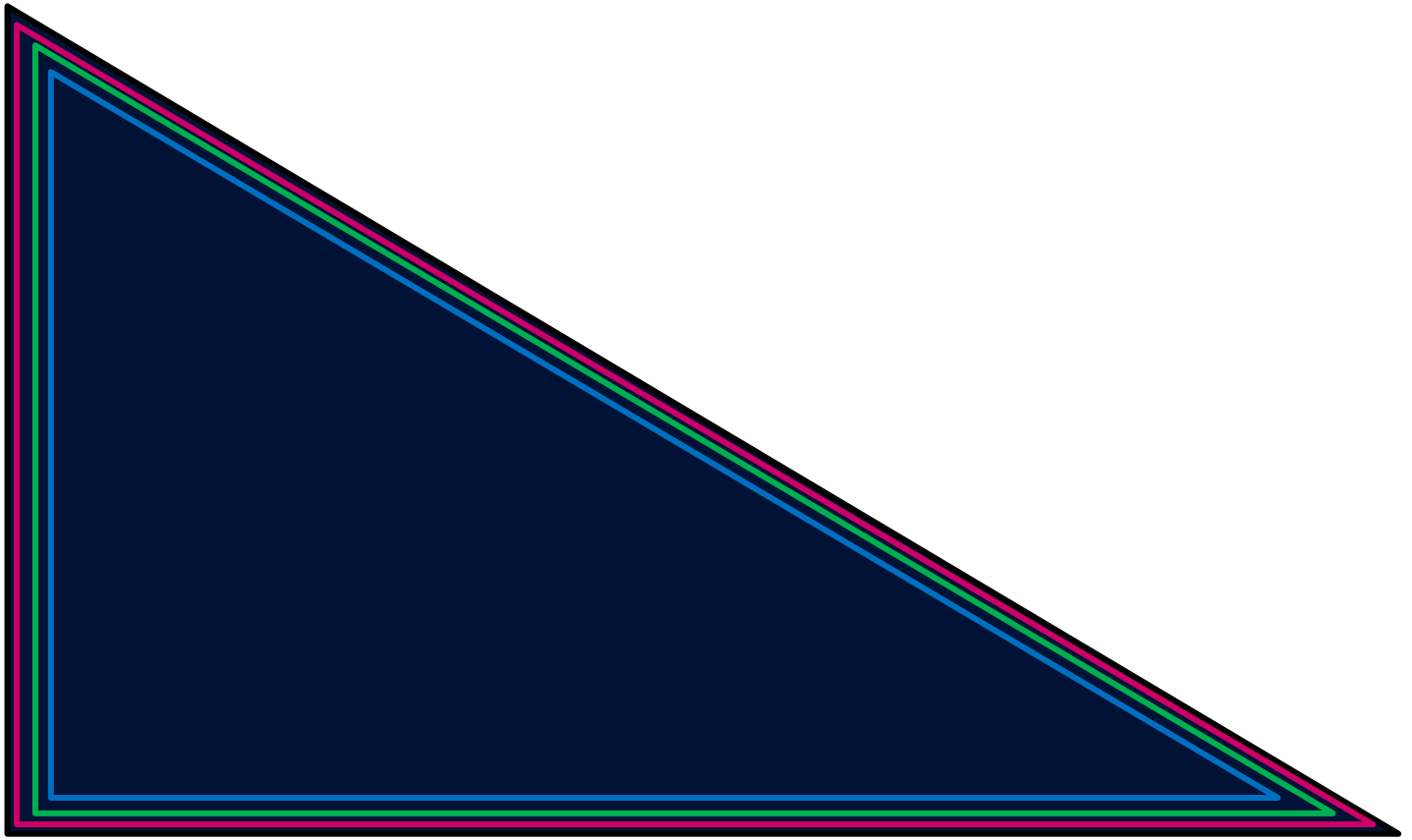
The 5 core objectives underpinning the Licensing (Scotland) Act 2005 are: -

	Preventing crime and disorder.
	Securing public safety.
	Preventing public nuisance.
	Protecting and Improving public health.
	Protecting children and young persons from harm.

“We wish to propose that certain principles should be specifically enshrined in statute as principles which should at all times guide the Licensing Boards and other in the exercise of their functions”

The Nicholson Committee: Review of Liquor Licensing Law in Scotland, Paragraph 2.23

PART TWO: LICENSING POLICY STATEMENT



LICENSING POLICY STATEMENT

1. INTRODUCTION

- 1.1 **Section 6** of the **Licensing (Scotland) Act 2005** (“the Act”) requires every Licensing Board to prepare and publish a statement of their policy to assist in the implementation and administration of the licensing of the sale and supply of alcohol within their area and to outline the way they intend to exercise their functions under the Act.
- 1.2 The primary purpose of the Policy Statement is to ensure that, in exercising their functions, Boards promote the licensing objectives, as shown on the previous page. Scottish Government Guidance further provides that Policy Statements should provide local communities with a clear indication of the Board's policy as well as being consistent with the licensing objectives.
- 1.3 To that end, this Policy Statement sets out the **Aberdeenshire Licensing Board's** (“the Board”) general approach to decision-making under the Act.
- 1.4 Where it is necessary to provide more detailed guidance, Supplementary Policy Statements will be issued.

2. GENERAL PRINCIPLES

- 2.1 In exercising its functions under the Act the Board is required to have regard to this Policy Statement.
- 2.2 Alcohol is not an ordinary commodity due to its well-recognised hazardous properties. As a result, permission to sell alcohol is not a right but an entitlement awarded where the Board deems an application not to prejudice the goals of the five licensing objectives either in its own right or as a consequence of cumulative impact across the licensing area in question.
- 2.3 **The Board will consider all applications on their merits within the context of this Policy Statement. In particular, the Board will give due consideration to whether or not an application conforms to any requirements set out in this Policy Statement.**

The Board acknowledges that its licensing powers are not the main statutory mechanism for dealing with anti-social behaviour and nuisance but will work in partnership with organisations that deal with such issues to assist in delivering shared outcomes.

Applicants wishing to persuade the Board to depart from this Policy Statement will need to demonstrate, by means of evidence, good reason for so doing, and in particular, evidence how a departure is not inconsistent with any or all of the five licensing objectives.

- 2.4 The Board has adopted a partnership approach to alcohol and alcohol issues within Aberdeenshire in order to work more pro-actively at local level and, to demonstrate on a more practical level how the Board will adhere to and promote the licensing objectives. In doing this, the Board carried out extensive consultation, as outlined in **Supplementary Policy Statement 2**. The Board

has also reviewed the terms of this Policy to set out achievable and measurable outcomes going forward.

- 2.5 The Board's Action Plan is to be published online¹.

3. CONTEXT - ABERDEENSHIRE

- 3.1 A profile of Aberdeenshire is contained in **Supplementary Policy Statement 1**.

4. PREPARATION OF POLICY STATEMENT

- 4.1 The Board consulted with a wide variety of people and partnership organisations in preparing this Policy Statement. The Board has also reviewed this Policy Statement having regard to a wide range of documents and evidence.

- 4.2 These are outlined in **Supplementary Policy Statement 2**.

5. THE LICENSING OBJECTIVES

- 5.1 The primary purpose of this Policy Statement is to ensure that the Board promotes the licensing objectives in exercising its functions.

- 5.2 This being of primary importance, the Board has set out at **Appendix 1**, how it aims to achieve this, what actions will be taken to deliver these aims, what outcomes are expected, how these will be measured, and have set out any **local conditions** required to assist compliance with the licensing objectives in **Appendix 2**.

- 5.3 The Board has discretion to apply conditions to a premises licence. In doing so, the Board **must** have regard to how additional conditions relate to the mandatory conditions set out in the Act, Regulations, Orders, and any other Instruments set out in terms of the Act.

- 5.4 The Board also has discretion to apply conditions to occasional licences. In doing so, the Board **must** have regard to how additional conditions relate to the mandatory conditions set out in the Act, Regulations, Orders, and any other Instruments set out in terms of the Act.

The **local conditions** have been reviewed to reflect the licensing objectives that they promote. Reference to the relevant **local conditions** under each licensing objective heading set out in **Appendix 1**.

The **local conditions for Premises licences** can be found in **Appendix 2**

The **local conditions for Occasional licences** can be found in **Appendix 3**

6. OVERPROVISION

- 6.1 The Board has published **Supplementary Policy Statement 3** setting out the extent to which the Board considers there to be overprovision of licensed premises (or licensed premises of a particular description) in any locality

¹ Link will be added once the Board's Action Plan has been published online following approval of the Final Policy Statement.

within the Board area.

7. OPERATING HOURS

- 7.1 The Board considers that the operating hours set out in **Supplementary Policy Statement 4** meet the needs of businesses to routinely trade within the Board Area, while, at the same time, not impacting on the needs of the community in such a way that would be detrimental to compliance with the five licensing objectives.

8. RELATIONSHIP WITH OTHER REGIMES AND TRANSPORT .TOURISM. PLANNING AND BUILDING STANDARDS

- 8.1 Statutory Guidance indicates that the Board should:

- provide clear indications of how the Board will take into account other matters relating to alcohol.
- Identify any arrangements between the Licensing Standards Officers and the Police for reporting views/concerns to the local Transport Committee, which in Aberdeenshire is the Infrastructure Services Committee;
- Identify any arrangements to receive, when appropriate, reports on the local tourist economy.

Detailed guidance in respect of each of these elements is provided in **Supplementary Policy Statement 5** to this Policy Statement.

9. DUPLICATION

- 9.1 The Board is committed to avoiding duplication with other regulatory regimes in so far as it is reasonably practicable for it to do so.

10. LICENCE TYPES, PROCEDURES, ENFORCEMENT AND SERIOUS MATTERS

- 10.1 **Supplementary Policy Statement 6** sets out information on licence types, Board procedures and decision-making powers, enforcement action, and the matters the Board considers to be serious in determining applications.
- 10.2 Information relating to the management of licensed premises is set out at **Appendix 1** as management of licensed premises should fundamentally be about promoting the licensing objectives.

11. LICENSING STANDARDS OFFICERS

- 11.1 Licensing Standards Officers (“LSOs”) are employed by Aberdeenshire Council and have the functions set out in the Act. Their role is threefold – guidance, mediation and compliance. **Chapter 7 of the Statutory Guidance provides further information on the general functions of the LSO.**

12. INFORMATION ON MEMBERS CLUBS

- 12.1 Information relating to Members Clubs is set out in **Supplementary Policy Statement 7.**

13. INFORMATION ON EXCLUDED PREMISES

- 13.1 Information relating to excluded premises is set out in **Supplementary Policy Statement 8.**

14. HOW TO MAKE COMMENT ON THIS DOCUMENT

- 14.1 Consultation on this document took place between the XXX and the XXX. The Policy was published on the XXX and will be applied during the period of the policy i.e. -2023 – 2028, until 31st October 2028. It will be kept under review and revised, if appropriate, by the issue of Supplementary Policy Statements that will apply to the end of the policy period.
- 14.2. Please see **Supplementary Policy Statement 2** for details on how to make comments.

15. PUBLICATION

- 15.1 Copies of this Policy Statement² will be available for public inspection, during normal office hours, free of charge at –
- The Town House, 34 Low Street, Banff, AB45 1AN**
- Gordon House, Blackhall Road, Inverurie, AB51 3WA**
- Viewmount, Arduthie Road, Stonehaven, AB39 2DQ**
- 15.2 Copies of this Policy Statement will also be available in .pdf format on Aberdeenshire Council's website.
- 15.3 Any personal information collected will be held and processed in accordance with the requirements of GDPR.
- 15.4 Electronic copies are also available by contacting the Clerk to the Board whose details are given in **Supplementary Policy Statement 2**.

² This relates to the Final Policy Statement once approved by the Board

15.5 Paper copies will be posted, free of charge, on request as provided for in the [Board's Publication Scheme](#)².

² <http://www.aberdeenshire.gov.uk/licensing/alcohol/policies/licensing-board-publication-schemes/>

APPENDIX 1 – LICENSING OBJECTIVES

The Board expects Applicants for Licences and Licence Holders (“Licence Holders”) to demonstrate compliance with the licensing objectives.

The Board considers that Licence Holders and their staff should operate their business in a manner which is consistent with the five licensing objectives. There are various aspects of running licensed premises which are of particular interest to the Board.

Licence Holders should consider certain areas of operation in assessing how to comply with the licensing objectives. The Board wishes to offer some guidance to Licence Holders in relation to how to achieve this in practice. This Appendix sets out that guidance, under the heading of each of the five licensing objectives. Licence Holders should note that information listed under one objective may be relevant under other objectives, see the following table for guidance in this regard:

Licensing Objective	Relationship with Other Objectives
A Preventing Crime and Disorder	B and C
B Securing Public Safety	A and C
C Preventing Public Nuisance	A and B
D Protecting and Improving Public Health	B, C and E
E Protecting Children and Young Persons from Harm	A, B, C and D

The guidance contained within this Appendix is not exhaustive.

Applicants should refer to Local Conditions 1 –43



A. PREVENTING CRIME AND DISORDER

General

- A.1 The Board supports a strategy aimed at making Aberdeenshire a safe place to live in and to visit. The Board is committed to improving the quality of life for the people in the area by ensuring that licensed premises are run in such a way that they do not contribute to crime and disorder. Licence Holders should be able to demonstrate measures within their Licensing Objective Risk Assessment to minimise the impact of:

Underage drinking
Drunkenness on premises
Drunk and Disorderly Conduct
Illegal possession and / or use of drugs
Violent behaviour
Anti-social behaviour and breaches of the peace
Litter

Late night entertainment

- A.2 Nightclubs are an important contributor to the night-time economy and involve a substantial investment in both facilities and entertainment. They tend to be places where patrons arrive from other licensed premises and stay until the terminal hour.
- A.3 Licence Holders must take all reasonable measures to prevent the use of illegal substances or weapons by displaying notices in, and at entrances to, licensed venues which clearly define the policy of the venue and should state

that criminal offences will be reported to Police Scotland.

- A.4 To ensure compliance with the five licensing objectives, the Board may impose conditions on the licence of a premises which is viewed to provide significant entertainment. Significant entertainment will include performance of live music on a regular basis, recorded music actively presented by DJs, cabaret acts and similar activities.
- A.5 Please note that premises Licences Holders are encouraged to read the [“Safer Clubbing Guide”](#)¹, as an example of good practice.

Dispersal Policy

- A.6 Many occurrences of crime, disorder and public nuisance occur at or immediately after the terminal hour for the supply of alcohol, particularly at weekends. Licence Holders **shall** ensure that they and their staff have sufficient measures in place to ensure patrons exit, and leave the vicinity of the premises, in good order and as quickly and quietly as possible.

Measures may include:-

Limiting the amount of alcohol sold just before the terminal hour, e.g. only permitting a group to purchase one round, not two;
Making sure all patrons know well in advance the last time for purchasing alcohol is approaching;
Covering bar taps once the terminal hour has passed;
Raising the lighting level and inspecting all parts of the premises for patrons
Linking with local bus and taxi companies to provide safe means of transport home for patrons at the end of the evening;
Having stewards patrol the vicinity of the premises to encourage patrons to disperse

- A.7 Nightclubs **must** have a written dispersal policy to ensure patrons are not put into vulnerable situations after leaving e.g. allowing the phoning of a taxi and waiting in a specific area within the premises. Licence Holders **must** ensure that all staff members understand and implement the policy and that, where appropriate, it is made clear to customers. Dispersal policies **must** be kept available for inspection, be reviewed regularly and there should be detailed records of reviews maintained.
- A.8 All other premises should consider carefully whether a dispersal policy is appropriate to the operation of their premises in complying with this licensing objective. Detailed reasons as to why it should not apply should also be provided if requested by the Board, Police Scotland or Licensing Standards Officers.

If such a policy is adopted by the venue it should be agreed with the Board, LSOs and Police Scotland and steps should be taken to ensure that all staff (including door staff) are familiar with the policy. Further, if any such policy is subsequently updated or revised, the revisals **must** be agreed similarly.

Applicants should refer to Local Conditions 12-17

¹ http://www.csdp.org/research/safer_clubbing_txt.pdf

Vulnerability Policy

- A.9 All Licence Holders **must** have in place a vulnerability policy to ensure a standard approach is taken when any patron or potential patron appears to be displaying signs of excessive intoxication. The purpose of this policy is to reduce vulnerability through intoxication, however attained.
- A.10 Licence Holders should ensure that all staff are made aware of the issues surrounding vulnerability through intoxication and are able to spot the signs of excessive intoxication. This may be done by providing additional training in this regard using material such as the ['Who are you?' Video \(whoareyou.nz\)](#)² or similar. It would also be beneficial for any related training in this respect to be recorded.
- A.11 All related training should be recorded and such records available for inspection by Police Scotland and LSOs.
- A.12 Further guidance in this regard is available an example of which is available [here](#)³.

Applicants should refer to Local Condition 19

Door Supervision

- A.13 LSOs are authorised to enforce Security Industry Authority (“SIA”) powers under S.19 (2) of the Private Security Industry Act 2001 in relation to Door Supervisors both at licensed premises and events.
- A.14 The Board **may** consider door supervision appropriate and as such attach specific conditions in this regard to a premises licence. Licence Holders **must** assess:-

Whether or not door supervisors are required;
When they must be present
The hours they should work; and
Possible specification of particular duties and functions

- A.15 It will be the responsibility of the Licence Holder to ensure that there are sufficient numbers of door supervisors engaged at the premises in all circumstances.
- A.16 In the event that door supervisors are used within premises:

They 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 alcohol or be under the influence of any substances for the duration of their active employment.

² <https://www.youtube.com/watch?v=9zr1oxEbdsw>

³ <https://www.bbnsotland.co.uk/media/2319/good-practice-guide-2017.pdf>

Applicants should make appropriate arrangements for a daily register and the recording of incidents in an approved incident log.

The daily register and incident log should be open to inspection by authorised officers, being the LSOs and Police Scotland, on request.

A.17 Door Supervision Duties while on duty at licensed premises or events are:

Supervise entrance doors/access points at all times.

Identify and refuse entry to drunken persons.

Be aware of the fire safety precautions and procedures.

Be made aware of the drug prevention policy.

Ensure that no fire or other exits are blocked.

Be easily identifiable to those present at the event as an SIA registered steward and display the appropriate identification.

Not drink alcohol whilst on duty.

Ensure that no patron removes glasses, or open or closed vessels from the premises when exiting for any reason.

Be responsible, capable and aware of their duties

Remain on the premises until the end of permitted hours and all patrons have vacated the premises

The above list is not exhaustive

- A.18 Licence Holders should take all reasonable steps to prevent the use or supply of illegal drugs, or weapons, such as the searching of customers for offensive weapons or drugs on entering the premises. These searches and, where applicable the seizure of items, **must** be conducted by an SIA licensed door steward.
- A.19 Where such measures are in place Licence Holders will also be expected to make arrangements to record the search of individuals and the seizure of any property which may be required for evidence. Licence Holders will also be expected to provide a suitable receptacle for the safe retention of illegal substances and to inform Police Scotland so that appropriate disposal can be arranged.
- A.20 Licence Holders are reminded that all door supervisors **must** be registered with the Security Industry Authority under the Private Security Act 2001. To employ a door supervisor who is not registered is a criminal offence. Licence Holders involved in manned guarding activities, whether or not door supervisors are used, may also have to be registered.
- A.21 Licence Holders who undertake door supervisor duties may require to obtain a front-line licence themselves. Additionally, where Licence Holders employ door supervisors directly, they may themselves require to obtain a non-front-line licence. Licence Holders should contact the Security Industry Authority (or any relevant successor) for further information. Additional information can be obtained from the [SIA website](http://www.the-sia.org.uk/)⁴.

Applicants should refer to Local Condition 20

⁴ <http://www.the-sia.org.uk/>

CCTV

A.22 The use of CCTV on premises can be an important measure in complying with the licensing objectives, particularly in:

- **preventing crime and disorder and**
- **preventing public nuisance.**

Digital CCTV systems are readily available which may include both internal and external camera coverage of the premises. The Boards support the use of such systems and encourage Licence Holders to make use of these. Where used, such systems **must** be kept in proper working order at all times, all licence holders and staff **must** be able to operate the system, and images **shall** be kept for at least seven days and made available to Police Scotland on request. CCTV systems not kept in working order may result in the Board calling for a review of the premises licence for the particular premises.

A.23 Any CCTV system installed in premises providing late night entertainment **must** be installed to the satisfaction of the Chief Constable. Information on the standards of system acceptable can be found on the Board's website.

A.24 It should be noted that all CCTV users must register with the Information Commissioners Office ("ICO") and follow the correct guidelines for the use of CCTV, for example, appropriate signage in place and the maintaining of records, further guidance in this regard is available on the [ICO website](#)⁵.

Applicants should refer to Local Condition 21

Radiolinks, Pubwatch & Shopwatch

A.25 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 Board supports 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.**

A.26 Licence Holders **must** consider excluding known troublemakers from their premises to minimise the risk of disorder. In certain cases, organisations of Licence Holders, such as Pubwatch, **must** consider the operation of an exclusion, or banning, scheme so that known troublemakers are refused entry to all licensed premises in a particular vicinity. In exceptional cases Licence Holders may seek to refer a particular case to the Board for review or to the local authority through their Community Safety Team for consideration of an Anti-Social Behaviour Order ("ASBO") to enforce an exclusion.

A.27 The Board also supports Award Schemes such as the Best Bar None scheme and Safer Towns Initiatives and encourages all licensed premises to participate in such schemes. Such schemes help to drive up standards both in the facilities of the premises and in the management and the manner that licensed premises are operated which the Board believes directly supports the five licensing objectives.

A.28 Licence Holders should also note the advantages of consultation with the

⁵ <https://ico.org.uk/>

Police particularly when organising events of a character that are not usually held in that particular venue. Minimising any risk of disorder in this way is an example of good practice and is likely to lead to fewer requests to review licences.

Proof of Age/Underage Drinking

- A.29 The Board strongly supports the use of any of the six approved forms of ID as outlined in the Age Verification policy ('AV Policy'). To protect children and young persons and avoid crime, it is now a mandatory condition attaching to all premises licences that there **must** be a written age verification policy in relation to the sale of alcohol within the premises.
- A.30 Licence holders **must** practice due diligence to avoid underage sales. Due diligence will include:

Requiring ID (Proof of Age) if the customer appears under 25. This should also include clear signage to leave customers in no doubt as to the policy;
Training staff in the use of the AV policy;
Ensuring that staff and customers comply with the policy;
Keeping records regarding compliance including refusals.

- A.31 Licence holders can access the AV Policy and Age Verification Staff Declaration [here](#)⁶.
- A.32 Further guidance in this regard is available an example of which is accessible [here](#)⁷.

Glassware and Bottles

- A.33 Given that glasses and bottles may on occasion be used as weapons, Licence Holders **must** take reasonable steps to prevent their removal from premises (including authorised pavement seating areas and beer gardens). Licence Holders:
- (a) **must** consider, where appropriate, the use of polycarbonate containers, toughened glassware or other suitable alternatives ("safe alternatives");
 - (b) should consider policies which provide that, on appropriate occasions, all drinks are dispensed into containers which provide a safe alternative and that at certain times during later hours of operation and/or when significant numbers of people are on premises, there is exclusive use of safe alternatives.
 - (c) The Board considers that the use of glasses or glass bottles may give rise to serious injury to patrons or the public due to the locality of the premises, nature of operations or type of patron likely to frequent the premises. The Board may impose a condition requiring that drinks be served in safer alternatives to glass.

Licence Holders are reminded that all containers used including safe alternatives must comply with the relevant weights and measures legislation.

Bye-laws on Alcohol in Designated Places

- A.34 Aberdeenshire Council has introduced bye-laws prohibiting the consumption of alcohol in certain designated public places. This currently applies in

⁶<http://www.challenge25.co.uk/>

⁷ <https://www.youngscot.net/what-we-do/young-scot-card/pass-is-proof/>

Fraserburgh⁸ and Peterhead⁹.

- A.35 The effect of the bye-laws are that any person who consumes alcoholic beverages in a designated public place **shall** be guilty of an offence. Licensed canteens, licensed premises (including events which have an occasional licence in place) and Members Clubs are exempt from these bye-laws. The bye-laws also state that they **shall** not have effect on 31st December from 6.00p.m. until the end of that day on 1st January until 6.00a.m.
- A.36 As licensed premises are exempt, Licence Holders **must** take care to clearly mark on layout plans where external areas such as beer gardens are to be counted as part of the licensed premises.
- A.37 Where such orders are in force premises licence holders and occasional licence holders should take reasonable steps to inform customers of the existence and effect of such an order. This may include the display of a notice to that effect at exit points from the building.

Lockfast Stores

The Board expects all alcohol not on display within the premises to be kept in a designated lockfast store within the premises. This greatly reduces the risk of premises being the subject of theft, particularly in rural areas.

The location of the lockfast store should also be shown on the layout plans attached to premises licences. Applicants should refer to local Condition 6.

Domestic Violence

- A.38 The Board recognises that gender-based violence issues 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 prevention of crime and disorder Licensing Objective.
- A.39 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, with particular regard to this issue.
- A.40 Licence Holders are encouraged to have regard to this issue within their Licensing Objectives Risk Assessment.



B. SECURING PUBLIC SAFETY

General

- B.1 The Board is committed to ensuring that the safety of any person visiting or working in, or in the vicinity of, licensed premises is not compromised.

Capacity

⁸ Link will be added once the Byelaw has been approved and published online.

⁹ Link will be added once the Byelaw has been approved and published online.

- B.2 Capacity limits will be included in all operating plans attached to premises licences. These limits will be set by the Board, in conjunction with Building Standards, and with the agreement of the Licence Holder. Licence Holders should note that the Board might seek to impose capacity conditions where there are no such limits, following representations on safety grounds.
- B.3 Licence Holders may be required to demonstrate how they intend to control and maintain the agreed capacity levels within the venue.

Good Housekeeping

- B.4 Licence Holders should consider risks associated with:

Preparation of food and drink
Risk of burns and scalding
First aid provision
Use of special effects e.g. strobe lighting, smoke machine, pyrotechnics
Evacuation procedures
Procedures for dealing with people who fall ill, including those affected by drugs or alcohol
Children and young person's accessing the premises
Use of Defibrillators within the premises and associated training

Applicants should refer to Local Conditions 1- 3, 7-11

Equalities

- B.5 Consideration should be given to equalities issues when completing an application and related risk assessment.
- B.6 A copy of the Board's Equality Policy and Action Plan can be accessed [here](#)¹⁰.

Disability Access and Facilities Statement

- B.7 Licence Holders applying for a premises or provisional premises licence now require to complete a Disabled Access and Facilities Statement in respect of the premises and provide a copy of this to the Board with their application. Failure to provide this statement means that the application is incomplete and cannot be considered by the Board.
- B.8 The purpose of the statement is to ensure that disabled people can access information about the accessibility of a venue before visiting it. It is good business practice to ensure that premises are accessible and welcoming to all customers. The process of writing a statement should also raise awareness amongst Licence Holders of the accessibility of their premises and action they could take to improve access to their premises.
- B.8 The Disabled Access and Facilities Statement does not compel the premises to provide any specific aids/access for disabled people nor does it interfere with the existing duty under equality law to make reasonable adjustments to ensure that a disabled person can use a service as close as it is reasonably possible to get the standard usually offered to non-disabled people. Licence Holders should however be aware that failure to comply with their existing duty may leave the premises open to a complaint under the Equality Act 2010.

¹⁰ <http://www.aberdeenshire.gov.uk/licensing/alcohol/policies/licensing-equalities/>

- B.9 Non-Statutory Guidance for Completing a Disabled Access and Facilities Statement was published by the Scottish Government on 8th March 2018. The Guidance is primarily to assist Licence Holders in completing the required statement. The Guidance can be accessed [here](#)¹¹. The statement should contain clear information about how accessible the venue is for disabled people. It should also describe the facilities and/or any other provision made on (or in connection with) the premises for disabled people.
- B.10 Licence Holders will not be required to submit a variation when these details change, nor will it be an offence if the originally submitted arrangements are not subsequently complied with.
- B.11 Please note that the Board does not accept any responsibility for your Disabled Access and Facilities Statement. You are advised to consider these matters carefully and if in doubt seek appropriate advice on these matters. The Board reserves the right to comment on the content of your Disabled Access and Facilities Statement and ask for more or different information as may be required.**

Condition of Premises

- B.12 Licence holders and their staff are expected to ensure that premises, both internally and externally, are maintained in good, clean and tidy condition at all times.
- B.13 The Board may carry out spot checks of premises from time to time.

Applicants should refer to Local Conditions 1-3

Fire Safety

- B.14 The Fire (Scotland) Act 2005 'as amended' **requires** any person who has control to any extent of the premises to carry out a fire risk assessment of the premises for the purpose of identifying any risks to the safety of all relevant persons in respect of harm caused by fire. The risk assessment should also ensure all reasonable steps are taken to ensure suitable fire safety measures are implemented to protect relevant persons from harm caused by fire.
- B.15 The process of risk assessment should be ongoing and hereafter where there is reason to suspect that the current fire risk assessment is:-
- (a) No longer valid; or
 - (b) There has been a significant change in the matters to which it relates;
- The assessment should be reviewed, and any required changes **must** be made to ensure continued compliance with the fire safety legislation.
- B.16 Failure to ensure suitable fire safety measures are in place as necessary, may place relevant persons at risk in the event of fire.
- B.17 Further information can be found [here](#)¹².

¹¹ <https://beta.gov.scot/publications/licensing-scotland-act-2005-guidance-completing-disabled-access-facilities-statement/>

¹² <https://www.gov.scot/firelaw>



C. PREVENTING PUBLIC NUISANCE

General

- C.1 The Board wishes to protect and maintain the amenity of neighbouring residents and occupiers of other businesses from any adverse consequences of the operation of licensed premises whilst at the same time recognising the valuable, cultural, social and business importance that licensed premises provide.
- C.2 Licence holders **must** also recognise that they have a responsibility to the amenity of the communities they serve.

Applicants should refer to Local Conditions: 1-3, 5, 13-17

Beer Gardens, **Street Cafes** and Outside Drinking Areas

- C.3 Beer gardens and outside drinking areas are high risk areas for being the source of complaints from local neighbours and residents in relation to noise and litter nuisance.

Licence holders **must** ensure:

That all beer gardens and outside drinking areas are included in the areas that are covered in their premises licence

The operating plan includes reference to these areas at Question 5

A capacity is provided for each outside area at Question 7 of the operating plan.

The extent of such areas are included on the layout plan, together with an indication of any tables, chairs etc. laid out in these areas.

Applicants should refer to Local Conditions: 31-34

Street or Pavement Cafes

Licence holders should ensure that they have obtained the necessary permit from Aberdeenshire Council prior to operating a street or pavement café as part of their premises licence. Care should also be taken to ensure that any such area is included on the premises licence where an Alcohol Bye-law is in place. Local conditions will apply relating to the use of these areas.

Licence Holders should consult **Supplementary Policy 6** in respect of the requirements when it comes to including such areas in operating and layout plans and also consider the impact of any **bye-laws** which may be in place.

Applicants should refer to Local Condition 43

Noise

- C.4 Noise from amplified and non-amplified music, singing and speech sourced from licensed premises **shall not** be audible in any adjoining property after **11.00 p.m.**
- C.5 In considering applications from pubs, clubs and similar premises and activities the Boards expect Licence Holders to have regard to any guidance published such as the Good Practice Guide on the control of noise from pubs and clubs published by the Institute of Acoustics (available to purchase [here](#)¹³)
- C.6 The Board also expects Licence Holders to have regard to the Code of Practice on Environmental Noise Control at Concerts published by the Noise Council. The Board has also provided a general note on Control of Noise, which is available on the [Board's website](#)¹⁴.
- C.7 Licence Holders should consider the steps to be taken to ensure patrons and staff leave the premises safely and quietly.
- C.8 Licence Holders should consider the arrangements made or proposed for parking by patrons, and the effect of parking by patrons on local residents including the slamming of vehicle doors, vehicle horns, vehicle stereos, noise from engines idling, and vehicle exhaust fumes.
- C.9 Particular care **must** be taken where the noise source is in the open air, e.g. beer gardens, play areas, car parks, access roads, temporary structures or queues.
- C.10 Licence Holders should consider any special measures that should be adopted in premises located near to sensitive premises such as residential homes, nursing homes, hospitals, schools or places of worship or within residential areas.
- C.11 Licence Holders are expected to be aware of the impact on neighbours of noise from their premises and are expected to take reasonable steps to prevent noise nuisance. Steps to be taken may include sound tests, installation of a sound limiter, soundproofing, keeping doors and windows closed, door staff to ensure patrons leave quickly and quietly, timing of outdoor entertainment in beer garden areas; notices at exit asking patrons to leave quietly.

Applicants should refer to Local Condition 5

Litter and Waste Management

- C.12. Licence Holders should be aware that they have a responsibility to have a suitable litter and waste management programme including provisions for recycling in place to ensure that any area outside the premises is at all times kept free of litter (which includes cigarette butts etc. and waste, including human waste). In recognition of increased public awareness of the misuse of plastics, Licence Holders are encouraged to consider using safe alternatives. The provision of hot food after 11.00p.m. is often associated with the problem of litter affecting the streets and properties surrounding licensed premises. Such steps may include an agreed cleaning schedule.

¹³ <http://www.ioa.org.uk/publications.asp>

¹⁴ Link will be added once published on the website.

- C.13 A late hours catering licence may also be required for provision of food outwith operating hours. Further guidance on late hours catering licences is available [here](#)¹⁵.

Applicants should refer to Local Conditions 1,2, 10 and 32

Queues

- C.14 Licence Holders should consider the steps to be taken to prevent queuing (either by pedestrian or vehicular traffic). If some queuing is inevitable then queues should be formed away from neighbouring premises or be otherwise managed to prevent disturbance or obstruction, for example, making provision for queuing inside the premises.

Transport

- C.15 Licence Holders should consider whether there is sufficient provision of transport for patrons. Failure to do so may result in nuisance due to patrons loitering in the vicinity of the premises, particularly after closing.
- C.16 Licence Holders should consider whether the service of the premises by licensed taxi or private hire vehicles is likely to disturb local residents and take reasonable steps to prevent disturbance from this source. Examples of actions that can be taken include arrangements for door staff to advise customers that their transport has arrived and phones in entrance lobbies perhaps linked directly to licensed taxi or private hire companies. Licence holders may also make arrangements with taxi operators to have taxis wait in public car parks near licensed premises and have steward's direct customers to the public car park at close of business. This reduces nuisance to nearby residents from engines running in idling taxis and aids dispersal of patrons from the premises.



D. PROTECTING AND IMPROVING PUBLIC HEALTH

General

- D1. The Board wishes to see premises thriving in Aberdeenshire, but this cannot be at the expense of communities' health and wellbeing. The Board will have regard to the views of the relevant bodies responsible for, and interested in, the protection and improvement of public health in Aberdeenshire. The Board will take advice from those relevant bodies. Additionally, NHS Grampian Public Health Directorate is a statutory consultee and is consulted on all applications for grant of premises licences and major variations of premises licences.
- D2. Licence Holders will be expected to demonstrate that suitable and sufficient measures have been identified and will be implemented and maintained to protect communities' health. Such measures may include:-

For On Sales Premises

Making available information with regard to lower risk drinking,

Contact points where assistance can be obtained for problem drinking

¹⁵ <http://www.aberdeenshire.gov.uk/licensing/licences-and-permits/late-hours-catering-licence/>

Promotion of designated driver schemes
Easy availability of small 125ml glasses, or 25ml measures instead of 35ml measures
Support customers in increasing awareness of the number of units of alcohol they are consuming to be aware of the drink-driving limits
Additional training of bar staff, beyond the statutory minimum requirements, particularly in relation to the effects of alcohol on the body.
The use of polycarbonate glasses or toughened glassware
Prevention of overcrowding
Robust refusal system and recording of refusals procedures
Calling last orders in plenty of time
Reduce vertical drinking
Providing a good range of reasonably priced soft drinks and/or driver's shelves
Stock a reasonable range of lower ABV and alcohol free beers and wines
Inviting Public Health agencies to Shows/Games to deliver public health promotional messages in relation to alcohol and drugs.
Ban or discourage the purchase of rounds of shots which encourage rapid consumption of alcohol in a short space of time in order to promote and encourage lower risk drinking practices and protect vulnerable patrons

For Off Sales Premises

Making available information with regard to lower risk drinking.	
Stock a reasonable range of lower ABV and alcohol free beers and wines	
Additional training of staff, beyond the statutory minimum requirements, particularly in relation to the effects of alcohol on the body	
Robust refusals system and recording of refusals procedure	
Having regard to the health objective in the layout of display areas:	For all premises this will include having dedicated shelves or sections devoted exclusively to low alcohol products (with an ABV of between 0.5 and 1.2%)
	In the cases of premises selling other goods as well as alcohol this will mean:
	<ul style="list-style-type: none"> • Not displaying alcohol alongside confectionary or other goods likely to be of interest to children. • 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.

- D3. The Board expects Licence Holders to promote lower risk drinking. The Board also expects Licence Holders to apply an appropriate drug policy such as "Drugs on Licensed Premises" Published by Scottish Business Crime Centre (now re-named Business Resilience Centre).

Applicants should refer to Local Conditions 1, 3, 19, 22-34

Vertical Drinking

- D.4 The Board is aware that there is some concern about so called 'vertical drinking' establishments. Particular attention will be paid to any applications for a premises licence where large numbers of patrons will be provided with

standing accommodation in the premises. The Board expects such premises to provide patrons with seating for at least 25% of the maximum occupancy as assessed by Building Standards of the room in question in the premises.

Minimum Unit Pricing (“MUP”)

- D.5 As of 1 May 2018, no alcoholic drink can be sold at a cost of less than 50p per unit. This is in accordance with Scottish Government policy which targets high strength alcohol sold at low prices.
- D.6 MUP is implemented by way of adding a condition to all licences in Scotland, so failure to adhere to the policy is a breach of your conditions and a criminal offence. Adherence to the conditions is the responsibility of the Licence Holder, premises manager, and staff working at the point of sale.
- D.7 Licence Holders should ensure that all staff are aware of the MUP requirements and may wish to **include** this as part of their mandatory staff training.
- D.8 As with all licensing conditions, MUP will be enforced by our Licensing Standards Officers. They will seek to provide assistance to any Licence Holder looking for guidance regarding implementation of MUP. Licence Holders should be aware however, that they are ultimately responsible for compliance with their conditions and may be subject to enforcement action in the event of non-compliance.
- D.9 Detailed information and guidance on MUP can be found [here](#)¹⁶.

Irresponsible Drinks Promotions

- D.10 The 2005 Act prohibits the variation of prices within a 72-hour period of a prior change and includes mandatory conditions to tackle irresponsible promotions such as “happy hours”. These are contained within the mandatory conditions attaching to all premises.
- D.11 The Board requires clear evidence linking the sale of alcohol to an inducement to the consumer to immediately drink to excess before a promotion will be considered as possibly irresponsible.
- D.12 Initially, complaints will be dealt with at a local level by the LSO. In most cases, it is hoped that these cases can be resolved in discussion between the LSO and the Licence Holder without any sanctions being applied by the Board.
- D.13 However, where the Board feels that further action is appropriate, it will instigate a review hearing to determine what action, if any, needs to be taken against the licence holder concerned.

The Local Outcomes Improvement Plan (“LOIP”)

- D.14 The Community Empowerment (Scotland) Act 2015 aims to support communities to have a stronger voice in planning and delivering services. It focuses on addressing inequality and empowering communities to improve outcomes in their areas.
- D.15 The Act **required** all Community Planning Partnerships (“CPP”) in Scotland to

¹⁶<http://www.minimumunitpricing.scot/>

publish a LOIP by 1st October 2017.

- D.16 The Aberdeenshire CPP has approved a LOIP for Aberdeenshire for the period 2017 – 2027. One of the three main priorities of the LOIP is **Changing Aberdeenshire’s relationship with Alcohol**.
- D.17 The Board will endeavour to take appropriate action in delivering any actions that they can take directly to promote the actions to comply with this main priority and will support any actions taken by their CPP partners where it promotes the Licensing Objectives.
- D.18 Licence Holders should familiarise themselves with this part of the LOIP. Further information on the LOIP can be accessed [here](#)¹⁷.

Smoking

- D.19 The Board refers Licence Holders and staff to the following website:-

<http://www.clearingtheairscotland.com> and the Board’s guidance note on smoking, copies of which can be found on the Board’s website¹⁸.

Licence Holders have been effective in ensuring that patrons do not smoke within their premises, however, other issues can arise in the area around the premises such as noise nuisance, litter disorder, and smoke drift into neighbouring residences or back into the licensed premises. Licence Holders and staff are expected to have sufficient measures in place to prevent such problems arising.



E. PROTECTING CHILDREN AND YOUNG PERSONS FROM HARM

Children and Young Persons on Licensed Premises

- E.1 The Board wishes to see family-friendly premises thriving in each area. Where Licence Holders wish to operate such premises, the Board expects them to appreciate that this places additional responsibilities upon them, at the same time recognising that parents and other adults accompanying children or young persons also have responsibilities.
- E.2. In determining any application where the operating plan indicates that children and young persons are to have access, the Board will consider the need to protect children and young persons from harm as its paramount concern.
- E.3 Evidence indicates that children and young persons are influenced by the behaviour of adults they observe, including parental drinking, and applicants should take this into consideration when demonstrating how premises will comply and promote this licensing objective as part of their Licensing Objective Risk Assessment.
- E.4 Licence Holders **must** consider those factors which may particularly impact on children and young persons including:-

The provision of entertainment or services of an adult or sexual nature.
Members of staff, including those who do not have a personal licence, who have convictions for serving alcohol to children.
Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the premises.

¹⁷ <http://www.ouraberdeenshire.org.uk/our-priorities/local-outcomes-improvement-plan/>

¹⁸ Link will be added once this has been published on the website.

Parental drinking and associated behaviours.
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E.5 Possible control measures include:-

Limitations on the hours when children or young persons may be present, in all or parts of the premises.
Limitations or exclusions by age when certain activities are taking place.
Imposition of requirements for children to be accompanied by an adult.
Acceptance of accredited proof of age cards with photographs, or passports.
Measures to ensure children or young persons do not purchase, acquire or consume alcohol.
Bringing to the attention any concerns they have about the wellbeing of a child according to Aberdeenshire's Getting It Right For Every Child Policy ("GIRFEC") by contacting the local school, health visitor, police or social work officer.
No person under the age of 18 will be permitted to attend an event involving adult entertainment.

E.6 The Board expects that employers will make careful checks where premises or entertainment is specifically targeted towards children or young persons to ensure all persons employed or involved with the supervision or management are deemed appropriate persons to be engaged in the activity. An example of such a check would be the completion of a Disclosure Scotland check to the appropriate standard.

E.7 Parts of premises to which children and young persons are to be allowed entry will require to have a suitable character and atmosphere. Premises or parts of premises which are very small and enclosed are unlikely to be able to provide the appropriate environment. Also premises which have very few facilities are unlikely to comply with the requirements of the Board. Toilets **must** be of a reasonable standard and reasonably accessible to the area to which children and young persons are allowed entry. The Board may decide not to grant a premises licence or occasional licence where children would have direct access to those areas of the premises where there are pool tables, darts board or gaming machines.

E.8 The Board will give careful consideration to the section of the Operating Plan detailing the terms of entry, the times of access and the parts of the premises suitable for access by children and young persons on a case-by-case basis and **may** impose conditions on a premises licence or in granting an occasional licence where children and young persons are to be allowed entry.

E.9 Licence Holders are reminded that they and their staff **must** comply with all other legislation in relation to children and young persons.

E.10 The Board commends the Portman Group Code of Practice on the naming, packaging and promotion of alcoholic drinks. Where Applicants intend children or young persons to be present on licensed premises the Board expects the Code of Practice to be fully implemented. The code can be found [here](#)¹⁹.

The following rules are particularly relevant:-

- "The alcoholic nature of a drink should be communicated with absolute clarity"
- "A drink, its packaging and any promotional material should not in any

¹⁹ <http://www.portmangroup.co.uk/?pid=1&level=1>

direct or indirect way have a particular appeal to under-18s”

Alcohol Deliveries, Click and Collect, and Internet Sales

E.11 The Board has a general concern about the increasing trend in such activities and the lack of information available about how such businesses operate within Aberdeenshire. **It is essential that Premises have such activities recorded on their Operating Plans prior to such activities taking place.** The Board is therefore of the view that all five licensing objectives are applicable to such businesses.











E.12 The Board has a particular concern about the impact of such business on children and young persons. Licence Holders should therefore consider incorporating the following control measures into their Licensing Objectives Risk Assessment where appropriate to the operation of their business:


















Age Verification policies for delivery drivers where the recipient of alcohol is believed to be under the age of 25.
Training for delivery drivers.
Requirement for the customer to sign on receipt of delivery of alcohol.
Delivery drivers to keep refusal registers.
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.




This list is not exhaustive.

Applicants should refer to Local Conditions 1, 3, 19, 22-33 and 42 for deliveries


APPENDIX 2 – LOCAL CONDITIONS: PREMISES LICENCES

Local Conditions		Objectives
General Management for All Premises		
1	The provisions relating to management of licensed premises contained within the Board's current policy statement, particularly Appendix 1 thereto, must be complied with.	PCD, SPS, PPN PIPH, PCYPFH 
2	Premises Licence Holders must ensure that the premises, internally and externally, are maintained in good, clean and tidy condition at all times.	SPS, PPN 
3	Premises Licence Holders must ensure that Refusal Registers and Daily Incident logs are accessible for inspection by Police and Licensing Standards Officers	PCD, SPS 
4	The Licence Holder must ensure that any general authorisation for the sale of alcohol required within the premises is – <ul style="list-style-type: none"> • in writing • available for inspections by Police and Licensing Standards Officers • brought to the attention of and signed by all parties; and • enforced by the premises manager 	PCD, SPS, PPN, PIPH, PCYPFH 
Noise – All Premises		
5	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.	PPN 
Lockfast Store – All Premises		
6	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.	PCD, SPS 
Children and Young Persons – On Sale Premises		
7	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.	PCYPFH 
8	The Licence Holder shall provide safe high chairs for the use of young children	SPS, PCYPFH 
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 








Local Conditions		Objectives
11	The Licence Holder shall ensure that heating sources are adequately protected.	SPS, PCYPFH
Premises Providing Late Night Entertainment – On Sale Premises		
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    
Adult Entertainment – On Sale Premises		
18	Children and young persons are not permitted to attend any event involving adult entertainment.	PCYPFH 
Vulnerability – All Premises		









Local Conditions	Objectives
<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> <p>  </p>







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"> Confirm that persons who seek access to the premises have paid for admission or have appropriate passes/invitations; Identify and refuse entry to drunken persons Identify and refuse entry to any persons banned through pubwatch or by any other means; Actively police the premises and to perform all activities in line with their role under the Private Security Act 2001; Supervise entrance doors/access points at all times to ensure that no fire or other exits are blocked; Be aware of the fire safety precautions and procedures and all other policies and practices; Be aware of the premise's drug prevention policy; Provide assistance to patrons, including customer care, directions to facilities and health and safety; Ensure that no patron removes glasses, or open or closed vessels from the premises when exiting for any reason. 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; Be aware of the provisions of the Licensing (Scotland) Act 2005 which impact on the running of the premises; 	<p>PCD, SPS, PPN PIPH</p> <p></p>
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CCTV – All Premises

Local Conditions		Objectives
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> 
Members Clubs		
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 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>PCD, SPS, PPN, PIPH, PCYPFH</p> 
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.	<p>PCD, SPS, PPN, PIPH, PCYPFH</p> 
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	<p>PCD, SPS, PPN, PIPH, PCYPFH</p>

Local Conditions		Objectives
	certificate. Further refresher training will be completed at 5 yearly intervals thereafter in line with this condition.	
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
Beer Gardens and Outside Drinking Areas		
31	Beer Gardens and outside drinking areas must not be used for activities linked to the sale or consumption of alcohol after 10.00pm	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 
34.	The Licence Holder shall ensure that: a. No amplified music shall be played within the area. b. The area is delineated by a physical barrier or similar. c. Signage is displayed indicating that alcohol is not to be removed from the area	PCD, SPS, PPN, PIPH, PCYPFH 
Hybrid Premises		
35	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.		
36	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 

Local Conditions		Objectives
37	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 
38	There must be written policies in existence concerning - <ul style="list-style-type: none"> • The evacuation of the premises; and • The prevention of the misuse of drugs on the premises. • Duty of care ('Vulnerability through Intoxication') 	PCD, SPS, PPN, PIPH, PCYPFH 
39	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 
40	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 
Alcohol Deliveries, Click and Collect, and Internet Sales		
41	The Licence Holder shall ensure that: <ol style="list-style-type: none"> There is an age verification policy for delivery drivers and at click and collect locations where the recipient of the alcohol is believed to be under the age of 25. Delivery drivers are trained to the same level as staff who sell or supply alcohol within licensed premises. That the customer signs on receipt of delivery of alcohol. That deliver drivers keep refusal registers. That orders are not left in nominated places 	SPS, PIPH, PCYPFH 
42	The Licence Holder shall ensure compliance with Section 119 of the 2005 Act which requires the following in relation to delivery of alcohol from vehicles – <ol style="list-style-type: none"> A daybook kept on the premises from which the alcohol is dispatched, and A delivery book or invoice carried by the person delivering the alcohol. Information referred to above must include – <ol style="list-style-type: none"> The quantity, description, and price of the alcohol, and The name and address of the person to whom it is to be delivered to. 	SPS, PIPH, PCYPFH 











Local Conditions	Objectives
Street Cafes and Licensed Pavement Areas	
<p>43 The Licence Holder shall ensure that there is a Street Café consent in place and shall comply with the street café consent conditions including (but not limited to) the following conditions:</p> <p>a. Barriers, Tables and Chairs are only allowed on the pavement/road between 0900 hrs and 2100hrs and must be removed from the area promptly at 2100 hrs, and</p> <p>b. Alcohol may only be consumed within the street café when it accompanies food* served at the premises.</p> <p>*"Food" is defined as being an item that needs a plate and implements to be used to prepare an item for consumption such as scones, cakes etc, or an item that requires to be delivered on a plate and requires utensils for consumption. It does not include snack items such as crisps or nuts</p>	<p>SPS, PPN, PIPH, PCYPFH</p> 









Key to Objectives		
	Preventing crime and disorder.	PCD
	Securing public safety.	SPS
	Preventing public nuisance.	
	Protecting and Improving public health.	PIPH
	Protecting children and young persons from harm.	PCYPFH






























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

Aberdeenshire Licensing Board






LOCAL CONDITIONS: OCCASIONAL LICENCES

Local Conditions		Objective
1	The main bar to be situated in a suitable place separate from dance floor or to be partitioned off from the dance floor area.	PCD, SPS  
2	No under 18's to be allowed in the main bar area.	PCD, PCYPFH  
3	The licence holder or their nominee and sufficient responsible persons are to be present throughout the event to ensure its safe conduct and compliance with the Licensing (Scotland) Act 2005	PCD, SPS, PPN   
3(a)	<p>The licence holder must ensure that sufficient staff/volunteers are on duty to ensure a safe and responsible event. Such persons must be easily identifiable as such to persons present and should be made aware of their duties, policies and practices by the licence holder. They must be responsible, capable and not drink alcoholic liquor for the duration of the event. Their duties are to:</p> <ul style="list-style-type: none"> • Confirm that persons who seek access to the event have paid for admission or have appropriate passes/invitations • Supervise entrance doors/access points at all times to ensure that no fire or other exits are blocked • Be aware of the fire safety precautions and procedures and all other policies and practices appropriate to the event • Provide assistance to patrons, including customer care, directions to facilities and health and safety. • Remain on the premises until the end of permitted hours and all patrons have vacated the premises. • Be aware of the provisions of the Licensing (Scotland) Act 2005 which impact on the event 	PCD, SPS, PPN   

Local Conditions		Objective
4	<p>A sufficient number of Security Industry Authority licensed stewards must be present to address the identified needs/risks of the event. They will be responsible for controlling the licensed area of the event during licensed hours and until attendees have dispersed from this area at the end of the event. SIA stewards must:</p> <ul style="list-style-type: none"> Actively police the premises including fenced area if applicable, to perform all "manned guarding" activity as directed by the event organiser which are in line with their role under the Private Security Act 2001. Supervise entrance doors/access points at all times. Identify and refuse entry to drunken persons. Be aware of the fire safety precautions and procedures. Be made aware of the drug prevention policy. Ensure that no fire or other exits are blocked. Be easily identifiable to those present at the event as an SIA registered steward and display the appropriate identification. Not drink alcoholic liquor for the duration of the event. Ensure that no patron removes glasses, or open or closed vessels from the premises when exiting for any reason. Be responsible, capable and aware of their duties. Remain on the premises until the end of permitted hours and all patrons have vacated the premises. 	<p>PCD, SPS, PPN</p> 
5	An adequate number of staff/volunteers/stewards should have knowledge of first aid procedure.	<p>SPS, PIPH</p> 
6(a)	All stewards/staff/volunteers should be aware of their responsibilities under the Licensing (Scotland) Act 2005.	<p>PCD</p> 
6(b)	Bar staff must be able to identify and refuse service of alcoholic beverages to drunken persons.	<p>PCD</p> 
7	An accurate and appropriate counting method must be in place to enable the provision of attendee numbers within the event at any particular time.	<p>SPS</p> 
8	All refreshments to be decanted in to plastic containers, or safe alternatives to glass , at the point of sale.	<p>SPS</p> 
9	Entry to the event must be by ticket only purchased prior to the day of the event/or by -----hours on the day of the event (delete whichever inappropriate).	<p>SPS</p> 
10	A system must be employed to identify and distinguish between those attending the event that are under or over 18 years of age. Identification by way of a passport or driving licence must be seen as proof of age.	<p>PCD</p> 

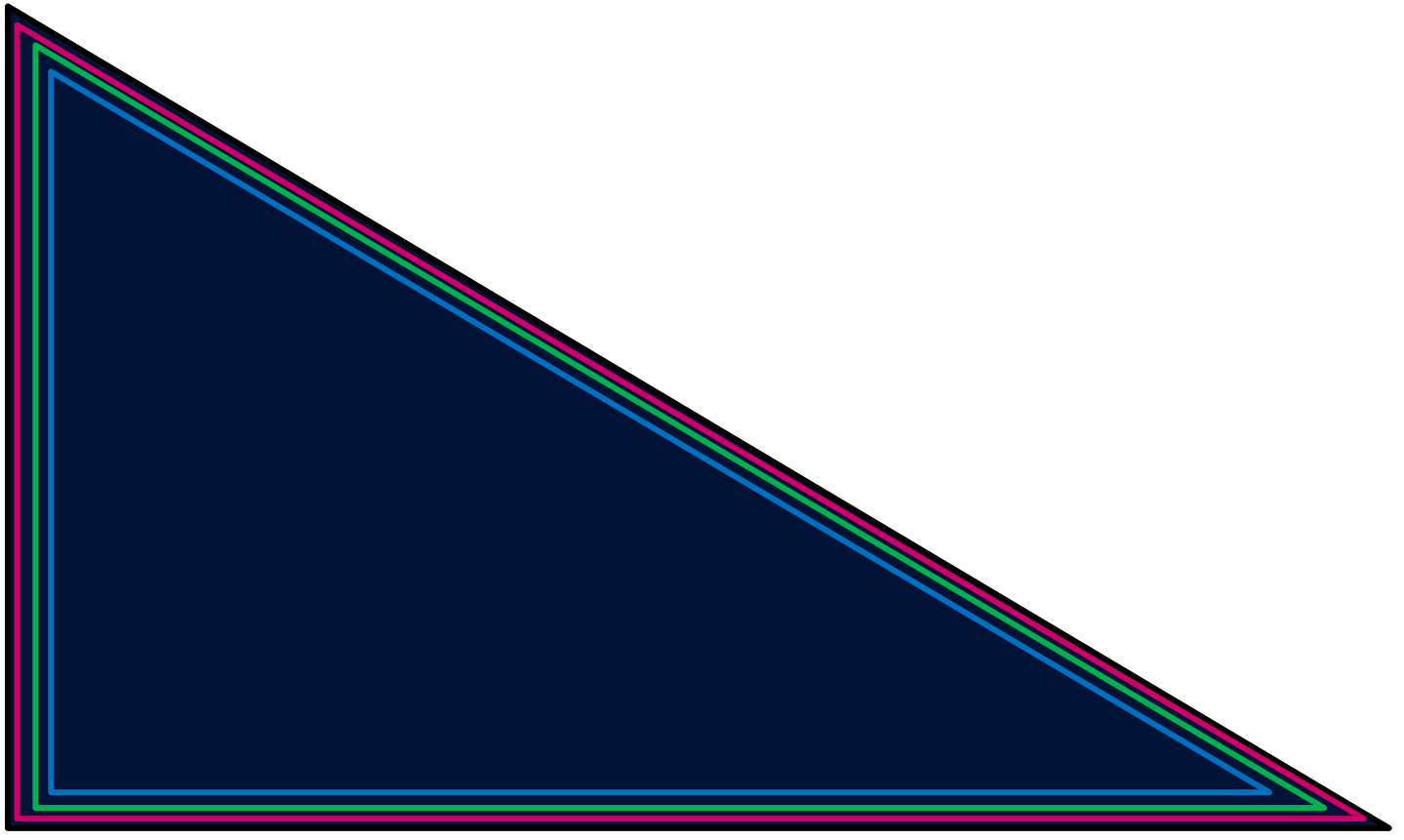
Local Conditions		Objective
11	There can be no re-entry to the event if ejected	PCD, SPS, PPN   
12	A separate under 18's bar to be provided where soft drinks only are sold.	PIPH, PCD, PCYPFH   
13	No glass, cans or other containers allowed to be taken into licensed area of the event by attendees. Suitable receptacles for these items must be provided at the entrance to the licensed area.	PCD, SPS  
14	Tastings of alcohol are permitted in a quantity commensurate with a reasonable sample of product on offer. All samples to be served in plastic containers or safe alternatives to glass.	PCD, SPS  
15	A notice must be prominently displayed at point of sale indicating that alcohol purchased must not be consumed within the venue.	PCD, SPS  
16	All staff employed in the sale or supply of alcohol must have received staff training to the standard provided for in the Licensing (Scotland) Act 2005 Schedule 3, Paragraph 6. The training must be delivered by a person who holds a personal licence or an accredited trainer. Evidence of this must be provided to the satisfaction of the Licensing Standards Officer, prior to the occasional licence taking effect and must be available for inspection by Police and the Licensing Standards Officers on request at the event	PCD, SPS  
17	A system is to be in place to identify and distinguish between those attending the event who are under or over 18 years of age.	PCYPFH 
18	The Licensed area is to be delineated and signs erected to say that alcohol is not to be removed from the licensed area.	PCD, SPS  
19	The Licence Holder must have in place a Duty of Care policy to ensure a standard approach is taken where any patron appears to be displaying signs of excessive intoxication or distress. All staff, volunteers and stewards to have additional training in identifying signs of excessive intoxication and an enhanced awareness of vulnerability through intoxication. Staff training records are to be made accessible for inspection by Police and Licensing Standards Officers.	SPS, PCYPFH, PIPH   
20	The Licence holder shall ensure that a Zero Drugs Policy is in place and all staff, volunteers and stewards are aware of this Policy.	SPS, PCYPFH, PIPH   
21	The Licence Holder shall ensure that a Dispersal Policy is put into place and all staff, volunteers and stewards are aware of this Policy to assist with a swift, safe and quiet dispersal of patrons at the end of the event	PCD, PPN, SPS,   
22	Any additional activities such as catering must cease trading at least 30 minutes prior to the terminal hour of the occasional licence	PCD, PPN, SPS   

Key to Objectives

	Preventing crime and disorder.	PCD
	Securing public safety.	SPS
	Preventing public nuisance.	PPN
	Protecting and Improving public health.	PIPH
	Protecting children and young persons from harm.	PCYPFH

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.

PART THREE: SUPPLEMENTARY POLICIES



SUPPLEMENTARY POLICY 1 - CONTEXT AND PROFILE

Profile of Aberdeenshire¹

Profile

- 1.1 Aberdeenshire is a predominately rural area in North East Scotland and includes the Cairngorm mountains, rich agricultural lowlands and varied coastal landscapes. (its overall area of 6,339 square kilometres represents 8% of Scotland’s overall territory); traditionally economically dependent upon the primary sectors (Agriculture, Forestry and Fishing) and related processing industries. Over the past 50 years, the development of the oil and gas industry and associated service sector has repositioned Aberdeenshire’s economic focus, which in future will increasingly turn towards energy transition. The tourism industry also brings in significant investment to the area and this is well supported by the authority, local businesses and communities throughout Aberdeenshire. In 2021 Aberdeenshire’s population was estimated at 262,690(which was approximately 5% of Scotland’s total population).
- 1.2 The Aberdeenshire Licensing Board intends to carry out work to develop local alcohol profiles for the main settlements in Aberdeenshire to supplement the information contained within this Supplementary Policy and **Supplementary Policy 3** and support the annual functions statement published by the Board each year.

Banff and Buchan	
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- 1.3 Banff and Buchan’s main settlements are Fraserburgh, Banff and Macduff. Fraserburgh has approximately 4.8% of the population of Aberdeenshire with Banff having 1.52% and Macduff having 1.4% respectively. The economy remains largely based on fishing and agriculture and at present the Area is eligible for European Funding due to its high dependency upon these traditional economic sectors. In recent years, major investment has taken place to upgrade port facilities at Macduff and Fraserburgh. Fraserburgh continues to be a key centre for fish landings and processing, and Macduff is a major boat building and repair centre in the North East. The area faces economic difficulties and is a recognised area of urban deprivation. The Area does, however, have a palpable sense of history and highly marketable tourism assets in its spectacular coastline, attractive coastal villages and visitor attractions.

Buchan	
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- 1.4 Buchan’s main settlements are Peterhead and Mintlaw. Mintlaw has approximately having 1.1% of the population of Aberdeenshire with Peterhead having 7.3% respectively. Peterhead is the largest town in Aberdeenshire; the principal white fish landing port in Europe; and a major oil industry service centre. Peterhead Port Authority’s all-weather deepwater quay (Smith Embankment) and its ancillary facilities support both offshore oil & gas and renewable operations and is expected to also attract business from the offshore decommissioning sector. Equally important is the nearby gas terminal at St. Fergus and the Peterhead Power Station. The future of the energy and engineering sectors although in a state of change remains vibrant and Peterhead’s role at the top of the Energetica corridor sets the tone for realising future potential. Inland, the area is dependent upon agriculture although there has been a minor decline in rural services.

1.5

¹ Further information towns in Aberdeenshire can be found at <http://publications.aberdeenshire.gov.uk/dataset/town-profiles>

Formartine	
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1.6 Formartine’s main settlements are Turriff, Ellon, and Old Meldrum. Turriff has approximately 1.8% of Aberdeenshire’s population with Old Meldrum having 1.2% and Ellon having 3.9% respectively. Formartine has experienced rapid population growth. Lying at the heart of the Energetica corridor, this growth is likely to continue as this industry develops. By contrast, the area around Turriff retains a strong dependency on the traditional agricultural economy. Formartine has experienced rapid population growth, particularly around Ellon and Oldmeldrum and in the south east where development has spread from Aberdeen City. The population is getting older and the population of children has also increased. Lying at the heart of the Energetica Corridor employment and economic activity is set to continue to grow alongside the development of the Aberdeen Western Peripheral Route and the dualling of the A90 between Balmedie and Tippetty. Formartine has a spectacular environment with protected characteristics and fantastic recreational and visitor attractions.

Garioch	
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1.7 Garioch’s main settlements are Inverurie, Kintore, Kemnay and Westhill. Inverurie has approximately 5.7% of Aberdeenshire’s population, Kintore has 1.8%, with Kemnay having 1.5% and Westhill having 4.5% respectively. Many of the Communities in Garioch have experienced rapid population growth in recent years and the population is expected to grow further by nearly 12% over the next decade – by far the fastest projected growth rate in Aberdeenshire. The Area’s age profile has a higher representation of younger age groups than Aberdeenshire generally and an increasing ageing population. Inverurie, Westhill and Kintore are important work destinations also having a significant beneficial impact on the local economy.

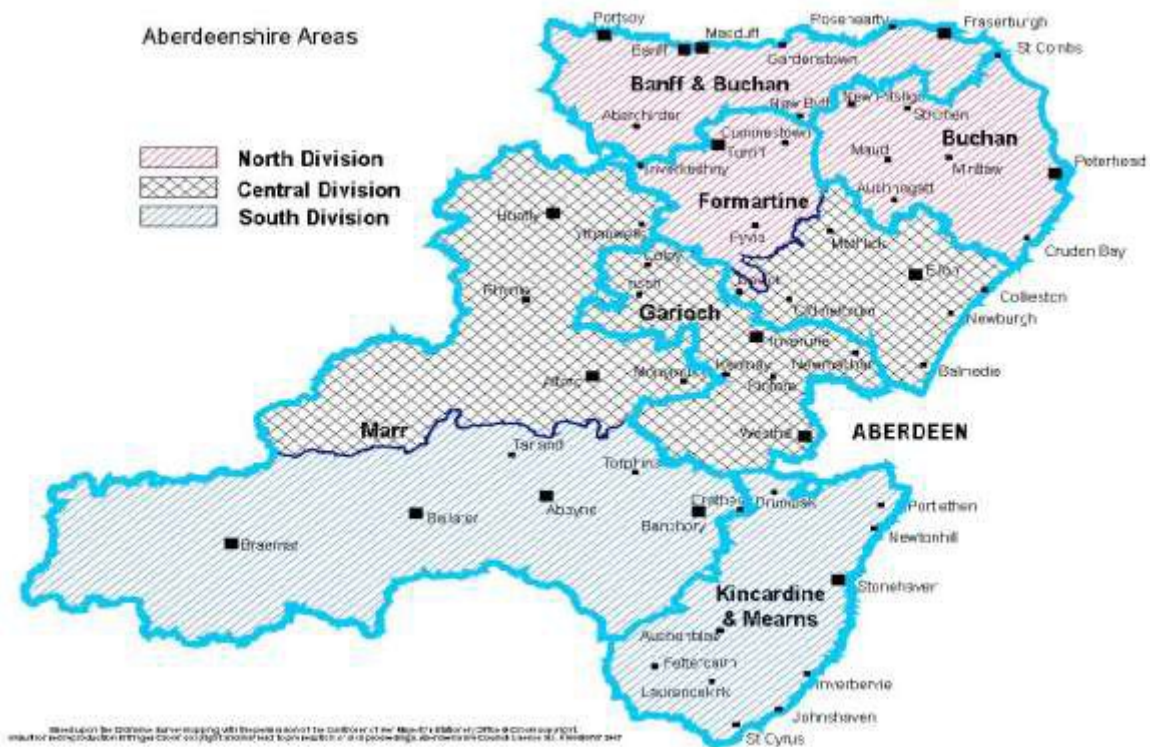
Marr	
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1.8 Marr’s main settlements are Huntly, Aboyne, Alford and Banchory. Huntly has approximately 1.7% of Aberdeenshire’s population, Aboyne has 1.1%, Alford has 0.98% and Banchory has 2.8% respectively. With nearly half of Aberdeenshire’s landmass but only 15% of its people, Marr is the most sparsely populated area with an average of only 12 people per square kilometre. To the west is the spectacular mountain environment of the Cairngorms, part of the Cairngorms National Park. Marr’s economy revolves around tourism, forestry and agriculture. There are over 30 towns and villages, with a significantly higher number of even smaller settlements in Marr. Some settlements are very scattered but all have their own identity and characteristics. Marr’s spectacular scenery, natural and national heritage, and Royal connections ensures the area, particularly Deeside, sustains a well-developed tourism industry based on heritage, natural resources and outdoor activities. The Forestry Commission and agriculture contribute to the local economy as well as health, wellbeing and tourism, through the provision of recreational facilities and production of high quality local foodproduce.

Kincardine & Mearns	
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1.9 Kincardine & Mearn’s main settlements are Stonehaven, Portlethen and Laurencekirk. Stonehaven has approximately 4.2% of Aberdeenshire’s population, Portlethen has 3.3% and Laurencekirk 1.2% respectively. Kincardine & Mearns is the most southern of six administrative areas within Aberdeenshire representing 12% of the whole Aberdeenshire area and is defined by 59 km of coastline to the east and the foothills of the Grampian Mountains to the west. The area itself is very diverse; in the north proximity to Aberdeen has encouraged considerable development of population and industry, the southern part contains the rich farmland of the Mearns and a series of attractive former fishing villages.

Map





What is the role of the Board?

- 1.10 The role of the Board is to determine policy as well as the administration, consideration and determination of licensing applications in line with the provisions contained within the 2005 Act for Aberdeenshire.
- 1.11 Whilst the Act is silent in terms of how members of the Board should exercise their functions separately from their role as councillors, the Board requires to be an independent and impartial tribunal in terms of Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (“ECHR”), which was incorporated into UK domestic law by the Human Rights Act 1998. Board Members also take account of the terms of the Councillors’ Code of Conduct published by the Standards Commission for Scotland which sets out the need to ensure that there is a proper and fair hearing for all regulatory decision-making, including liquor licensing, and that there is no suggestion of pre-judging or bias in the consideration of any applications before the Board. Accordingly, Board Members may declare an interest and not participate in the consideration of any licensing matter in respect of which they have had any prior involvement either personally or in their capacity as a Councillor if they felt such prior involvement would compromise their impartiality.
- 1.12 The Board will carry out all functions under the Act with a view to promoting the five Licensing Objectives
- 1.13 The Board has 10 members with a quorum of 5 and is supported by a Clerk, Depute Clerks, **paralegals** as well as Administrative Support Staff.
- 1.14 The Clerk is Karen Wiles, Head of Legal and Governance, Business Services, Aberdeenshire Council, Woodhill House, Westburn Road, Aberdeen, AB16 5GB.

1.15 The Depute Clerks are as follows:

Fiona M. Stewart
Jill Joss
Lynsey Kimmitt
Lauren Cowie
Amanda de Candia

1.16 The current members are:

Mrs Marion Ewenson (Convenor) E-Mail: cllr.m.ewenson@aberdeenshire.gov.uk Phone: 07388 956134	
Ms Dawn Black (Vice-Convenor) E-mail: Cllr.d.black@aberdeenshire.gov.uk Phone: 07787 883071	
Mr Stewart Adams E-mail: cllr.s.admas@aberdeenshire.gov.uk Phone: 07788 735456	
Mr Geoff Crowson E-Mail: cllr.g.crowson@aberdeenshire.gov.uk Phone: 07789 016068	
Mr Jeff Goodhall E-mail: cllr.j.goodhall@aberdeenshire.gov.uk Phone: 07788 144320	
Mr Trevor Mason E-mail: cllr.t.mason@aberdeenshire.gov.uk Phone: 07788 966862	

Mr Richard Menard E-mail: cllr.r.menard@aberdeenshire.gov.uk Phone: 07788 805914	
Ms Jenny Nichols E-mail: cllr.j.nicol@aberdeenshire.gov.uk Phone: 077898 453092	
Ms Mel Sullivan E-mail: cllr.m.sullivan@aberdeenshire.gov.uk Phone: 07787 719582	
Mr Iain Taylor E-Mail: cllr.i.taylor@aberdeenshire.gov.uk Phone: 07920 451306	
Board Members may also be contacted by writing to them: c/o Woodhill House, Westburn Road, Aberdeen, AB16 5GB	
PLEASE NOTE THAT CANVASSING OF BOARD MEMBERS IN RELATION TO AN APPLICATION IS AN OFFENCE.	

1.17 Details of the meetings held by the Board can be found [here](#)²²³.

The Local Licensing Forum

1.18 Each Council (Not licensing Board) **must** establish a Local Licensing Forum for their Area. The role of the Forum is to represent the views of the community as a whole and not individuals or organisations. The role of the Forum is to advise the Licensing Boards on general matters of policy and not individual cases.

THE ABERDEENSHIRE LOCAL LICENSING FORUM

A.1 On 18th of January 2018 Aberdeenshire Council appointed the Aberdeenshire Local Licensing Forum.

The terms of reference of the Forum are as follows:

- (a) *To keep under review –*
 - (i) *The operation of the 2005 Act in Aberdeenshire, and*
 - (ii) *In particular, the exercise by the Aberdeenshire Licensing Board of its functions, and*
- Give such advice and make such recommendation to the Board in relation to those matters as the Forum considers appropriate.*

- (b) *To consider the implications of relevant local data and statistics provided to the Forum by Police Scotland and the local Health Board;*
 - (c) *To meet the Board at least once per year; and*
 - (d) *To advise the Board on any matters of policy and other areas of concern.*
-

A.2 The Forum folded due to lack of interest in meetings and as a result of the Covid Pandemic.

A.3 As part of the policy review, consultation will take place to assess interest in re-establishing the Licensing Forum and the Licensing Policy will be updated accordingly.

²⁴ <http://aberdeenshire.gov.uk/licensing/alcohol/forums/local-forums/>

²⁵ <http://aberdeenshire.gov.uk/licensing/alcohol/forums/local-forums/>

SUPPLEMENTARY POLICY 2 – CONSULTATION AND DOCUMENTATION

- 2.1 In preparing this Policy Statement and Supplementary Policy Statements for **2023 - 2028**, the Licensing Board adopted a partnership approach to alcohol and alcohol-related issues within Aberdeenshire in a similar manner to the community planning process.

Pre-Formal Consultation Stage

- 2.2 Prior to finalising their draft revised Policy Statement the Board -
- **Reviewed the existing Policy to identify the Main Issues that should be reviewed**
 - **Agreed the Main Issues at their meeting on 12th October 2022. The report can be accessed [here](#)¹ (item 9(i)).**
 - **Conducted an engagement exercise on the Main Issues between November 2022 – January 2023**
 - **Consulted with the Area Committees on the Main Issues between November 2022 - January 2023**
 - **Met informally to consider the evidence gathered from the engagement/consultation on the Main Issues Identified**
 - **Formally considered the evidence gathered, considered the evidence upon which to determine localities for the purposes of overprovision and provided a steer to officers regarding the content of the draft Licensing Policy Statement at their meeting on 22nd February 2023.**
- 2.3 **At their Meeting held on 22nd February 2023, the Board considered the evidence provided by the engagement exercise and consultations in order to direct Officers to prepare the draft version of this Policy Statement to be issued for formal public consultation. The report can be accessed [here](#)² (item 9(ii))**

Consultation

- 2.4 In terms of the Act, Boards are required to consult with:
- The Forum
 - So far as not already represented by the Local Licensing Forum, such other person or persons as appeared to the Board to be representative of:
 - The holders of premises licences and personal licences
 - The Chief Constable
 - Persons having functions relating to health, education, or social work
 - Young People
 - Persons resident within the Forum's area
 - And such other persons as the Board thinks appropriate.
- 2.5 The above includes but is not limited to:

Aberdeenshire Council		
Including:		
Councillors	Area Managers	Building Standards
LSOs	Chief Executive	Community Planning
Corporate Communications	Planning	Environmental Health
Infrastructure Services	Communities	Education and Children's Services

Other Bodies and Groups:

¹ <https://committees.aberdeenshire.gov.uk/committees.aspx?commid=516&meetid=20294> (item 9(i))

² <https://committees.aberdeenshire.gov.uk/committees.aspx?commid=516&meetid=20461> (item 9(ii))

Including:				
Aberdeenshire Alcohol and Drugs Partnership	Aberdeenshire Integration Joint Board	Aberdeenshire Branch of the Scottish Licensed Trade Association	Alcohol Focus Scotland	Citizen's Panel
Aberdeenshire Health and Social Care Partnership	Community Councils	Community Planning Board	Community Safety Executive	Drugs Action
Licensing Forum	Local Business Associations	Local Community Planning Groups	Local Licensing Solicitors	Local Pubwatches/Shopwatches
HMP Grampian	Members of the Public	NHS Grampian Public Health Directorate	Criminal Justice Partnership	Police Scotland
Scottish Fire & Rescue Service	The Licensed Trade	Tourism Boards	YOI Grampian	Scottish Beer and Pub Association
Schools	Colleges	Youth Parliament	Youth Forums	Lived Life Experience Forums

Post Consultation Stage

2.6 Following a formal public consultation on the terms of the draft policy statement between **XXX**, consultation responses were received from the following:

Documentation³ taken into account in addition to the above responses in determining final policy:

- Local SIMD
- Alcohol Focus Scotland Community Tool Kit
- Alcohol Focus Scotland Licensing Resources Kit
- CRESH Report
- SIMD

All of the above documents form the Board's Strategic Assessment Document as referred to at section 2.7 below.

Preparation of Final Policy Statement and Supplementary Policy Statements

2.7 The Board's Licensing Policy Statement/Supplementary Policy Statements have been prepared having regard to the documentation listed in the Board's Strategic Assessment Document, which can be found [here](#)⁴.

2.8 The Board will also have regard to any documents or statistical information placed before them during the lifetime of this Policy Statement and related Supplementary Policy Statements, and any reviews thereof.

This Policy was approved by the Board at their meeting on **XXX**

Evidence

2.9 The Board wishes all their decisions to be informed by evidence.

2.10 The Chief Constable and Aberdeenshire Council are required to provide the Board with statistical or other information for the purposes of preparing its Policy Statement or

³ To be added to once the consultation has taken place

⁴ Will be published once the Policy has been approved

Supplementary Policy Statements.

- 2.11 The Board will always be willing to receive evidence of changing circumstances which any interested party may bring to their attention.
- 2.13 As part of its consideration, the Board kept in mind the need to continue to promote the Licensing Objectives within its policies and, at the same time, maintain a strong, vibrant and diverse licensed trade. The Board believes that, in consulting as widely as possible on the development of this Policy Statement, it has achieved this aim.

How to make a comment on this document

Any comments you may wish to make on the Policy can be submitted as follows:-

In writing to The Clerk to the Board,
 Licensing
 Legal and People
 Business Services
 Aberdeenshire Council
 Viewmount
 Arduthie Road
 Stonehaven
 AB39 2DQ

By e-mail licensingpolicyreview@aberdeenshire.gov.uk

Supplementary Policy 3: Overprovision (DRAFT)

[This Policy has been amended in full following the Board's review of the data presented to them]

General

Assessing Overprovision

3.1 The Licensing (Scotland) Act 2005 and Statutory Guidance

Section 7 of the Licensing (Scotland) Act 2005 requires the Board to include in its Statement of Licensing Policy, a statement as to the extent to which the Board considers there to be overprovision of licensed premises generally, or licensed premises of a particular description, in any locality within the Board's area

In determining whether there is overprovision the Board **must**:

- Have regard to the number and capacity of licensed premises within the locality (*members clubs and occasional licences are excluded*).
- Consider the licensed hours of premises in the locality.
- Consult with:
 - The Chief Constable.
 - The relevant Health Board.
 - Such persons as appear to the Board to be representative of the interest of (i) holders of premises licences within the locality and (ii) persons resident in the locality.
 - Such other persons as the Board thinks fit.
- Consider such other matters as the Board thinks fit.

3.2 The Board **must also** comply with the terms of the **Statutory Guidance** when considering overprovision.

The **Statutory Guidance** provides that:

- Licensing Boards have two separate but directly linked, responsibilities in relation to overprovision:
 - Each Board is required to include a statement as to overprovision in its authority area within their Statement of Licensing Policy s.7 of the 2005 Act).
 - Each Board also needs to consider overprovision when determining a premises licence or variation application.
- Indicates that an overprovision assessment must be evidence based.

3.3 It is a matter for each Licensing Board to determine what their overprovision policy will be and how the evidence it has gathered will be interpreted and weighted.

Licensing Board's **must**:

- Be mindful of all **five Licensing Objectives** in considering evidence.
- Ensure the approach to ingathering evidence is robust, all relevant evidence.is taken into account.
- Ensure the rationale for regarding / disregarding evidence is clearly set out.
- Consult widely on a draft overprovision assessment and carefully consider
- The views of consultees before finalising the Statement of Licensing Policy.

3.4 The purpose of the overprovision assessment is to:

Enable Boards to take account of changes since the publication of the previous Statement of Licensing Policy.
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 the intend to apply for a licence in a locality in which a Board has declared to have reached overprovision.

3.5 It is for each Board to determine the localities within its are for the purposes of the 2005 Act.

3.6 The Board **must** set out the reason for their decision making in arriving at their locality choices.

3.7 Boards **can consider other matters** such as: -

- The ability for stock to be resupplied quickly, for example, a premises may have a small sales capacity but be capable of significant sales volumes due to the amount of stock held within the premises.
- Equalities Issues – 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; concerns regarding people vising the locality from other areas.
- The stark inequality when it comes to alcohol harm and the growing awareness that harmful drinking and alcohol dependence is much greater for these who experience deprivation than those who do not.
- It can often be individuals other than the drinkers themselves who feel the effects of alcohol use, including children, family, friends, colleagues and those working in frontline services.

Taking account of evidence on equalities and inequalities, the Board can meaningfully consider how different communities are impacted differently by alcohol and use this to formulate their policy.

3.8 The **Statutory Guidance** indicates that a Board should take into account a number of underlying principles in approaching the development of their Statement of Overprovision and these are:

- **The use of alcohol harm / potential for harm information to identify localities**

and then proceed to consider the number, type and capacity of premises in those areas.

- **Consideration of the cumulative effect / impact of premises** rather than the actions of a single operator.
- **To demonstrate a ‘dependable causal link’, the proof of the link must be on the balance of probabilities** i.e. 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 harm, weighing up the potential benefits against the potential harms.
- **There is no simple numerical formula for pinpointing the threshold been adequate provision and overprovision.** Determining overprovision involves the application of reason and judgement in the interests of the community:
 - o If the Board considers that there is a potential/reasonable basis for, concluding there will be a risk of adverse impact on the objectives should more licences be granted then it is entitled to come to the view that there is a state of overprovision.
 - o Does aggregate information and evidence from a number of sources demonstrate a link between the availability of alcohol in an area and alcohol related harm.

Purpose

- 3.9 The purpose of an overprovision assessment is to provide potential entrants to the market with a clear signal that they may incur costs if they intend to apply for a licence in any locality which the Board has declared to have reached overprovision. It is also designed to improve public and trade confidence in the licensing system by setting out clearly the grounds on which overprovision should be determined. Overprovision should not restrict trade, however, restricting trade within a locality may be required to preserve public order, protect the amenity of local communities and mitigate the adverse health effects of increased alcohol consumption resulting from growing outlet density.
- 3.10 The Scottish Government Statutory Guidance to Licensing Authorities in relation to overprovision makes it clear that if there is to be finding of overprovision there **must be robust and reliable evidence** which indicates that:
1. **A saturation point has been reached or is close to being reached and**
 2. **A causal link must be identified between that evidence and the operation of licensed premises in that locality.**

Consultation

- 3.11 In considering whether there is overprovision the Board must consult the Chief Constable and NHS Grampian; such persons as appear to the Board to be representative of the interests of holders of premises licences in respect of premises within the locality; persons resident in the locality; and such other persons as the Board thinks fit. As with the remainder the Board’s Policy Statement the overprovision assessment must also seek to promote the Licensing Objectives.

Assessment

Evidence Considered

3.12 I In preparing this draft Overprovision Statement the Board considered the following evidence:

Setting of localities and the formation of the draft policy.

Profile – Aberdeenshire
Settlement Information (incl. Population) – Aberdeenshire
Engage Consultation Results.
Evidence provided by Partners including Police Scotland, LSO's ²⁷ , Aberdeenshire IJB ²⁸ , ADP ²⁹ , NHS ³⁰ Grampian and members of the public.
Number and Capacity of Licensed Premises – Aberdeenshire
Aberdeenshire Licensing Board Statistics
National Average of Licensed Premises
Data from the Scottish Index of Multiple Deprivation 2020 (V2) ('SIMD')
AFS ³¹ & CRESH ³² : Alcohol Outlet Availability and Harm in Aberdeenshire 2018.
PHS ³³ : Dashboard Information for Aberdeenshire 2010/11 to 2020/21.
PHS: Monitoring and Evaluating Alcohol Strategy 2022.
SHAAP ³⁴ : Alcohol Harms in Scotland 2021.
The Scottish Health Survey 2021.
The Scottish Schools Adolescent Lifestyle and Substance Use Survey ('SALUS').
NRS ³⁵ : Alcohol Specific Deaths 2021.
Case Law relating to the issue of Overprovision.
Overprovision Statements within Scotland.

Analysis of Evidence used in formulating the Draft Policy

Appendix 1 to this Supplementary Policy Statement summarises the evidence used in formulating the Board's draft Overprovision Policy. The full statistical analysis and scoring matrix used can be found here³⁶

Formulation of the Final Policy

The Board consulted on this Overprovision Statement during the period [Date] to [Date] and also considered the following additional evidence prior to finalisation:

Engage Consultation Results
Additional evidence provided by partners including [X]

The Board considered all of the evidence put before it in formulating this policy. Given the duty to promote the five licensing objectives, the evidence presented was considered against each of the objectives.

Ongoing Considerations

The Board considers it essential to monitor the effectiveness of this policy and to this end, they intend to work with partner agencies to develop an alcohol profile for Aberdeenshire

²⁷ LSO – Aberdeenshire Licensing Standard's Officers.

²⁸ IJB – Aberdeenshire Integration Joint Board.

²⁹ ADP – Aberdeenshire Alcohol and Drug Partnership.

³⁰ NHS – National Health Service.

³¹ AFS – Alcohol Focus Scotland.

³² CRESH – Centre for Research on Environment, Society and Health.

³³ PHS – Public Health Scotland.

³⁴ SHAAP – Scottish Health Action on Alcohol Problems.

³⁵ NRS – National Records of Scotland.

³⁶ To be inserted when published for the purpose of the consultation exercise.

which will be used to analyse any trends and assist with future policy decisions.

Localities

Consideration


3.13 The Board's Overprovision Statement for 2018-2023 based its localities based on Council Wards.

The Board reviewed the statistical information available at the outset of the review and determined that a more focused set of localities was needed in order to better assess the impact of alcohol related harm and overprovision within Aberdeenshire.


The Board considered settlements to be more beneficial in terms of defining localities for the purposes of overprovision. The Board consulted on this proposal through an engagement exercise.

A full summary of the Factors considered by the Board is set out in **Appendix 1**.

Key Factors Identified

	'Settlement' provided a better footing than wards and enhanced the analysis of the statistical information available, such as the information found within the Scottish Index of Multiple Deprivation ('SIMD')
	Moving to settlements would assist partner agencies in highlighting areas of concern through direct statistics rather than data being diluted as a result of being compared over too large a geographical area.
	there was overwhelming support for this move (91.3%) including support from Police Scotland and the Licensing Standard's Officers ('LSO'S).
	The Board should consider the 'cumulative impact' of premises selling alcohol rather than focusing on the 'individual impact' of a premises.
	The Board should focus on communities which are at the greatest risk of harm when it comes to the sale and consumption of alcohol.

Findings

	<p>"Localities" for the purpose of considering overprovision has been set as "settlements" within Aberdeenshire</p> <p>Reasoning: Having considered the data available and the results of the engage exercise, as summarised in Appendix 1, settlements provide clearer, more accurate and more reliable evidence to enable the Board to demonstrate a clear causal link between licensed premises and a concern for one or more of the Licensing Objectives at a sufficiently local level to be able to determine whether there is overprovision within any of those localities.</p>
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Duty 1: Analysis of Overprovision Within Aberdeenshire

Considerations

3.14 The Board considered the following factors in considering whether there are any localities within Aberdeenshire that are overprovided for:

	Availability of Alcohol.
	Risk of Potential Harm.
	Evidence of Harm.


The key factors, conclusions and findings are listed below. A summary of the analysis made can be found within **Appendix 1**.

Availability of Alcohol

3.15 In considering the availability of alcohol, the Board took account of:

- (i) The number of premises in Aberdeenshire.
- (ii) The type of premises within Aberdeenshire.
- (iii) The capacity of premises within Aberdeenshire (including hours).

Key Factors Identified

	The number of on-sales only premises has declined since the last review but the number of off-sale only premises has increased as has the number of variation applications seeking to increase the size of existing alcohol display areas within Aberdeenshire.
	The average capacity of alcohol display areas within off sale premises in Aberdeenshire is 36m ² .
	The majority of licensed premises are located within North Aberdeenshire.
	There is a large variety of premises found in Aberdeenshire many of which off sale of alcohol as an addition to that of their primary business, many of which help sustain the tourist industry within Aberdeenshire

Conclusion

... The Board considered the following localities had a higher-than-average availability of alcohol in terms of Aberdeenshire:

Settlement	Level	
Ballater		High.
Banchory		
Banff		
Fraserburgh		
Braemar		Higher than average.
Huntly		
Inverurie		
Laurencekirk		
Peterhead		
Westhill		

Risk of Potential Harm

3.16 In considering the potential risk for harm, the Board took account of:


- (i) Areas of deprivation.
 - (a) Multiple deprivation.

- (b) Income deprivation.
- (c) Consideration of all the above in relation to the five Licensing Objectives.


(ii) Breakdown of population.

Key Factors Identified

3.17 Areas of Deprivation

	The localities of Banff, Fraserburgh and Peterhead meet all of the criteria for multiple deprivation.
	The localities of Banff and Fraserburgh meet all of the criteria for Income Deprivation.

3.18 Breakdown of Population

	Prevalence of harmful drinking twice as high for men than women nationally in 2021.
	In 2021 the age group drinking the most on a weekly basis nationally was 45 - 74.
	In 2021 in Aberdeenshire harmful drinking among men was 24% and among women 14%

Conclusion

3.19 Areas of Deprivation

The Board found that the following settlements had a higher-than-average risk potential when it comes to the sale and consumption of alcohol:


Settlement	Level
Banff	High.
Fraserburgh	
Peterhead	Higher than average.

3.20 Breakdown of Population


The Board found that the breakdown above has remained relatively consistent in terms of Aberdeenshire and identified no special cases to date requiring further analysis in terms of increased risk.

Evidence of Harm

3.21 The Board took account of the harm associated with the Licensing Objectives:

	Preventing Crime and Disorder
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- Deprivation as a result of crime.
- Violence in licensed premises data statistics from Police Scotland.

	Securing Public Safety
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- No evidence presented to the Board.

	Preventing Public Nuisance
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- No evidence presented to the Board.










	Protecting and Improving Public Health
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- Aberdeenshire wide statistics.
- Health deprivation including statistics in respect of alcohol-related hospitalisations.

	Protecting Children and Young Persons from Harm
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- No evidence presented to the Board.

Key Factors Identified

    		<p>There are areas with higher crime rates in Aberdeenshire some of which may be attributed to the consumption of alcohol.</p> <p>The majority of issues raised by Police Scotland indicate off-sales to be the problem.</p> <p>No reviews have been sought in terms of this Licensing Objective,</p>
		No reviews have been sought in terms of this Licensing Objective.
		1 review has been sought in terms of this Licensing Objective.
		<p>Health statistics for Aberdeenshire are generally positive</p> <p>There are areas with higher alcohol-related hospitalisation rates within Aberdeenshire.</p> <p>No reviews have been sought in terms of this Licensing Objective.</p>
		No reviews have been sought in terms of this Licensing Objective.

Conclusion

3.22 The Board found that the following settlements had a higher-than-average risk potential when it comes to the sale and consumption of alcohol:

Settlement	Level
Fraserburgh	High.
Peterhead	
Banff	Higher than average.
Inverurie	
Macduff	

Development of Scoring Matrix

3.23 The Board, using the data and evidence received, developed a scoring matrix which set


scores based on potential risk, availability and evidence of harm, taking into account the Licensing Objectives to reach its findings.

Details of the scoring method used can be accessed via this [link](#)³⁷.



Findings

3.24 Having had regard to all of the information submitted, the views expressed through the engage exercise, the numbers and capacities of licensed premises in Aberdeenshire the Board has found as follows:



In respect of On-Sales Premises

	<p>Placing a limit on the number of on sale premises at this point in time would not serve to promote any of the licensing objectives.</p> <p>Finding: NO OVERPROVISION of On Sale Premises</p>
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In respect of Off-Sales Premises

Level of Overprovision	Localities	
	<p>Having regard to all of the evidence submitted to date, and, having considered the number and capacity of off sale premises in Aberdeenshire, the Board has concluded for the purposes of this draft Policy Statement that there is sufficient evidence to demonstrate a causal link between the operation of off sale premises and alcohol related harm in these localities when considered against the licensing objectives</p> <p>Finding: OVERPROVISION of off sale premises in these localities</p>	<ul style="list-style-type: none"> • Banff • Fraserburgh • Peterhead
	<p>Having regard to all of the evidence submitted to date, and, having considered the number and capacity of off sale premises in Aberdeenshire, the Board has concluded for the purposes of this draft Policy Statement that while there is insufficient evidence to demonstrate a causal link between the operation of off sale premises and alcohol related harm in these localities when considered against the licensing objectives, there is sufficient evidence of harm to cause the Board to be concerned that there is potential for these localities to become overprovided.</p> <p>Finding: WATCHING BRIEF on the number of off sale premises in these localities, particularly where there are applications which apply for, or variations to increase, a capacity of alcohol above 36m²</p>	<ul style="list-style-type: none"> • Huntly • Inverurie • Macduff
	<p>Having regard to all of the evidence submitted to date, and, having considered the number and capacity of</p>	<ul style="list-style-type: none"> • Banchory • Ellon

³⁷ Link to be published once documents uploaded to website.

Level of Overprovision		Localities
	<p>off sale premises in Aberdeenshire, the Board has concluded for the purposes of this draft Policy Statement that, while there is insufficient evidence to indicate a causal link between the operation of off sale premises and alcohol related harm in these localities when considered against the licensing objectives, the scoring matrix has highlighted some areas of harm, specific to each locality that require to be monitored throughout the lifetime of the policy to monitor any potential escalation of the prevalent harm identified.</p> <p>Finding CONCERN NOTED. Off Sales in these settlements to be monitored, noting where there are applications which apply for, or variations to increase, a capacity of alcohol above 36m²</p>	<ul style="list-style-type: none"> • Fyvie • New Deer • St. Cyrus • Tarves
	<p>Having regard to all of the evidence submitted to date, and, having considered the number and capacity of off sale premises in Aberdeenshire, the Board has concluded for the purposes of this draft Policy Statement that there no evidence to indicate a causal link between the operation off sale premises and alcohol related harm in these localities when considered against the licensing objectives.</p> <p>Placing a limit on the number of off sale premises at this point in time would not serve to promote any of the licensing objectives.</p> <p>Finding: NO OVERPROVISION of Off Sale Premises in these localities.</p>	<ul style="list-style-type: none"> • All other Settlements in Aberdeenshire

Consideration of Overprovision in Determining Applications for Premises Licences, Provisional Premises Licences or Variation of Premises Licences

Rebuttable Presumption

3.25 The effect of this overprovision assessment is as follows:

Localities of Banff, Fraserburgh and Peterhead

1. To create, in the above localities, a rebuttable presumption against the grant of an applications for premises licences, provisional premises licences or variation of premises licences in relation to off sales (in terms of the grounds of refusal set out in section 23(5)(e) of section 30(5)(d) of the Act.

Localities of Huntly, Inverurie and Macduff

2. To create, in the above localities, a rebuttable presumption against the grant of an applications for premises licences, provisional premises licences or variation of premises licences in relation to off sales (in terms of the grounds of refusal set out in section 23(5)(e) of section 30(5)(d) of the Act where (a) the grant of the application would result in the premises having an off sales capacity in excess of 36 square metres, or (b) in the case of licensed premises with existing off sales capacity in excess of 36 square metres, the grant of any variation sought would result in an increase in that off sales capacity.

	Localities of Banchory, Ellon, Fyvie, New Deer, St. Cyrus and Tarves
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3. The Board will consider any evidence of harm specific to the relevant localities identified above, in determining any applications for premises licences in relation to off sales where (a) the grant of the application would result in the premises having an off sales capacity in excess of 36 square metres, or (b) in the case of licensed premises with existing off sales capacity in excess of 36 square metres, the grant of any variation sought would result in an increase in that off sales capacity


3.26 Each such application will still require to be determined on its own merits and the Board reserves the right to grant such applications where it considers that the licensing objectives would not be undermined by the specific proposals set out in the application, or that those objectives would not be undermined if the applicant's operating plan were to be modified or the grant of the licence made subject to the appropriate conditions, and that no ground of refusal other than overprovision would apply.

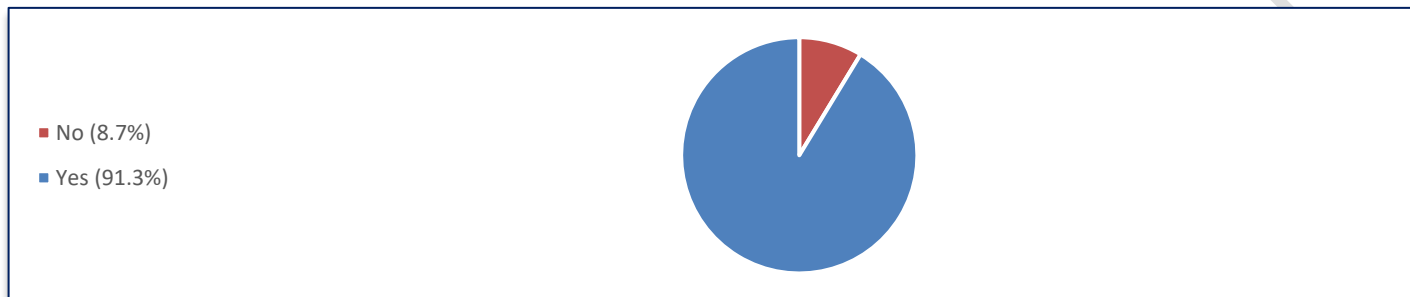
However, it will be for the applicant to demonstrate to the Board, by providing robust and reliable evidence, that the grant of the application would not undermine the licensing objectives or that the benefits in granting the application outweigh the Board's overprovision policy.

It should be noted also that one of the aims of the Board's overprovision policy is to promote the licensing objective of protecting and improving public health. To that end, the policy aims to reduce the number of premises with large-scale off sale display areas and not simply to prevent their further proliferation in the Board's area. The Board large-scale off sale display areas to be above 36 square metres in size. Consequently, in the event of an existing licence for a larger capacity off sale premises ceasing to have effect, this will not necessarily mean that there is capacity for a new licence for a large capacity off sale premises either at or in the vicinity of the former licensed premises or elsewhere in the Board's area.


Appendix 1: Summary of Evidence Used to Determine Draft Overprovision Policy for Aberdeenshire

Setting of Localities – Council Wards or Settlements?

	The Board has to determine “localities” that will be considered for overprovision of alcohol. Currently this is done by Council Ward Area. The Board is considering whether this should be looked at a more focused level, settlement?
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Alongside these responses the Board also considered the views of the IJB and AADP, both of which, were on similar terms and recommended that the Board consider the following points when looking at localities and assessing overprovision within Aberdeenshire:

	The Board should consider the ‘cumulative impact’ of premises selling alcohol rather than focusing on the ‘individual impact’ of a premises.
	The Board should focus on communities which are at the greatest risk of harm when it comes to the sale and consumption of alcohol.

The Board considered these to be key factors in terms of their initial wish to move to a more focused set of localities based on ‘Settlement’.

No alternative suggestions were received from any respondents in terms of the consultation and with this in mind the Board made the decision [28th April 2023] that the localities for the purpose of this Policy Statement would be based on ‘Settlement’.

A recording of the discussions and decision made can be found on the Council’s website via this [link](#)³⁸.

! Localities to be based on Settlements found within Aberdeenshire.

Consideration of Overprovision

(i) Settlements within Aberdeenshire

There are 62 towns and settlements with a population of 500 or more people in Aberdeenshire³⁹.

As a starting point the Board considered the 20 largest settlements by way of population due to their size, nature and standing within the area.

These are listed in the table below:

Position	Settlement	Population
----------	------------	------------

³⁸ Insert link to decision.

³⁹ Figures taken from the National Records of Scotland – Statistics 2020 – [taken from Council website](#).

1	Peterhead	19,060
2	Inverurie	14,660
3	Fraserburgh	12,570
4	Westhill	12,110
5	Stonehaven	11,150
6	Ellon	10,070
7	Portlethen	8,940
8	Banchory	7,440
9	Kintore	4,700
10	Turriff	4,700
11	Huntly	4,550
12	Banff	4,000
13	Kemnay	3,890
14	Macduff	3,830
15	Laurencekirk	3,140
16	Oldmeldrum	3,120
17	Blackburn	3,050
18	Newtonhill	3,010
19	Aboyne	2,920
20	Mintlaw	2,800

The Board thereafter considered other settlements within Aberdeenshire which met specific triggers in terms of availability of alcohol and matters relating to the Licensing Objectives.

 **20 Settlements were initially considered.**

(ii) Suggested Settlements


The Board did not receive any suggestions in terms of potential localities from respondents to their consultation nor from their partner agencies.

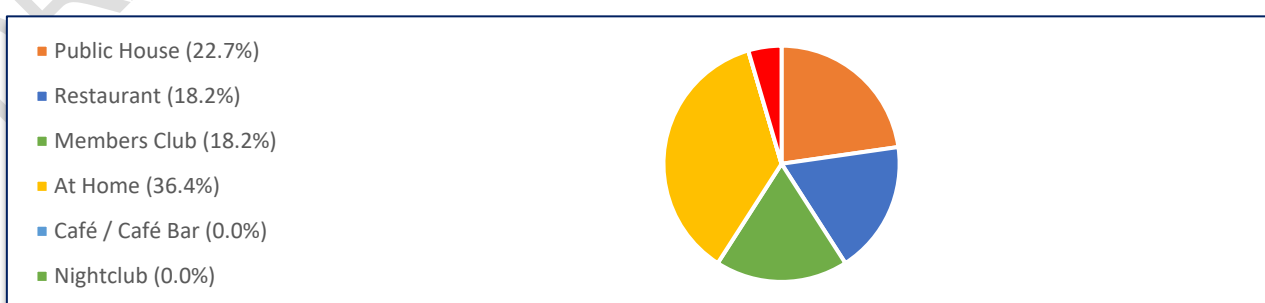
 **No suggestions received.**

(iii) Drinking habits in Aberdeenshire

Where do people tend to drink?

The majority of respondents stated that they regularly drank alcohol at home (36.4%) followed by public houses (22.7%), restaurants and members clubs (18.2% each) and 4.5% indicated that they did not drink alcohol at all:


 **Where do you drink alcohol on a regular basis?**



These results echo the findings of various national studies such as Public Health Scotland's Monitoring and Evaluating Alcohol Strategy – Monitoring Report 2022 ('MESAS 2022')⁴⁰ which indicate that most alcohol is sold within the off-sales setting, specific sales data relating

⁴⁰ MESAS – Public Health Scotland's Monitoring and Evaluating Alcohol Strategy – Monitoring Report 2022 – [Link](#)


to Aberdeenshire is not available:

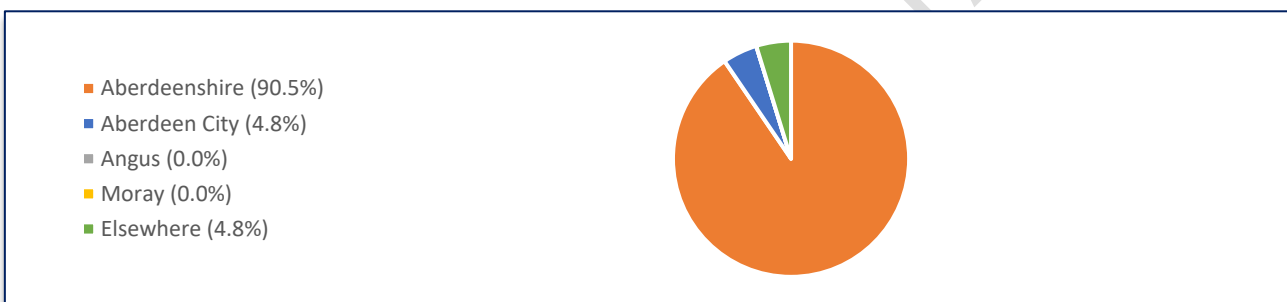
	Year	% of sales through off-sales premises
	2019	73%
	2020	90%
	2021	85%

The COVID-19 pandemic will of course have had an impact on the figures above as this restricted the operation of on-sales premises as these closed or operated on restricted hours during periods of lockdown.


Where are people buying their alcohol from and how regularly?

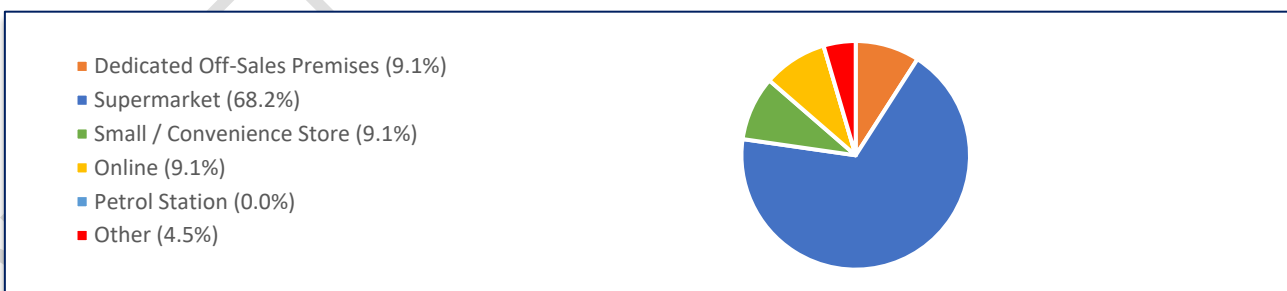
The majority of people purchasing alcohol bought this within Aberdeenshire (90.5%), followed by Aberdeen (4.8%) and 4.8% indicated that they did not buy alcohol at all.

 If you are an Aberdeenshire resident, do you usually buy your alcohol from off-sales premises in ...




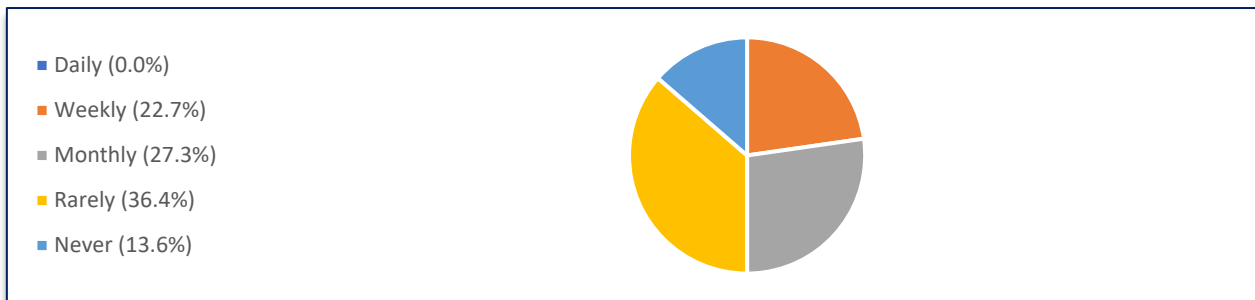
Those purchasing alcohol from off-sales premises indicated that they mainly purchased these from supermarkets (68.2%), followed by dedicated off-sales premises, small / convenience stores and online (9.1% each) and 4.5% indicated that they did not buy alcohol at all:


 If you buy alcohol for consumption at home or out with an on-sales premises, where do you buy it from?

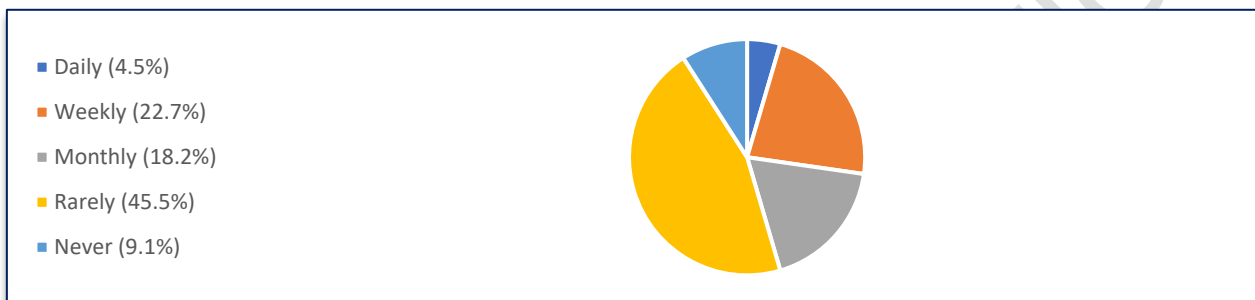


Those purchasing alcohol tend to purchase off-sales rarely (36.4%), followed by monthly (27.3%) and weekly (22.7%), never (13.6%) and on-sales rarely (45.5%), followed by weekly (22.7%), monthly (18.2%), daily (4.5%) and never (9.1%):

 How often do you usually buy alcohol in an off-sales premises?




 How often do you usually buy alcohol in an on-sales premises?




This indicates that people are buying alcohol more regularly in on-sales premises but does not factor into account the volume of those sales.

How much are people drinking?

The following tables shows the average amount of weekly units consumed based on the responses received from those who indicated that they drank alcohol:

How much alcohol do you consume in an average week at home? ⁴¹		
	MEAN average	7.4 units
	MEDIAN average	7.3 units
	MODE average	10.0 units
	MID-RANGE average	7.8 units

How much alcohol do you consume in an average week within on-sales premises? ⁴²		
	MEAN average	5.2 units
	MEDIAN average	5.0 units
	MODE average	10.0 units
	MID-RANGE average	5.5 units

- People would seem to be drinking more at home than within licensed on-sales premises.
- People would seem to be drinking around 12-13 units per week based on the combined MEAN averages above which is just below the Chief Medical Officer’s (CMO’s) safe drinking guidelines of 14 units per week.
- The figures echo the finding nationally when it comes to self-reported drinking levels such as those within in MESAS 2022 (12.1 units per week) and the SHS 2021⁴³ (11.3 units per week).

The figures above are based on self-reported figures and the Board are aware that when

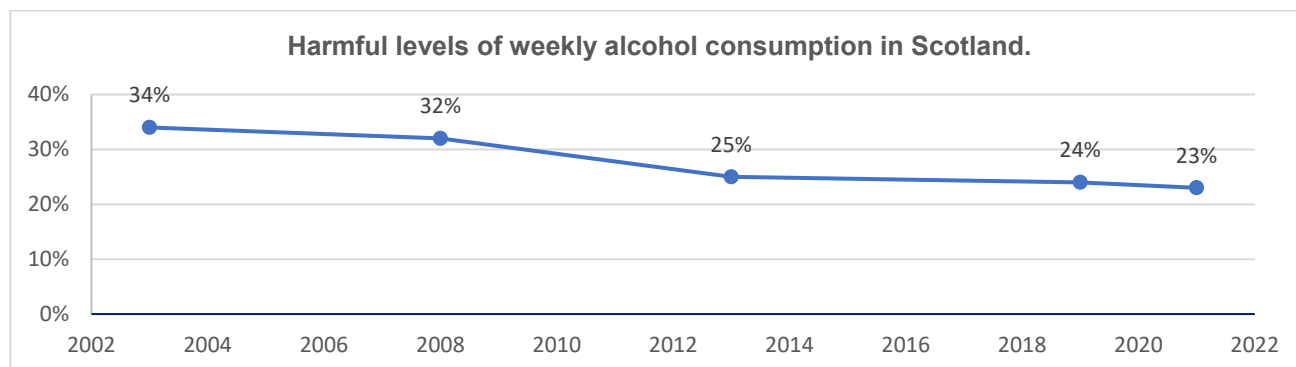
⁴¹ Results of Engage Consultation – 12 responses.

⁴² Results of Engage Consultation – 15 responses.

⁴³ The Scottish Health Survey 2021: Summary Report [-link](#)

these figures are compared against alcohol sales figures there is often a large discrepancy⁴⁴.

Alcohol Focus Scotland used the data within the Scottish Health Survey 2019 ('SHS 2019) to assess the percentage of men and women within Aberdeenshire who continue to drink at levels which are harmful and hazardous to their health, reporting 24% of men and 14% of women do so, no up to date figures have been found in this regard but again these levels would seem to echo the national position in terms of the data published within the SHS 2021:



The fall in drinking levels nationally are also echoed in the sales figures compiled by the Scottish Health Action on Alcohol Problems Organisation ('SHAAP'):


Year	Pure alcohol sales in Scotland	Trend
2019	45.1 million litres	Base
2020	43.5 million litres	-
2021	42.0 million litres	-

The Board is encouraged by the trends seen in the statistics which suggest that harmful drinking is on the decline nationally.

SHAAP and MESAS 2022 also considered the differing levels of consumption nationally based on deprivation level and found the following:


Level	1 Most Deprived	2	3	4	5 Least Deprived
Harmful	20%	19%	20%	25%	29%
Moderate	56%	63%	64%	63%	59%
Non-Drinking	24%	18%	16%	13%	12%

MESAS 2022 on further analysis of the data confirmed that although less people within the most deprived areas drank to a harmful level where they did this was often largely in excess of those within the other levels stated.

	Most people are buying their alcohol from Aberdeenshire.
	Most people are drinking regularly at home.
	People are drinking more units of alcohol within an off-sales setting.
	Self-reported drinking levels would seem to be below the current CMO guideline of 14 units per week.
	Drinking levels seem to echo the position nationally.
	Concerns regarding the level of drinking within deprived areas.

(iv) Views on Overprovision within Aberdeenshire


⁴⁴ Example: SHAPP report that the national weekly consumption based on sales amounted to 18.1 units per week and the MESAS 2022 report stated that the self-reported weekly consumption stood at 12.1 units for the same year.




	Is there overprovision within Aberdeenshire?
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The Board found that a large majority of the respondents (90.9%) felt that there was no overprovision of premises within Aberdeenshire.


The respondents who believed there to be overprovision in Aberdeenshire had a connection to South Aberdeenshire and indicated that this related in the main to off-sales premises.

Their comments have been summarised below:


	Most corner shops and small retailers sell alcohol, this is seen by children and young persons on a daily basis effectively advertising alcohol as a good thing and is often sold at a lower price than this would be within an on-sales premises.
	Petrol stations should not be able to sell alcohol due to connection this has with drink driving.





Relevant Licensing Objectives:	
	Protecting Children and Young Persons from Harm
	Preventing Crime and Disorder
	Securing Public Safety

The IJB and AADP in their separate responses also indicated that they believed there to be overprovision within Aberdeenshire stating the following:

	IJB	There is currently enough off-sales licences.
	AADP	There are enough off-sales licences.
		There are enough alcohol outlets in Aberdeenshire.

The IJB did not provided any statistical information or reasoning in terms of their view, but the AADP stated the following reasons:

	Alcohol consumption is a significant driver of ill-health in Aberdeenshire has been a public health challenge for decades.
	Alcohol-related deaths in Aberdeenshire have doubled since 2021 from 15 cases to 30 cases in 2021 (National Record of Statistics).
	The rate of general acute admissions to hospital for cirrhosis of the liver has doubled in Aberdeenshire since 2011/12 (Public Health Statistics).
	The rate of alcohol-related ambulance call outs has increased since 2020 and represents 5.5% of all call outs (Scottish Ambulance Service Statistics).
	Police Scotland's data shows a clear connection between the purchase of alcohol from off-sales premises, consumption and incidents of violence, disorder and anti-social behaviour.
	Community safety is directly impacted on by alcohol consumption within on-sales premises.
	The results of their own survey indicate that alcohol causes harm in our communities (84%) and that there are enough off-sales licences in force (66%) and overall alcohol outlets (52%) within Aberdeenshire.

Relevant Licensing Objectives:	
	Promoting and Improving Public Health.
	Protecting Children and Young Persons from Harm
	Preventing Crime and Disorder
	Securing Public Safety

The Board took into account the comments which were received.


The Board acknowledges that they are able to regulate the availability of alcohol through its policy and the decisions it makes.

The marketing and pricing of alcohol is largely a matter for Central Government.

The Board however will continue to limit the use of end of aisle displays for promoting the sale of alcohol within its policy⁴⁵ and takes encouragement from the fact that that marketing of alcohol within Scotland is to be reviewed⁴⁶ and that Minimum Unit Pricing in Scotland seems to be having a positive impact when it comes to reducing alcohol-related hospitalisations (-4.1%) and alcohol-related deaths (-13.4%) nationally⁴⁷.

... The Board would comment that there are petrol stations within Aberdeenshire who sell alcohol on an off-sales only basis as part of the larger retail side of their business as covered within the Board's policy⁴⁸ and there has been no evidence found to suggest that the sale of alcohol from these premises has led to an increase in incidents of drinking driving within Aberdeenshire or even nationally.

... The reasons raised by the AADP in their response will be considered later in this Statement in terms of the Board's analysis of the harm within Aberdeenshire.

	General view is that there is no overprovision within Aberdeenshire.
	The majority of those who believe there to be overprovision within Aberdeenshire believe this to relate to off-sales.
	There is evidence of alcohol-related harm within Aberdeenshire.


(v) Consideration of Potential Risk

Areas of Deprivation within Aberdeenshire

Aberdeenshire is a relatively affluent area and experiences low levels of deprivation⁴⁹ there are however settlements and areas within Aberdeenshire who do suffer from deprivation of one form or another.

Studies such as that carried out by the Scottish Health Action on Alcohol Problems ('SHAAP') in 2021, show that both alcohol-related hospitalisations and deaths are more likely in areas which suffer from deprivation than those that do not⁵⁰.

In line with the comments received by the AADP and IJB the Board analysed the data contained within the Scottish Index of Multiple Deprivation 2020 (V2) ('SIMD 2020') to identify any settlements which may have a higher risk potential when it comes to the harm caused by the sale and consumption of alcohol.

	SIMD 2020 – The Scottish Index of Multiple Deprivation provides a relative measure of derivation based on 7 indicators – income, employment, health, education, access, housing and crime.
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In terms of the measures identified above the Board considered the following as being relevant: (i) multiple deprivation, (ii) income deprivation, (iii) health deprivation and (iv) deprivation as a result of crime.

⁴⁵ **INSERT LINK TO SECTION WITHIN THE POLICY.**





⁴⁶ Example – Scottish Government – Restricting Alcohol Advertising and Promotion: Consultation - [Link](#)

⁴⁷ Study – Evaluating the impact of alcohol minimum unit pricing on deaths and hospitalisations in Scotland: a controlled interrupted time series study – published in The Lancet – Vol. 401, Issue 10385 – 22 April 2023 - [Link](#)


⁴⁸ **INSERT LINK TO SECTION WITHIN THE POLICY – SUPPLEMENTARY POLICY 8.**

⁴⁹ Aberdeenshire - 29th of all local authority areas in terms of areas of deprivation – [taken from the SIMD 2020 \(V2\) results.](#)


⁵⁰ Alcohol-related deaths were 5.6 x more likely and hospitalisations were 8.0 x more likely - SHAAP – [Alcohol Harms in Scotland \(2021\)](#)

Relevant Licensing Objectives	
	Protecting and Improving Public Health
	Preventing Crime and Disorder
	Securing Public Safety
	Preventing Public Nuisance

Multiple Deprivation

	Multiple deprivation: This covers all 7 indicators referenced above.
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The Board considered the following criteria when assessing this factor:

	A	Whether the Settlement had a SIMD data zone within the top third most deprived areas within Scotland (Ranked 2,326 or less) and the % of its data zones which met this criteria.
	B	Whether the Settlement had a SIMD data zone within the top 10 most deprived in Aberdeenshire for this category and the number of data zones included.
	C	Whether the settlement appeared in the top 5 most deprived areas within Aberdeenshire based on the MEAN average of all of its data zones.

The Board found the following:


Key	New Settlement Identified.		
Settlement	Criteria A Applies	Criteria B Applies	Criteria C Applies
Aboyne	No	No	No
Banchory	No	No	No
Banff	Yes	Yes	Yes
Blackburn	No	No	No
Crimond	Yes	No	No
Ellon	No	No	No
Fraserburgh	Yes	Yes	Yes
Huntly	Yes	No	No
Inverurie	Yes	No	No
Kemnay	No	No	No
Kintore	No	No	No
Laurencekirk	No	No	No
Macduff	No	No	Yes
Mintlaw	Yes	No	No
New Pitsligo	No	No	Yes
Newtonhill	No	No	No
Oldmeldrum	No	No	No
Peterhead	Yes	Yes	Yes
Pittulie	Yes	No	No
Portlethen	No	No	No
Rosehearty	Yes	No	No
Sandhaven	Yes	No	No
Stonehaven	No	No	No
Turriff	No	No	No
Westhill	No	No	No

The following settlements which are located within North Aberdeenshire met all the categories listed above: Banff, Fraserburgh and Peterhead.


Full details of the Board's findings can be accessed via this [link](#)⁵¹.

Income Deprivation

⁵¹ [INSERT LINK ONCE AVAILABLE](#)

	<p>Income deprivation: 'A measure of the percentage of population (adults and their dependents) in receipt of Income Support, Employment and Support Allowance, Job Seekers Allowance, Guaranteed Pension Credits, Child and Working Tax Credits, or Universal Credit (excluding those in the category 'working with no requirements', or in Tax Credit Families on Low Income'.⁵²</p>
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The Board considered the following criteria when assessing this factor:

	A	Whether the Settlement had a SIMD data zone where 10% or more of its population experienced income deprivation and the % of its data zones which met this criteria.
	B	Whether the Settlement had a SIMD data zone within the top 10 most deprived in Aberdeenshire for this category and the number of data zones included.
	C	Whether the settlement appeared in the top 5 most deprived areas within Aberdeenshire based on the MEAN average of all of its data zones.


They found the following:

Key	New Settlement Identified.		
Settlement	Criteria A Applies	Criteria B Applies	Criteria C Applies
Aberchirder	Yes	No	No
Aboyne	No	No	No
Banchory	No	No	No
Banff	Yes	Yes	Yes
Blackburn	No	No	No
Crimond	No	No	No
Cruden Bay	Yes	No	No
Ellon	Yes	No	No
Fraserburgh	Yes	Yes	Yes
Fyvie	Yes	No	No
Gardenstown	Yes	No	No
Huntly	Yes	No	Yes
Inverbervie	Yes	No	No
Inverurie	Yes	No	No
Kemnay	Yes	No	No
Kintore	No	No	No
Laurencekirk	Yes	No	No
Longside	Yes	No	No
Macduff	Yes	No	Yes
Mintlaw	Yes	No	Yes
New Deer	Yes	No	No
New Pitsligo	Yes	No	No
Newtonhill	No	No	No
Oldmeldrum	No	No	No
Peterhead	Yes	Yes	No
Pittulie	No	No	No
Portlethen	No	No	No
Portsoy	Yes	No	No
Rosehearty	Yes	No	No
Sandhaven	No	No	No
St. Cyrus	Yes	No	No
Stonehaven	Yes	No	No
Strichen	Yes	No	No
Turriff	Yes	No	No
Westhill	No	No	No

The following settlements which are located within North Aberdeenshire met all the categories listed above: Banff and Fraserburgh.

Health Deprivation

⁵² Definition of 'Income Deprivation' taken from the SIMD 2020 (V2).




Health deprivation: 'A measure of the general health of an area based on the standardised ratio based on comparative illness factors, hospital stays related to alcohol use, hospital stays related to drug use, standardised mortality ratio, proportion of population being prescribed drugs for anxiety or psychosis, proportion of live singleton births of low weight and emergency stays in hospital.'⁵³

The Board considered the statistics for health deprivation under 'Evidence of Harm' as the statistics in terms of alcohol-related hospitalisations fell more neatly into this category and their consideration of the Licensing Objective: Protecting and Improving Public Health.

Settlement
Aberchirder
Aboyne
Ballater
Banchory
Banff
Blackburn
Crimond
Cruden Bay
Ellon
Fraserburgh
Fyvie
Gardenstown
Huntly
Inverbervie
Inverurie
Kemnay
Kintore
Laurencekirk
Longside
Macduff
Methlick
Mintlaw
New Deer
New Leeds
New Pitsligo
Newtonhill
Oldmeldrum
Peterhead
Pittulie
Portlethen
Portsoy
Rosehearty
Sandhaven
St. Cyrus
Stonehaven
Strichen
Tarves
Turriff
Westhill
Whitehills

Deprivation as a result of crime



Deprivation as a result of crime: A measure which looks at the rates of crime per SIMD data zone.

The Board considered the statistics for crime deprivation under 'Evidence of Harm' as the statistics as these fell more neatly into this category and their consideration of the Licensing Objective: 'Preventing Crime and Disorder'.

They found that the following Settlements had an increased potential in terms of risk of harm when it came to the criteria above.

⁵³ Definition of 'Health Deprivation' created from the factors stated within the SIMD 2020 (V2).

Key	New Settlement Identified.
Settlement	
Aberchirder	
Aboyne	
Ballater	
Banchory	
Banff	
Blackburn	
Crimond	
Cruden Bay	
Ellon	
Fraserburgh	
Fyvie	
Gardenstown	
Huntly	
Inverbervie	
Inverurie	
Kemnay	
Kintore	
Laurencekirk	
Longside	
Macduff	
Methlick	
Mintlaw	
New Deer	
New Leeds	
New Pitsligo	
Newtonhill	
Oldmeldrum	
Peterhead	
Pittulie	
Portlethen	
Portsoy	
Rosehearty	
Sandhaven	
St. Cyrus	
Stonehaven	
Strichen	
Tarves	
Tipperty	
Turriff	
Westhill	
Whitehills	

Breakdown of Population

The statistics within the SHS 2021 relating to harmful drinking levels show that the prevalence of harmful drinking was twice as high for men than women in 2021 nationally and that the age group which drank the most on a weekly basis were those aged 45 to 74.

The Board was unable to find any statistics in this regard when it came to harmful drinking within Aberdeenshire other than those stated by Alcohol Focus Scotland which showed that harmful drinking among men was 24% and 14% among women in 2021.

The Board considered the breakdown of population within Aberdeenshire using the statistics for Aberdeenshire and the town profiles published on the Council's website and found that the breakdown remained relatively consistent in terms of the whole of Aberdeenshire with no special cases requiring further analysis in terms of increased risk.

Conclusion





The Board on analysing the data above found that the following settlements had a higher-than-average risk potential when it came to the sale and consumption of alcohol:

Settlement	Level
Banff	High
Fraserburgh	High
Peterhead	Higher Than Average





(vi) **Availability of Alcohol**

Number of Premises

There are 630 licensed premises within Aberdeenshire⁵⁴ and the table below provides a breakdown of these by type and who this has changed since the Board's last policy review:

Type of premises	Current	Last Review	Comparison	
 On sales	147	179	- 32	- 17.9%
 Off-sales	206	201	+ 5	+ 2.49%
 Premises selling both.	277	256	+ 21	+ 8.20%
 Overall	630	636	- 6	- 0.09%

Broken down by area within Aberdeenshire⁵⁵:

Type of premises	North	Central	South
 On sales	56	42	49
 Off-sales	84	70	52
 Premises selling both.	84	92	101
 Overall	224	204	202

As can be seen from the first table above there has been a small decrease in the overall number of premises within Aberdeenshire since the last review in 2018.

This decrease is due to a larger fall in the number of on-sales only premises which is perhaps reflective of the impact which the COVID-19 pandemic had on the on-sales trade and the data showing the majority of alcohol within Scotland is purchased within the off-sales setting.

The Board considered all settlements who had already been identified alongside any settlements who had 5 or more premises located within their boundary these included:


Key	New Settlement Identified.
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Settlement
Aberchirder
Aboyne
Alford
Ballater
Balmedie
Banchory
Banff
Blackburn
Braemar
Crimond
Cruden Bay
Ellon
Fraserburgh


⁵⁴ Statistics correct as at 15th of June 2023 – Taken from Aberdeenshire Licensing Board Statistics.

⁵⁵ This is based on the old Divisional Board areas which used to operate within Aberdeenshire.

Fyvie
Gardenstown
Huntly
Insch
Inverbervie
Inverurie
Kemnay
Kintore
Laurencekirk
Longside
Macduff
Methlick
Mintlaw
New Deer
New Leeds
New Pitsligo
Newmachar
Newtonhill
Oldmeldrum
Peterhead
Pittulie
Portlethen
Portsoy
Rosehearty
Sandhaven
St. Cyrus
Stonehaven
Strichen
Tarland
Tarves
Tipperty
Turriff
Westhill
Whitehills

	The number of on-sales only premises have declined.
	The majority of premises within Aberdeenshire are found within North Aberdeenshire.

The Board considered the following criteria when assessing this factor:

	The number of off-sales only premises.
	The number of premises selling both.
	The number of on-sales only premises.
	Whether the number of premises had increased since the last review.

Scores were then assigned to each of the categories weighted in terms of off-sales premises given the data presented in terms of drinking habits and evidence of harm.

Full details of the Board's findings can be accessed via this [link](#)⁵⁶.

Density of Premises

The Board was unable to find up to date statistics in terms of the national average when it comes to the density of premises.

The Board understand that at the time of the last review the national averages were as follows:


Scotland	On Sales	Off Sales	Overall Premises
Per 10,000 people (aged 18+)	26.5	11.6	38.1

⁵⁶ [INSERT LINK ONCE AVAILABLE](#)




In order to provide a snapshot of the where we stand in terms of where Aberdeenshire stands in terms of this marker this was compared to the settlements identified.

This was not a direct comparison as the Board were only able to compare this using the age data available to then meaning that their figures required to be worked out on the basis of population aged 16+ and not 18 as stated above.

The Board considered the following criteria when assessing this factor:

	The density of premises within settlements compared to the national average for Scotland.
---	---

The analysis in this regard was useful in terms of providing a snapshot of the position but there are a number of factors which could of course lead to there being a higher density than others for example:

	Lower rate of population.	This tends to increase the multiplier which then elevates the final density.
	Heightened levels of tourism and a smaller local population.	Braemar and Ballater sit at the top of the league when it comes to density of premises within Aberdeenshire.
	Rurality and a small local population.	Gardenstown has one off-sales premises yet exceeds the national average in terms of density.


Full details of the Board's findings can be accessed via this [link](#)⁵⁷.

Capacity and Opening Hours

The Board looked at the capacity and opening hours of premises throughout Aberdeenshire and took this into account when assessing overprovision within the Settlements which had been identified from other data.

The Board found that the MEAN average off-sales capacity for Aberdeenshire was 36m².

The Board considered the following criteria when assessing this factor:

	The percentage of maximum off-sales hours within each Settlement.
	The m2 of alcohol per person within each settlement.

Full details of the Board's findings can be accessed via this [link](#)⁵⁸.

Conclusion

The Board on analysing the data above found that the following settlements had a higher-than-average rating when it came to the availability of alcohol:

Settlement	Level
Ballater	High
Banchory	
Banff	
Fraserburgh	
Braemar	Higher Than Average

⁵⁷ INSERT LINK ONCE AVAILABLE


⁵⁸ INSERT LINK ONCE AVAILABLE

Huntly		
Inverurie		
Laurencekirk		
Peterhead		
Westhill		

(v) Consideration of Harm

The Board considered the evidence presented to them in respect of harm within Aberdeenshire based on the Licensing Objectives.


Preventing Crime and Disorder

	Preventing Crime and Disorder
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Deprivation as a result of Crime

The Board considered the data within the SIMD 2020 (V2) in respect of crime rates in respect of Aberdeenshire and this led to the identification of some other settlements which required to be included within the assessment due to a potential increase in their risk factor (see previous section above).

The Board considered the following criteria when assessing this factor:

	A	Whether the Settlement had a SIMD data zone with a crime rate of 70%+ of the National Average and the number of data zones which met that criteria.
	B	Whether the Settlement had a SIMD data zone within the top 10 most deprived in Aberdeenshire for this category and the number of data zones included.
	C	Whether the settlement appeared in the top 5 most deprived areas within Aberdeenshire based on the MEAN average of all of its data zones.

Their findings were as follows:

Settlement	Criteria A Applies	Criteria B Applies	Criteria C Applies
Aberchirder	Yes	No	No
Aboyne	No	No	No
Alford	No	No	No
Ballater	No	No	No
Balmedie	No	No	No
Banchory	Yes	No	No
Banff	Yes	No	Yes
Blackburn	No	No	No
Braemar	No	No	No
Crimond	No	No	No
Cruden Bay	No	No	No
Ellon	Yes	No	No
Fraserburgh	Yes	Yes	Yes
Fyvie	No	No	No
Gardenstown	No	No	No
Huntly	Yes	No	Yes
Insch	No	No	No
Inverbervie	No	No	No
Inverurie	Yes	Yes	No
Kemnay	No	No	No
Kintore	No	No	No
Laurencekirk	No	No	No
Longside	No	No	No
Macduff	Yes	No	Yes
Methlick	No	No	No
Mintlaw	Yes	No	No
New Deer	No	No	No

New Leeds	No	No	No
New Pitsligo	No	No	No
Newmachar	No	No	No
Newtonhill	No	No	No
Oldmeldrum	No	No	No
Peterhead	Yes	Yes	Yes
Pittulie	No	No	No
Portlethen	No	No	No
Portsoy	No	No	No
Rosehearty	No	No	No
Sandhaven	No	No	No
St. Cyrus	No	No	No
Stonehaven	Yes	Yes	No
Strichen	No	No	No
Tarland	No	No	No
Tarves	No	No	No
Tipperty	Yes	No	No
Turriff	Yes	No	No
Westhill	No	No	No
Whitehills	No	No	No

The following settlements which are located within North Aberdeenshire met all the categories listed above: Fraserburgh and Peterhead.

Full details of the Board's findings can be accessed via this [link](#)⁵⁹.

Although these statistics were helpful in terms of looking at deprivation levels in each of this settlements it is clear than not all crime is related to alcohol but as stated by Police Scotland and the AADP this can play a part in offending behaviour.

Police Scotland and Consultation Information

Police Scotland presented the following statistics to the Board in respect of alcohol-related crime:

Violence in licensed premises⁶⁰:

Financial Year	Total Sum of Charges	Trend ⁶¹
2017 / 2018	1072	Base
2018 / 2019	1067	-
2019 / 2020	1141	+
2020 / 2021	804	-
2021 / 2022	902	+

Area	17 / 18	18 / 19	19 / 20	20 / 21	21 / 22	Total	MEAN AV
B&B	302	273	254	188	251	1,298	259.6
B	275	256	250	205	184	1,170	234.0
F	100	105	126	81	101	513	102.6
G	180	202	267	165	160	974	194.8
K&M	112	118	117	74	98	519	103.8
M	103	113	127	91	108	542	108.4

If comparing the position over the period of the current policy (2017/18 to 2021/22):

Area	2017/18	2021/22	Trend
B&B	302	251	-16.9%
B	275	184	- 18.6%
F	100	101	+ 1.0%
G	180	160	- 11.1%
K&M	112	98	- 22.5%

⁵⁹ INSERT LINK ONCE AVAILABLE

⁶⁰ The data shows the figures of reported instances of violence directly related to licensed premises excluding instances of violence reported elsewhere but where those may have been in a licensed premises prior to the incident. The total sum of charges stated refers to the number of individual charges relating to the violence and not the number of incidents where violence has occurred. A single incident may result in a person(s) being charged with multiple offences.


⁶¹ Trend – This shows the position on a year-to-year basis.

M	103	108	+ 4.9%
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Although there has been a reduction in these numbers over the last two financial years, the impact of the COVID-19 pandemic and the restrictions which were in place need to also be considered in terms of these.

The figures above are limited in scope when it comes to analysing the impact which the sale and consumption of alcohol has had on the incidents in question as these only confirm that the incident took place within a licensed premises and not that the perpetrators had in fact consumed alcohol. Police Scotland have stated that an overwhelming majority of these incidents will be alcohol-related, but no direct evidence has been provided in this regard, thought it has been assumed that this is likely to have been the case in most instances.


The Board considered the following criteria when assessing this factor:

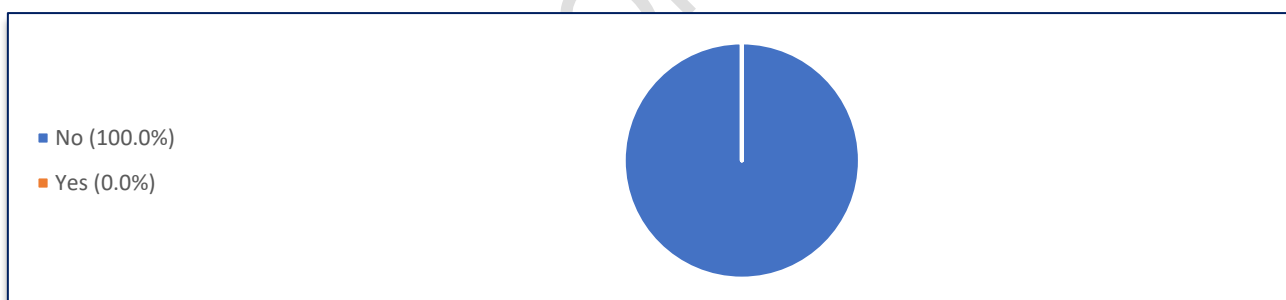
	Location of the settlement and the number of incidents within that area and any increasing trends over the last year.
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Full details of the Board’s findings can be accessed via this [link](#)⁶².

Alcohol related anti-social behaviour:

The engage consultation asked the following question relating to antisocial behaviour:

	Are you affected by antisocial behaviour or noise from licensed premises where you live?
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Police Scotland have provided the following figures related to the instances of alcohol-related anti-social behaviour reported in respect of Aberdeenshire:

Year	ASB Youth Calls	Trend	ASB Non-Youth Calls	Trend	Total ASB Calls	Trend
2017 / 2018	8	Base	253	Base	261	Base
2018 / 2019	6	-	285	+	291	+
2019 / 2020	6	=	252	-	258	-
2020 / 2021	7	+	160	-	167	-
2021 / 2022	10	+	185	+	195	+

If comparing the position over the period of the current policy (2017/18 to 2021/22):

Type	2017/18	2021/22	Trend
ASB Youth Calls	8	10	+ 20.0%
ASB Non-Youth Calls	253	185	- 26.9%
ASB – Total Calls	261	195	- 25.3%

Police Scotland have stated that these figures are likely to have been under recorded due to the fact that the ‘alcohol’ tag in respect of an incident is based on the quality of information

⁶² [INSERT LINK ONCE AVAILABLE](#)

provided to the call handler during the reporting process. It is also of course possible that cases may be over reported unless further measures have been put in place which prevent this from being the case for example an assumption that the perpetrators have been drinking when this may not be the case.

Unfortunately, the statistics provided by Police Scotland do not provide an age breakdown in terms of the categories listed which makes it difficult to fully assess the issue and whether we are looking at the issue of underage drinking as being a major factor in terms of these incidents.

Police Scotland have indicated that in the majority of these cases the source of the alcohol is from off-sales premises, but no direct evidence has been provided in this regard.

Use of drugs within licensed premises

Police Scotland in their consultation response highlighted that there is evidence that the use of illicit drugs within licensed premiss is growing. The use of cocaine when mixed with alcohol is recognised as a contributor to violent behaviour and may lead to incidents such as those mentioned previously.

It is for this reason we have considered in part the issue of drug hospitalisations within the health statistics and would advise that the suggestions made by Police Scotland in terms of potential conditions which could be applied to help address this situation will be considered as part of the full policy review.

No direct statistics were provided in respect of this factor.



Theft of alcohol from premises


Police Scotland also indicated that there is growing concern about the amount of alcohol which is being stolen from off-sales premises and the fact that this crime is generally committed by children and young persons from a poorer demographic and there is strong link between this activity and alcohol abuse, underage drinking as well as antisocial behaviour.

This issued and the suggestions put forward by Police Scotland will be considered as part of the full policy review and we would indicate that local conditions are already in place which state that all alcohol that is not on display should be secured in a lock fast store with the location being shown on the layout plan with a view to preventing such incidents taking place from stores.

No direct statistics were provided in respect of this factor.

Balance of Concerns

	Aberdeenshire is relatively low when it comes to crime,		Higher proportion of violent incidents within licensed premises occur in Banff & Buchan when compared to other areas which cannot be explained when the number of premises is considered as a factor.
	100% of respondents in terms of the consultation stated they had not experienced anti-social behaviour as a result of a licensed premises.		Rising number of violent incidents within licensed premises in Formartine (+1.0%) and Marr (+4.9%) since 2017/18.
	Decline in the amount of alcohol related anti-social behaviour calls when compared to 2017/18 (-25.3%).		20.0% rise in alcohol related anti-social behaviour youth calls from 2017/18, although these remain low.
	0 Licensing reviews have been requested by Police Scotland based on this Licensing Objective.		

	There are areas with higher crime rates in Aberdeenshire some of which may be attributed to the consumption of alcohol.
	The majority of issues raised by Police Scotland indicate off-sales to be the problem.
	No reviews have been sought in terms of this Licensing Objective,



Securing Public Safety


	Securing Public Safety
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The Board appreciated that there is a large cross over when it comes to this Licensing Objective and Preventing Crime and Disorder.


The Board received no data relating to this Licensing Objectives despite their efforts.

Balance of Concerns

	0 Licensing reviews have been requested by Police Scotland based on this Licensing Objective.		
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	No evidence presented to the Board.
	No reviews have been sought in terms of this Licensing Objective,



Preventing Public Nuisance


	Preventing Public Nuisance
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The Board appreciated that there is a large cross over when it comes to this Licensing Objective and Preventing Crime and Disorder.

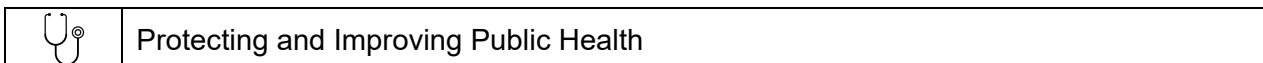
The Board received no data relating to this Licensing Objectives despite their efforts.

The Board has had one review in respect of this Licensing Objective over the term of its previous policy this though is not substantial given the number of licensed premises which operate within Aberdeenshire.

	1 Licensing review has been undertaken in terms of this Licensing Objective which is extremely small given the number of licensed premises within Aberdeenshire.		
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	No evidence presented to the Board.
	1 review has been sought in terms of this Licensing Objective,

Protecting and Improving Public Health

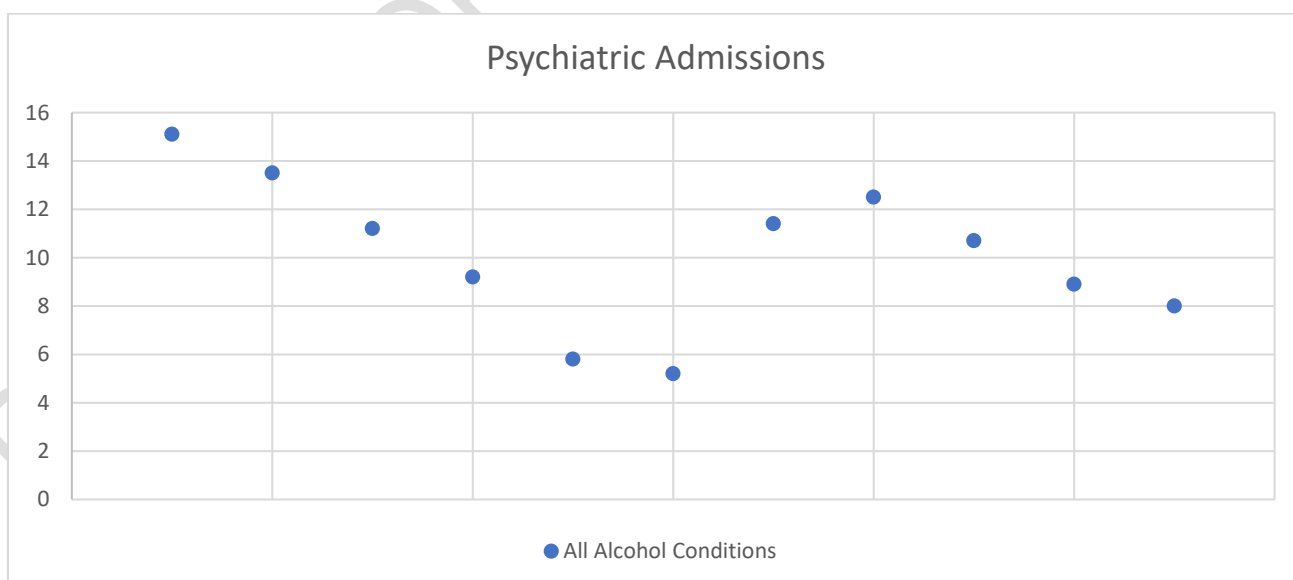
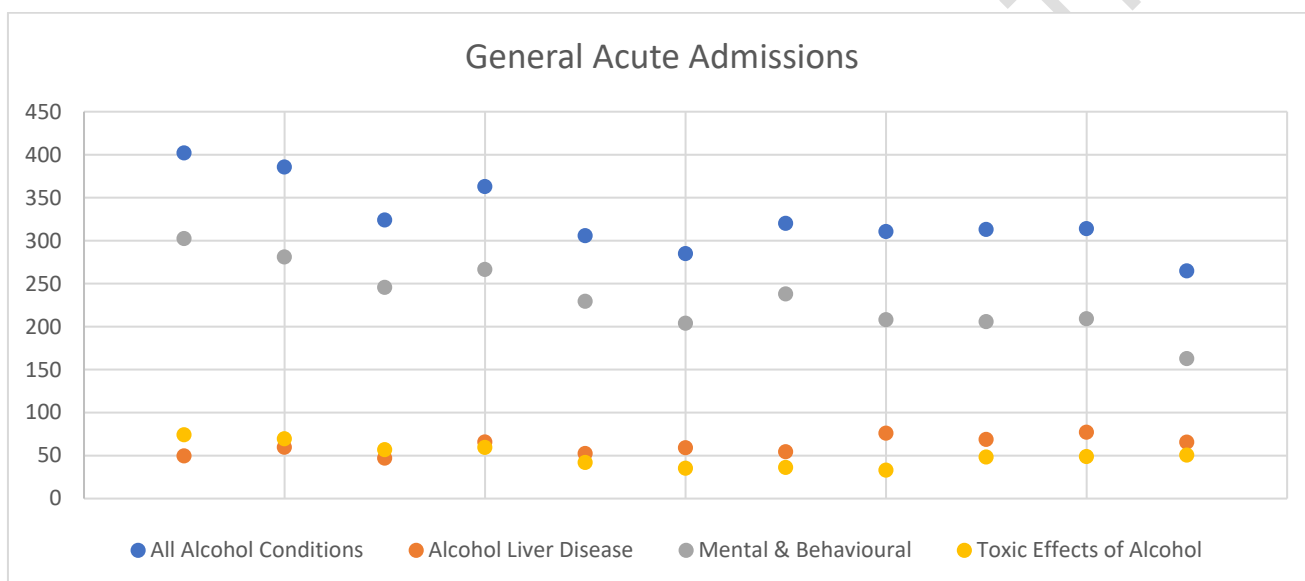


Aberdeenshire Wide Statistics

The statistics for Aberdeenshire when it comes to alcohol-related disease or hospitalisation are generally positive as can be seen from the tables below which show the statistics for the area as stated on the Public Health Scotland Dashboard⁶³:

Alcohol related hospitalisations in Aberdeenshire

Stays⁶⁴ per 100,000 population using EASR⁶⁵ - 2010/11 to 2020/21



In terms of the statistics Aberdeenshire ranks as follows when compared to the other local authority areas within Scotland based on the 2020/21 statistics (1st = Highest and 32nd = Lowest):

General Acute⁶⁶

⁶³ Public Health Scotland – Dashboard Information for Aberdeenshire - [Link](#)

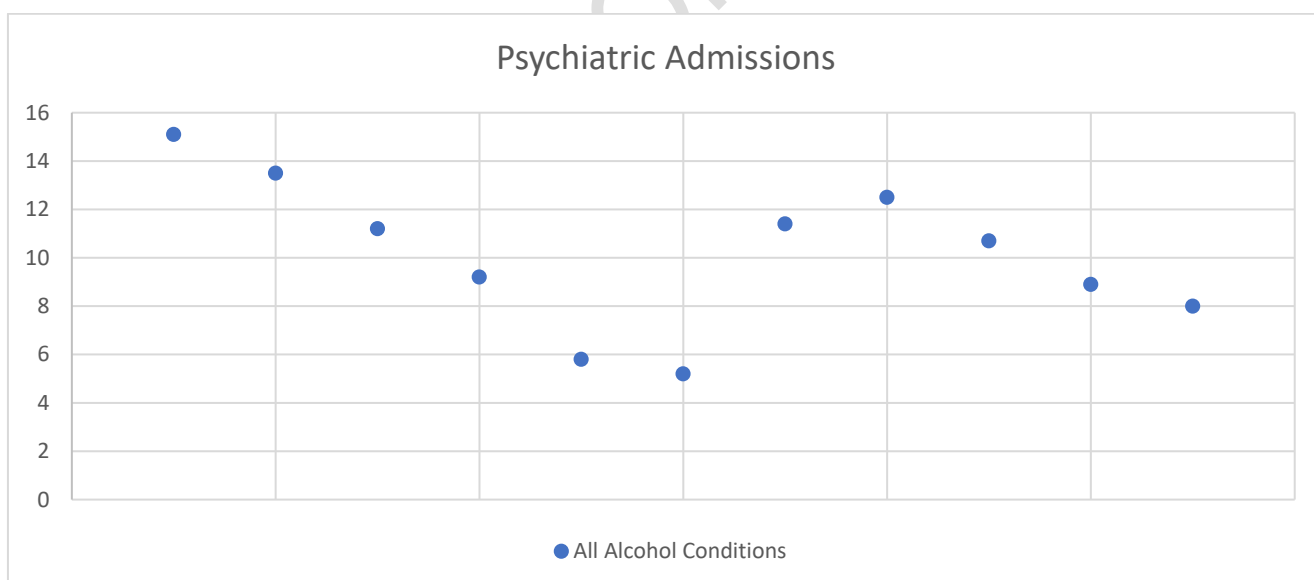
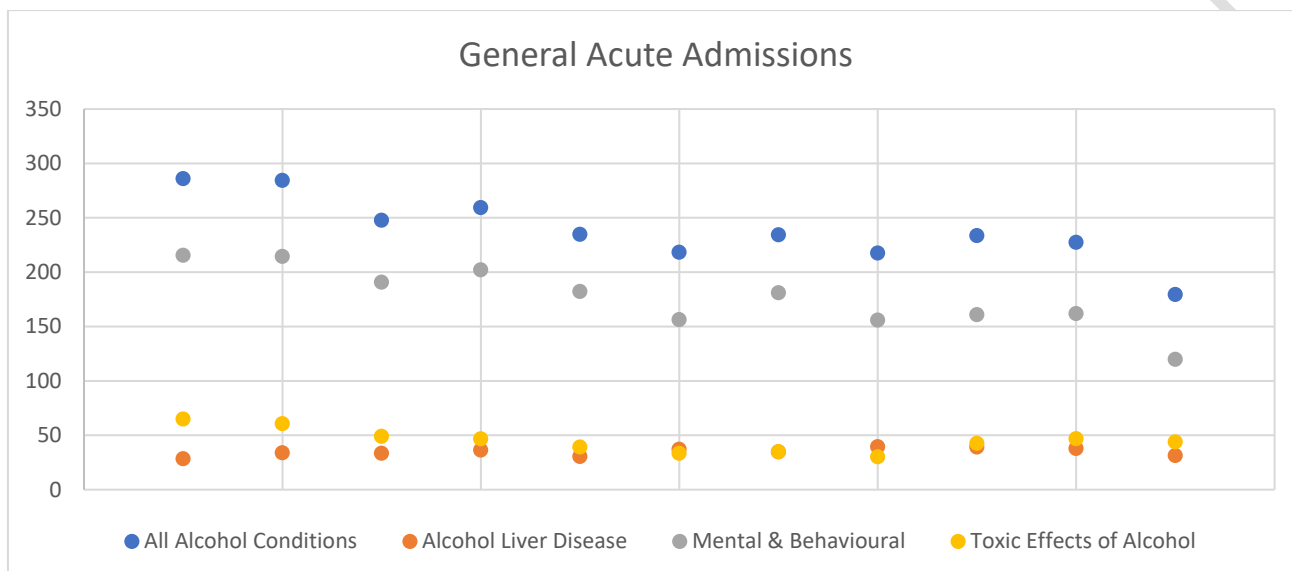
⁶⁴ Stays - These are distinct alcohol-related hospital admissions which occur within a year and a person could potentially have more than one stay in a year.

⁶⁵ EASR - European Age-Sex Standardised Ratio.

⁶⁶ General Acute - Admissions to general acute hospital (these are facilities in which patients receive care under specialities other than mental health, maternity, neonatal and geriatric long stays).

All Alcohol Conditions ⁶⁷	32nd
Alcohol Liver Disease ⁶⁸	29th
Mental & Behavioural ⁶⁹	32nd
Toxic Effects of Alcohol ⁷⁰	14th
Psychiatric	
All Alcohol Conditions ⁷¹	28th

Patients⁷² per 100,000 population using EASR – 2010/11 to 2020/21



In terms of the statistics Aberdeenshire ranks as follows when compared to the other local authority areas within Scotland based on the 2020/21 statistics (1st = Highest and 32nd = Lowest).:

General Acute	
All Alcohol Conditions	32nd
Alcohol Liver Disease	31st
Mental & Behavioural	32nd
Toxic Effects of Alcohol	14th

⁶⁷ All Alcohol Conditions - Covers: Alcohol Liver Disease (ALD – Cirrhosis and Unspecified), Mental Health & Behavioural Conditions (M&B - Acute Intoxication, Alcohol Dependence Syndrome, Harmful Use & Withdrawal State) and Toxic Effects of Alcohol.

⁶⁸ Alcohol Liver Disease – Covers: – Cirrhosis and Unspecified Conditions.

⁶⁹ Mental & Behavioural – Covers: Acute intoxication, Alcohol Dependence Syndrome, Harmful Use and Withdrawal.

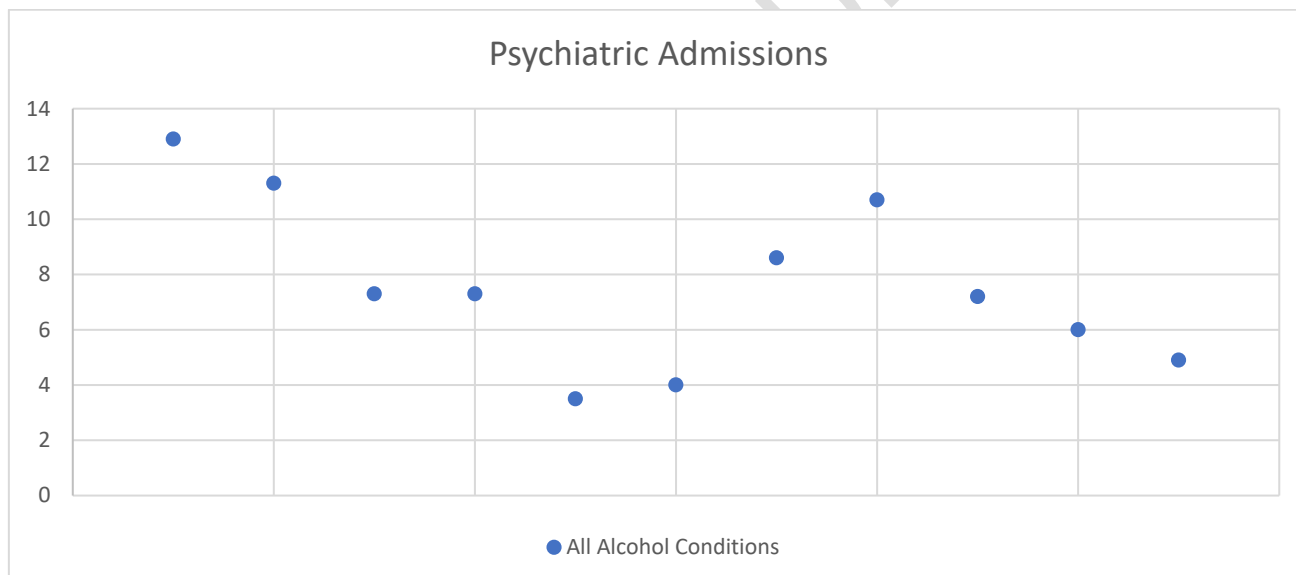
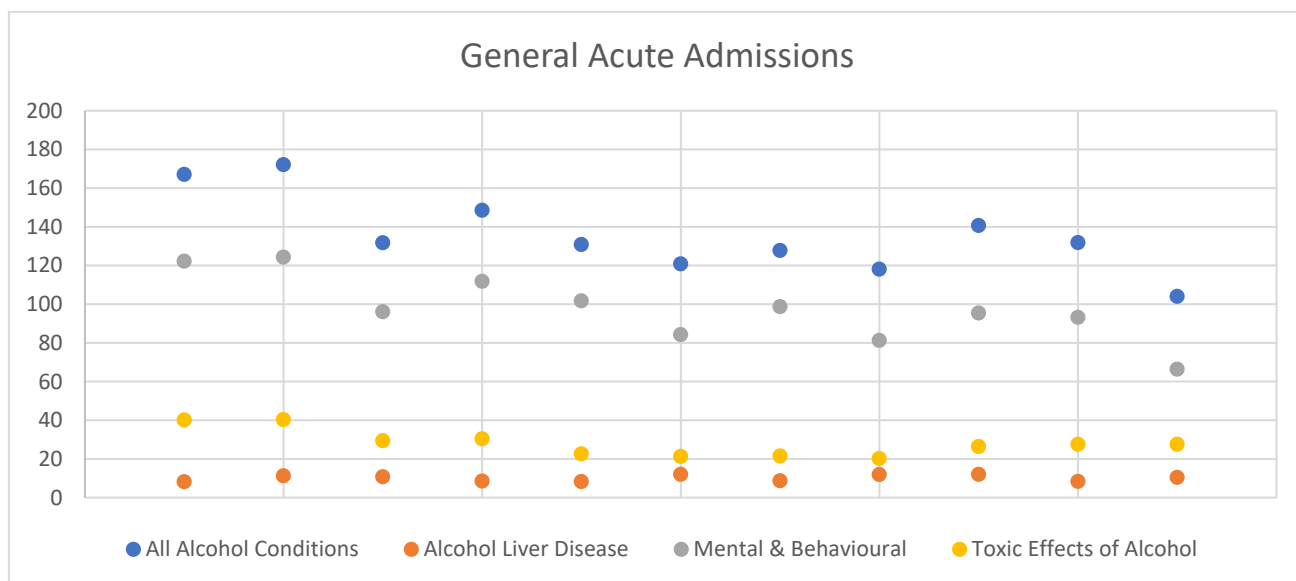
⁷⁰ Toxic Effects of Alcohol – Covers: Alcohol Poisoning.

⁷¹ Psychiatric - Admissions to psychiatric hospital (these are used for treatment for alcohol-related mental health conditions).

⁷² Patients - The number of people who have had at least one alcohol-related hospital admission during a particular year.

Psychiatric	
All Alcohol Conditions	28th

New Patients⁷³ per 100,000 population using EASR – 2010/11 to 2020/21



In terms of the statistics Aberdeenshire ranks as follows when compared to the other local authority areas within Scotland based on the 2020/21 statistics (1st = Highest and 32nd = Lowest):

General Acute	
All Alcohol Conditions	32nd
Alcohol Liver Disease	26th
Mental & Behavioural	32nd
Toxic Effects of Alcohol	11th
Psychiatric	
All Alcohol Conditions	28th

If the position for each of these categories is compared over the following periods: (a) 10-year period (2010/22 to 2020/21) and (b) the period of the current policy (2017/18 and 2020/21) the trends are as follows:

General Acute Admissions

⁷³ New Patients - The number of people each year who have an alcohol-related admission that have not had an alcohol-related admission in the past 10 years.

Category	(a)	2010/11	2020/21	Trend	(b)	2017/18	2020/21	Trend
All Alcohol Conditions								
Stays	(a)	401.8	264.7	- 34.1%	(b)	310.4	264.7	- 14.7%
Patients		285.9	179.4	- 37.3%		217.4	179.4	- 17.5%
New Patients		167.1	104.0	- 37.8%		118.1	104.0	- 11.9%
Alcohol Liver Disease								
Stays	(a)	49.4	65.5	+ 32.6%	(b)	75.9	65.5	- 13.7%
Patients		28.3	31.3	+ 10.6%		39.4	31.3	- 20.6%
New Patients		8.2	10.4	+ 26.8%		11.9	10.4	- 12.6%
Mental & Behavioural								
Stays	(a)	302.2	162.7	- 46.2%	(b)	207.9	162.7	- 11.7%
Patients		215.4	119.7	- 44.4%		155.8	119.7	- 23.2%
New Patients		122.2	66.4	- 45.7%		81.3	66.4	- 18.3%
Toxic Effects of Alcohol								
Stays	(a)	79.0	50.4	- 36.2%	(b)	32.9	50.4	+ 53.2%
Patients		64.9	43.8	- 32.5%		30.1	43.8	+ 45.5%
New Patients		40.1	27.6	- 31.2%		20.2	27.6	+ 36.6%

Psychiatric Admissions								
Category	(a)	2010/11	2020/21	Trend	(b)	2017/18	2020/21	Trend
All Alcohol Conditions								
Stays	(a)	17.6	9.1	- 34.1%	(b)	13.3	9.1	- 48.3%
Patients		15.1	8.0	- 47.0%		12.5	8.0	- 36.0%
New Patients		12.9	4.9	- 62.0%		10.7	4.9	- 44.2%

The statistics for Alcohol Liver Disease are of particular interest as this echoes the points made by the AADP in their response which point to a large increase in cirrhosis admissions over the last 10 years which of course would fall within this category.

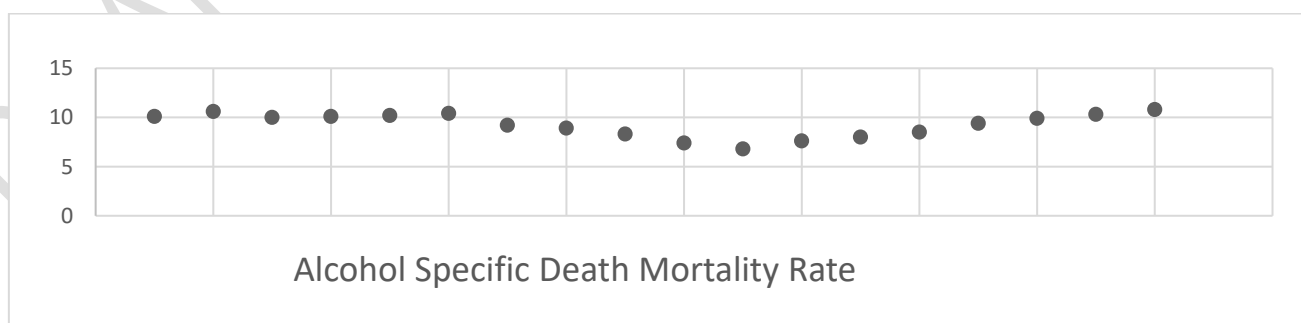
Although the AADP did not pick up on the statistics relating to Toxic Effects of Alcohol these again show a sizeable increase over the last 4 years although the numbers are significantly lower than they were in 2010/11.

Alcohol related ambulance call-outs in Aberdeenshire

The AADP as part of their response provided statistics from the Scottish Ambulance Service which showed that the number of ambulance call-outs in Aberdeenshire which were related to alcohol stood at 5.5% over the last year which seems to be on the increase.

Alcohol specific death mortality rate in Aberdeenshire

The following table shows the alcohol specific death rate based on the EASR for Aberdeenshire:



In terms of the statistics Aberdeenshire ranks as follows when compared to the other local authority areas within Scotland based on the statistics for the 2017/2021 period:

Alcohol Specific Deaths	
Deaths	31st



The trend in respect of alcohol specific deaths in Aberdeenshire is as follows:

	2000/2004	2016/2020	Trend
Alcohol Specific Deaths	10.1	10.8	+ 7.0%

The AADP in their response noted that there was a sizeable increase in the number of alcohol specific deaths from 2011 to 2021 with this doubling from 15 to 30 deaths which is of course a matter for concern as this is a sizeable increase despite are low position when compared to the rest of Scotland where the trend seems to suggest that such deaths are reducing.

The statistics for Aberdeenshire when it comes to alcohol-related disease or hospitalisation are generally positive as can be seen from the tables below which show the statistics for the area as stated on the Public Health Scotland Dashboard⁷⁴:


Balance of Concerns

	Aberdeenshire is relatively low in terms of its overall position when it comes to alcohol related hospitalisations and alcohol related deaths.		Rising trend in terms of alcohol liver disease in terms of the last 10 years a point which was also made by the AADP in their consultation response when looking specifically at cirrhosis.
	The statistics in terms of the following factors have declined when compared over a 10 year and 4-year period: Psychiatric Admissions (Both Periods) and General Acute Admissions: All Conditions, Mental & Behavioural.		Rising trend in terms of the number of hospitalisations relating to toxic effects of alcohol over the last 4 years, although these are down when compared to the position 10 years ago.
	The level of ambulance call-outs relating to alcohol remains fairly low at 5.5% of all calls.		A rise in the number of alcohol related deaths when compared to previous periods, this has doubled since 2011/15. There is an increasing amount of ambulance call-outs relating to alcohol.

Health Deprivation

The Board considered the data within the SIMD 2020 (V2) in respect of alcohol-related hospitalisations and drug-related hospitalisations in terms of the settlements which had been identified from the data above.

The Board considered the following criteria when assessing this factor:

	A	Whether the Settlement had a SIMD data zone with an alcohol-related hospitalisation rate of 70%+ of the National Average and the number of data zones which met that criteria.
	B	Whether the Settlement had a SIMD data zone within the top 10 most deprived in Aberdeenshire for this category and the number of data zones included.
	C	Whether the settlement appeared in the top 5 most deprived areas within Aberdeenshire based on the MEAN average of all of its data zones.
	D	Whether the Settlement had a SIMD Data Zone with an alcohol-related hospitalisation rate AND drug-related hospitalisation rate of more than 70% of the National Average due to connection made by Police Scotland.
	E	Whether the MEAN alcohol-related hospitalisation rate had increased since 2016 taking into account changes in population.


Their findings were as follows:

Settlement	Criteria A Applies	Criteria B Applies	Criteria C Applies	Criteria D Applies	Criteria E Applies
Aberchirder	No	No	No	No	No
Aboyne	No	No	No	No	No
Alford	No	No	No	No	Yes


Ballater	Yes	No	No	No	Yes
Balmedie	No	No	No	No	No
Banchory	Yes	No	No	No	Yes
Banff	Yes	Yes	Yes	No	Yes
Blackburn	No	No	No	No	Yes
Braemar	No	No	No	No	Yes
Crimond	No	No	No	No	No
Cruden Bay	No	No	No	No	No
Ellon	Yes	Yes	No	No	Yes
Fraserburgh	Yes	Yes	Yes	Yes	Yes
Fyvie	Yes	No	No	No	Yes
Gardenstown	No	No	No	No	No
Huntly	Yes	No	Yes	Yes	No
Insch	No	No	No	No	No
Inverbervie	No	No	No	No	No
Inverurie	Yes	Yes	No	Yes	Yes
Kemnay	Yes	No	No	Yes	No
Kintore	Yes	No	No	No	Yes
Laurencekirk	No	No	No	No	Yes
Longside	No	No	No	No	Yes
Macduff	Yes	Yes	Yes	Yes	Yes
Methlick	Yes	No	No	No	Yes
Mintlaw	Yes	No	No	No	Yes
New Deer	Yes	No	No	No	Yes
New Leeds	Yes	No	No	No	Yes
New Pitsligo	Yes	No	No	No	No
Newmachar	No	No	No	No	Yes
Newtonhill	No	No	No	No	Yes
Oldmeldrum	No	No	No	No	Yes
Peterhead	Yes	Yes	Yes	Yes	Yes
Pittulie	No	No	No	No	No
Portlethen	No	No	No	No	Yes
Portsoy	Yes	Yes	No	Yes	Yes
Rosehearty	No	No	No	No	No
Sandhaven	No	No	No	No	No
St. Cyrus	Yes	No	No	No	Yes
Stonehaven	Yes	No	No	No	No
Strichen	No	No	No	No	Yes
Tarland	No	No	No	No	Yes
Tarves	Yes	No	No	No	Yes
Tipperty	No	No	No	No	Yes
Turriff	Yes	No	No	Yes	No
Westhill	Yes	No	No	No	Yes
Whitehills	Yes	No	No	No	Yes

The following settlements which are located within North Aberdeenshire met all the categories listed above: Fraserburgh and Peterhead.

Full details of the Board's findings can be accessed via this [link](#)⁷⁵.

	Health statistics for Aberdeenshire are generally positive.
	There are areas with higher alcohol-related hospitalisation rates within Aberdeenshire.
	No reviews have been sought in terms of this Licensing Objective,



Protecting Children and Young Persons from Harm


	Protecting Children and Young Persons from Harm
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⁷⁵ [INSERT LINK ONCE AVAILABLE](#)

The Board received no data relating to this Licensing Objectives despite their efforts.

Balance of Concerns

	0 Licensing reviews have been requested by Police Scotland based on this Licensing Objective.		
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	No evidence presented to the Board.
	No reviews have been sought in terms of this Licensing Objective,

Conclusion

The Board found that alcohol-related harm within Aberdeenshire remained low but on analysing the data above found that the following settlements had a higher-than-average level of harm for the area.


Settlement	Level
Fraserburgh	High
Peterhead	
Banff	Higher Than Average
Inverurie	
Macduff	

Scoring Matrix and Findings


The Board using the information which it received developed its own scoring matrix which provided scores based on potential risk, availability and evidence of harm taking into account the Licensing Objectives.


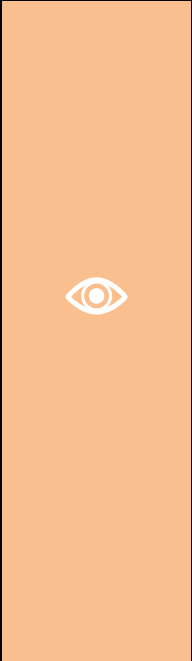
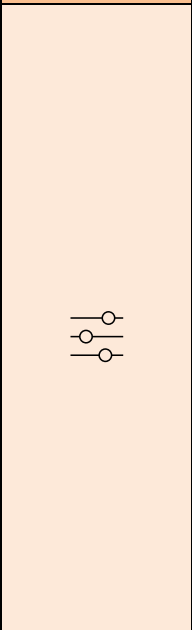

The Board found that the following levels had been reached:

On Sales:

	Placing a limit on the number of on sale premises at this point in time would not serve to promote any of the licensing objectives. Finding: NO OVERPROVISION of On Sale Premises
---	--

Off Sales:

Level of Overprovision	Localities
	<p>Having regard to all of the evidence submitted to date, and, having considered the number and capacity of off sale premises in Aberdeenshire, the Board has concluded for the purposes of this draft Policy Statement that there is sufficient evidence to demonstrate a causal link between the operation of off sale premises and alcohol related harm in these localities when considered against the licensing objectives</p> <ul style="list-style-type: none"> • Banff • Fraserburgh • Peterhead

Level of Overprovision	Localities
 <p>Finding: OVERPROVISION of off sale premises in these localities</p>	
 <p>Having regard to all of the evidence submitted to date, and, having considered the number and capacity of off sale premises in Aberdeenshire, the Board has concluded for the purposes of this draft Policy Statement that while there is insufficient evidence to demonstrate a causal link between the operation of off sale premises and alcohol related harm in these localities when considered against the licensing objectives, there is sufficient evidence of harm to cause the Board to be concerned that there is potential for these localities to become overprovided.</p> <p>Finding: WATCHING BRIEF on the number of off sale premises in these localities, particularly where there are applications which apply for, or variations to increase, a capacity of alcohol above 36m²</p>	<ul style="list-style-type: none"> • Huntly • Inverurie • Macduff
 <p>Having regard to all of the evidence submitted to date, and, having considered the number and capacity of off sale premises in Aberdeenshire, the Board has concluded for the purposes of this draft Policy Statement that, while there is insufficient evidence to indicate a causal link between the operation of off sale premises and alcohol related harm in these localities when considered against the licensing objectives, the scoring matrix has highlighted some areas of harm that require to be monitored throughout the lifetime of the policy.</p> <p>Finding CONCERN NOTED. Off Sales in these settlements to be monitored, noting where there are applications which apply for, or variations to increase, a capacity of alcohol above 36m²</p>	<ul style="list-style-type: none"> • Banchory • Ellon • Fyvie • New Deer • St. Cyrus • Tarves
 <p>Having regard to all of the evidence submitted to date, and, having considered the number and capacity of off sale premises in Aberdeenshire, the Board has concluded for the purposes of this draft Policy Statement that there no evidence to indicate a causal link between the operation off sale premises and alcohol related harm in these localities when considered against the licensing objectives. Placing a limit on the number of off sale premises at this point in time would not serve to promote any of the licensing objectives.</p> <p>Finding: NO OVERPROVISION of Off Sale Premises in these localities.</p>	<ul style="list-style-type: none"> • All other Settlements in Aberdeenshire

SUPPLEMENTARY POLICY 4 – OPERATING HOURS

Operating Hours

- 4.1. The Board does not wish to inhibit unnecessarily the development of a thriving and safe evening and night-time local economy, which is important for investment, employment and tourism.
- 4.2. The Board considers that the operating hours set out in this Supplementary Policy Statement meet the needs of businesses to routinely trade, while, at the same time, not impacting on the needs of the community in such a way that would be detrimental to compliance with the five licensing objectives.
- 4.3. Licensed hours, and trading hours, **must** be detailed in the operating plan of every premises. Operating hours will be made up of core hours and regular seasonal variations. The Board expects Applicants to be able to anticipate all such regular variations.
- 4.4. The 2005 Act makes it very clear that routine, 24-hour opening is **NOT** allowed. **The Statutory Guidance makes clear that where licensed hours exceed 14 hours, further consideration is required by the Board to take account of such extra hours.**

Off Sales

- 4.5. For applications relating to premises licences and to occasional licences, the maximum licensed hours for the sale of alcohol for consumption off the premises (off-sales hours) are **10.00 a.m. to 10.00 p.m.**, each day. **The Board has no discretion to permit licensed hours outwith these times.** In determining applications and licensed hours within these times, the Board will, in considering the merits, have particular regard to the effect (if any) which the proposed off-sales hours would have in promoting the licensing objectives.
- 4.6. There is no entitlement to a grant of maximum trading hours for off-sale premises. The hours granted by the Board to off-sale premises will reflect the hours routinely operated at the premises. There will be flexibility to build in extended or reduced trading to reflect seasonal variations, such as the Festive Season, or, public and local holidays.

On-Sales

- 4.7. While each application is assessed on its own merits, the following section sets out the Board's policy on licensed hours within Aberdeenshire. **The Board has opted to have one policy covering Aberdeenshire as a whole, replacing the policies covering the former Divisions of North, Central and South Aberdeenshire.**
- 4.8. **Applicants or Licence holders wishing to apply for hours which fall outwith the terms of the Board's Policy, or that exceed 14 hours duration,** will require to demonstrate to the Board that the additional requested hours are appropriate in the circumstances and will not be inconsistent with the licensing objectives.

The Board recognises that the hours contained herein will only apply to applications made after the Policy takes effect. It will not affect hours on existing licences unless the licence holder

wishes to vary the terms of their premises licence to conform to the hours set in this policy.

Opening Hours

- 4.9 For applications relating to premises licences, including extensions of hours, the licensed hours for the sale of alcohol for consumption on the premises (“on-sales hours”) the Board considers the commencement of the sale of alcohol would not normally be earlier than **10.00 a.m.**
- 4.10 The Board will consider extending the commencement of the sale of alcohol in premises from **10.00 a.m. to 9.00 a.m.** under certain circumstances (e.g. tourism, provision of food etc).
- 4.11 The Board may attach conditions to such licences. The earlier a premises wish to open, the more the Board will expect Licence holders to demonstrate measures that promote the licensing objectives and justify the request for the early hours. The Board further considers that it would be difficult for any application to justify the sale of alcohol before **9.00 a.m.**, unless there are exceptional circumstances.

Terminal Hour

- 4.12 Licensed hours for on sales premises in particular can have an impact, not only within the individual premises, but also within the locality in which the premises are situated. Considering the 5 licensing objectives, the presumption against 24-hour drinking and the Guidance for Licensing Boards and Local Authorities issued by the Scottish Government, the Board considers the following to be appropriate for the terminal hour beyond which alcohol **must not** be sold on the premises or part(s) of the premises:

Nightclubs etc	Sunday to Thursday	2.00 a.m.
	Friday & Saturday	3.00 a.m.
Other on sale premises		1.00 a.m.

- 4.13 Premises open after **1.00 a.m.** will be subject to mandatory late opening conditions and the Board may attach further conditions. The later a premises wish to open the more the Board will expect Licence Holders to demonstrate measures that promote the licensing objectives and justify the request for the late hours. The Board further considers that it would be difficult for any application to justify the sale of alcohol after **3.00 a.m.** unless there are exceptional circumstances.

Festive Hours

- 4.14 **The Board wishes to make it clear that the Festive Season hours should be accounted for within the Seasonal Variations section of the Operating Plan and should not be the subject of extended hours applications.**
- 4.15 On-sale premises (**other than nightclubs**) may open until **01.30 a.m.** on the following dates:-

Friday and Saturday preceding 25 th December.
24 th to 26 th December inclusive.
Friday and Saturday preceding 31 st December.
1 st January.

Such premises may also open on **31st December until 03:00 a.m.**

Occasional Extensions

4.16 An Occasional Extension of permitted hours can be granted to a Licence Holder to extend the operating hours for a specific premises licence but only where the Board considers it appropriate to do so in connection with - he Board may extend the licensed hours

(a) A Special Event or occasion to be catered for on the premises, OR

(b) A special event of local or national significance.

Extended hours have effect for the period specified in the application or such other period as the Board consider appropriate, but must not exceed the period of one month.

Please refer to

6.1 An Occasional Extension of permitted hours can be granted to a Licence Holder **to extend the operating hours for a specific premises licence but only where the Board considers it appropriate to do so in connection with –**

(a) A Special Event or occasion to be catered for on the premises, OR

(b) A special event of local or national significance.

Extended hours have effect for the period specified in the application or such other period as the Board consider appropriate, but must not exceed the period of one month.

In order to obtain an occasional extension,

4.17 The Board will not normally grant extended hours in relation to requests for the types of entertainment provided for within the operating plan of the premises. For example, if the operating plan specifies live bands as a normal activity, extended hours for a specific band playing at the premises will be rejected as not being a special event to be catered for on the premises, or being an event of local significance.

4.18 Occasional extensions should be a rare occurrence, most types of entertainment and the hours relating thereto being capable of being catered for within the operating plan attached to the premises licence.

4.19 Licence Holders seeking licensed hours for times outwith the Board's policy, will require to demonstrate to the Board that the additional requested hours are appropriate in the circumstances.

4.20 Licence Holders **shall** provide the Board with sufficient information to enable a decision to be made. This will include –

the hours sought
the description of the special event or occasion
what activities are proposed to take place during those hours
when each activity will take place
how the request complies with the licensing objectives.

4.21 The Board has complete discretion as to whether to grant the application taking into account any objections and representations. The Board may hold a hearing for the purpose of determining any application, but this is not mandatory. Where the Board does not hold a Hearing, the Board will ensure that before determining the application, the applicant is given an opportunity to comment on any

objections or representations.

- 4.22 On occasions of national, local or possibly international significance the Board has the authority to apply a general extension of licensing hours. The Board will notify those affected of the granting of any general extension of hours. Such grants will always be posted on the [Licensing Section of Aberdeenshire Council's Website¹](#).
- 4.23 In respect of either sector or local specific grants, the Board will notify premises individually. The Board may also publish details in local newspapers as it sees fit.
- 4.24 For further detailed information on Occasional Extensions, please see the [Board's Guidance²](#).

Occasional Licences

- 4.25 It is possible to make an application for an occasional licence authorising the sale of alcohol on premises which are not licensed premises.
- 4.26 The Board recognises the particular impact of alcohol misuse on children and young persons and will assist in changing detrimental attitudes and behaviours. Accordingly, there will be a presumption against granting occasional licences for events that are aimed primarily at children or young persons, such as but not limited to, school sports days or children's parties.
- 4.27 The application may be made by –

The holder of a premises licence, or
The holder of a personal licence, or
A representative of any voluntary organisation (includes members clubs)

- 4.28 An occasional licence can last up to a **maximum of 14 days**.
- 4.29 The holders of a premises licence or a personal licence may make unlimited applications.
- 4.30 **The Licensing (Scotland) Act 2005 places** restrictions on the number of applications a voluntary organisation or members club can make, in any period of 12 months –

not more than 4 occasional licences each having effect for a period of 4 days or more; and
not more than 12 occasional licences each having effect for a period of less than 4 days

- 4.31 The combined duration of all occasional licences in any 12-month period **must not exceed 56 days**.

The Board has no legal authority to grant more occasional licences to voluntary organisations or members clubs than the provisions set out at sections 4.30 – 4.31 above.

- 4.32 A valid application requires the completion in full of the application form and all appendices. Please note failure to provide a current e-mail address may result in your application being delayed.
- 4.33** To allow time to consult the Police and the LSO and for objections/comments to

¹ <http://www.aberdeenshire.gov.uk/licensing/>

² <http://www.aberdeenshire.gov.uk/licensing/occasionalextensions.asp>

be made, applications should be submitted as far in advance of the event as possible but **not later than 6 weeks** before the event is due to take place. **If an application is received less than 6 weeks in advance of the date of the event, Officers will process the application, but applicants should be aware that the licence may not be granted if consultees do not have adequate time to respond or if there are any adverse representations or objections. To allow for adequate consultation with the public, any application received less than 7 days before the event is due to take place will be rejected by the Board, with the exception of applications related to the provisional of funeral teas or in exceptional circumstances,**

- 4.34 The Board considers that activities such as dances, discos, dinner dances, wedding- receptions, parties where a disco or band is provided are generally acceptable for granting an occasional licence. This list is not exhaustive.
- 4.35 If the Board sees a pattern of applications for occasional licences or extensions developing for functions or days or hours that could otherwise be accommodated within the operating plan for the premises, the Board may decline to deal with such applications and instead advise that the applicant apply for a major variation of their premises licence to accommodate such events.
- 4.36 Where it is evident from an application due to the type of event, capacity, age demographic and location of an event, the Board may require a person in charge of the bar at the event who has completed training to the same standards as that required to obtain a personal licence under the Act and as recommended by the Licensing Standards Officers or Police Scotland.
- 4.37 In all other circumstances, where a voluntary organisation applies for numerous occasional licences in any calendar year, the Board expects there to be a person in charge of the bar at the event who has completed training to the same standard as that required to obtain a personal licence under the Act, and evidence of training must be submitted to the Board with the application for the occasional licence.
- 4.38 Members Clubs **shall** ensure that occasional licences applied for in respect of their premises are for events for the benefit of the club or their members, to which members of the public are admitted or for which there are insufficient numbers of members attending the event to sign in the required number of guests (also see **Supplementary Policy 7** in this regard).
- 4.39 Licence Holders should also be aware that they may also require a public entertainment licence and/or a late hours catering licence issued by Aberdeenshire Council in terms of the Civic Government (Scotland) Act 1982.

Occasional Licence Hours

- 4.40 Licence Holders seeking licensed hours for times out with the Board's policy, will require to demonstrate to the Board that the additional requested hours are appropriate in the circumstances.

The Board considers the commencement of the sale of alcohol **shall not be earlier than 10.00 a.m. (On or off sales)**. For the terminal hour beyond which alcohol **must not** be sold on the premises, the Board considers **1.00 a.m. (10.00 p.m. for off sales)** daily to be appropriate.

Members Clubs **must** apply for one Occasional Licence per each separate event during the Festive Season, including festive lunches and dinners

Occasional Licence Conditions

- 4.41 The Board is aware of the mandatory conditions which are set out both in the Act and in Regulations. In addition, the Board will consider on an individual basis whether it is necessary or expedient to impose conditions, to promote one or more of the licensing objectives or otherwise to give effect to the provisions of this policy statement or to the provisions of the Act.
- 4.42 The decision whether to impose a condition will be made on an objective basis, any representations made and any other relevant information available to the Board when considering the application. The Board will seek to avoid the imposition of disproportionate conditions.
- 4.43 The Board has agreed a pool of local conditions that may attach to occasional licences granted by the Board. These are as set out at Appendix 3 to the main policy statement here³.

Repeated Occasional Licence Applications

- 4.44 Repeated applications for 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 over a period of at least 3 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 may consider the grant of such Occasional Licences to be appropriate where there is sufficient evidence that there is movement towards an application for a Premises Licence being progressed or under adequate explanation as to why a Premises Licence is not being applied for.** The Board expects such premises to be operating under a Premises Licence **and Occasional Licences should not be used as an alternative.**

- 4.45 Section 59(6) of the Act specifies the grounds for refusal of an application for an Occasional Licence. These grounds include “that the Licensing Board considers the granting of the application would be inconsistent with one or more of the licensing objectives”. These licensing objectives include:-

- **Securing public safety.**
- **Protecting and improving public health.**

The degree of scrutiny afforded by an application for a Premises Licence is not present where premises operate under a series of consecutive Occasional Licences. Accordingly, in the interests of better securing public safety and/or for better protecting and improving public health, the Board considers that it is not generally appropriate for a premises to operate on a series of consecutive Occasional Licences rather than apply for a Premises Licence and, in these circumstances, the Board will require an applicant to explain why an application for a Premises Licence is not being made.

Lack of Demand and Flexible Trading Hours

- 4.46 Licence Holders should be aware that premises should routinely remain open for the licensed hours they apply for and which are granted by the Board.

³ Link will be added once these have been approved and published on the website

- 4.47 The Board recognises that there will always be circumstances that will reasonably cause a temporary deviation from the licensed hours given in the operating plan. Such circumstances will not ordinarily be considered a breach of the operating plan.
- 4.48 The Board also recognises the need for businesses, especially in a rural environment, to remain economically viable when faced with a lack of demand. Licensed premises may wish to close early owing to a lack of customers and, therefore, not trade for their full complement of licensed hours. Again, this will not ordinarily be treated as breach of the operating plan.
- 4.49 The Board expects Licence Holders to apply for the hours they normally or usually trade in their operating plan. Provision can be built into operating plans for longer or shorter opening at certain times of the year.
- 4.50 However, in considering such issues, the Board will give particular attention to whether any “unused” hours are preventing new entrants to the market or premises are closing early on a regular basis. If so, it may be appropriate to vary the operating plan of the premises concerned.

Drinking Up Time

- 4.51 Drinking up time is 15 minutes normally and 30 minutes where alcohol is being consumed with a meal. The Board requires Licence Holders to give customers plenty of notice about last orders and time.

British Summer Time

- 4.52 On such date as is prescribed as the date in Spring when the clocks go forward to mark the changeover to British Summertime, Licence Holders who enjoy licensed hours beyond 1.00 a.m. (the official time for clock changes) will be judged by reference to the number of hours after midnight which their operating plan authorises them to be open, rather than by the actual time shown on the clock.
- 4.53 On such date as is prescribed as the date in Autumn when the clocks go back to mark the changeover from British Summertime to British Wintertime, Licence Holders who enjoy licensed hours beyond 1.00a.m. will similarly close according to the number of hours after midnight which their operating plan authorises them to be open, rather than by the actual time shown on the clock.
- 4.54 Any Licence Holder who enjoys hours up to 1.00 a.m. is unaffected by the change of the clocks. The Board does not accept that those licensed until 1.00 a.m. gain an additional hour on the changeover to British Wintertime.

Additional Considerations

- 4.55 In determining applications where different parts of the premises have different uses, or where parts of premises fall under different categories for operating hours, as specified in this Supplementary Policy Statement, the Board will have regard to when the activities take place and the principal activity taking place. The Board may impose further conditions to ensure other activities do not take place or remain ancillary to the principal activity for those licensed hours.
- 4.56 Premises where more than one of the categories applies in different parts of the same premises will be given careful consideration. The Board may impose conditions and/or different licensed hours to those parts of premises to ensure the activities remain separate. In some circumstances, the Board may attach

different operating plans to cover different floors, or sections of premises, depending on the nature of the activities taking place within the premises.

SUPPLEMENTARY POLICY 5 – RELATIONSHIP WITH OTHER REGIMES AND TRANSPORT, TOURISM, PLANNING AND BUILDING STANDARDS

Relationship With Other Regimes

- 5.1 The aim of the Board is to serve the licensing needs in Aberdeenshire as quickly and efficiently as possible, striking a balance between the business needs of its customers and the interests of the community as a whole, in order to protect the public and further the licensing objectives. To do this, the Board will:

When deciding on policies, reach out to all parts of society and genuinely reflect their interests.

- 5.2. The Board will achieve this by –

working closely in partnership with local groups and organisations whose remit includes alcohol issues;

Encouraging an open and honest exchange of information in a customer-friendly setting and making decisions in a fair and reasoned manner based around agreed and published policies;

Being fair in all matters and in this context fairness includes having regard to and an interest in equality and diversity in all forms and ensuring that equality considerations are central to all that we do;

Working to promote the licensing objectives in partnership with a wide range of other Public Bodies, including Aberdeenshire Council and its various services, statutory consultees, the industry and the public; and

Striving to reflect the interests of all people from all sections of society in our area.

Carrying out integrated impact assessments where appropriate in relation to applications or reviews

- 5.3. It should be borne in mind that licensing is about regulating the sale of alcohol, and premises on which alcohol is sold, within the terms of the Act. Licensing Boards cannot deal directly with alcohol supplied or consumed outwith licensed premises.
- 5.4. The Board will not, in so far as is possible, duplicate the roles of other regulatory regimes. Statutory Guidance also indicates that planning, building control and licensing regimes will be properly managed to avoid duplication and inefficiency.
- 5.5. **Appendix 1** to the Board's Policy Statement encourages Applicants to consult with other relevant bodies.
- 5.6. Where other responsible authorities raise matters relating to the licensing objectives then the Board will take those matters into account when reaching a decision. The Board will take particular matters seriously when it comes to active promotion of the licensing objectives.
- 5.8 The Board will work closely with Police Scotland, Licensing Standards Officers, the Scottish Fire & Rescue Service and Council Services for the targeting of agreed problem and high-risk premises. Lower risk premises which are well managed and well-maintained will be subject to less regular inspections.
- 5.9 Listed below are organisations that the Board will consult with on matters relating to licensing, where deemed appropriate to do so. This list is not

exhaustive¹:-

Aberdeenshir e Access Panels	Aberdeenshir e Alcohol and Drug Partnership	Aberdeensh ire Council – Area Managers	Aberdeenshire Community Planning (incl. LOIP)
Aberdeenshire Community Safety Executive	Alcoholics Anonymous	Alcohol Focus Scotland	Building Standards
Business Associations	Community Councils	Community Learning and Development	COSLA

¹ This list will be updated following the consultation exercise

Education, Learning and Leisure Services	Environmental Health	Grampian Racial Equality Council	The Licensing Forum
National Alcohol Liaison Officer	NHS Grampian Public Health Directorate	Planning Services	Pubwatches and Shopwatches
Police Scotland	SOLAR	Scottish Ambulance Service	Scottish Fire and Rescue Service
Tourism Bodies	Transport Bodies including the Public Transport Unit and Roads	Trading Standards	Various Youth Forums (Incl. Youth Parliament)

and will consider any relevant policies, plans or strategies published by such bodies where relevant to this Policy and the promotion of the five licensing objectives.

5.10. The Board will also have regard to the following:-

Councillor's Code of Conduct
Freedom of Information legislation
Gambling Act 2005
Equalities Legislation
Human Rights Act 1998
GDPR

Transport

- 5.11 Many occurrences of crime, disorder and public nuisance occur at or immediately after the terminal hour for the supply of alcohol. Licence Holders **shall** ensure that they and their staff have sufficient measures in place to ensure patrons exit and leave the vicinity of the premises in good order and as quickly and quietly as possible.
- 5.12 Statutory Guidance requires this Supplementary Policy Statement to identify any arrangements between the LSOs and the Police for reporting views/concerns to the local Transport Committee. The local Transport Committee for Aberdeenshire is the Infrastructure Services Committee. To date, the Board has not been able to identify any such arrangements. Work will continue to try to progress this matter.
- 5.13 The taxi and private hire trade assists the licensed trade in promoting quick and efficient dispersal from licensed premises within our local communities.

The Board is aware that there are operations where a bus is hired to transport patrons around a route of pubs and clubs within Aberdeenshire. The Board expects Licence Holders to ensure that the patrons act responsibly whilst within their premises and should cause no adverse impact on the amenity of the local community. To that end, the Board will produce a guidance leaflet in conjunction with **Local Operators**, Police Scotland and the LSOS which will be accessible on the Boards' website.

Tourism

- 5.14 Statutory Guidance requires this Supplementary Policy Statement to identify **any arrangements to receive, when appropriate, reports on the needs of the local tourist economy for the area.** To date, there are no such arrangements in place.
- 5.15 Aberdeenshire has tourist attractions in the form of natural tourism, industrial tourism, golfing tourism, whisky tourism, event tourism along with tourists interested in our heritage, in particular with our connection to royalty
- 5.16 The Board will engage and work with the Economic Development service of Aberdeenshire Council to signpost to the trade the advice and services that are available to assist in improving the tourism offering in Aberdeenshire.

SUPPLEMENTARY POLICY 6 – LICENCE TYPES AND BOARD PROCEDURES

Statutory Guidance requires the Board to outline the different type of applications which may be applied for in terms of the Licensing (Scotland) Act 2005 and to set out the Board's procedures and considerations for determining such applications.

TYPES OF LICENCE

Personal Licence

- 6.1 Every premises, other than members' clubs, will require one or more Personal Licence Holder. Personal Licence Holders **must** be over the age of eighteen and have completed a mandatory training course prior to applying for their licence. Once issued, a personal licence can be used anywhere in Scotland.
- 6.2 The Board will consider applications for personal licences from individuals living in Aberdeenshire or from individuals who are not ordinarily resident in the area of any Licensing Board in Scotland.
- 6.3 The personal licence is intended to ensure that anyone managing premises is suitably capable of doing so. Whilst the Act requires every sale to be "authorised" by a Personal Licence Holder, such authorisation can be a general one.
- 6.4 The Board expects the terms of any general authorisation for the sale of alcohol to be in writing, specific to the premises, available for inspection by any LSO, brought to the attention of and signed by all parties involved and enforced by the premises manager. This is particularly relevant if the designated premises manager is absent from the premises for more than 4 weeks.
- 6.5 The Board expects personal Licence Holders that are also designated premises managers to be generally working within the premises on a day-to-day basis. The Board does not, however, consider that a personal Licence Holder is required to be on the premises at all times, with the exception of certain late opening premises, where mandatory conditions require a Personal Licence Holder to be on the premises after 1.00a.m. However, where a Personal Licence Holder is not present, they are not removed from all responsibility. This should be addressed in the terms of the authorisation.
- 6.6 Where a premises manager is likely to be absent from the premises for a period of more than three months, the premises Licence Holder should consider substituting a premises manager onto the licence for the duration of the absence.
- 6.7 Personal Licence Holders **must** undergo refresher training prior to the five-year anniversary of the date of issue of their personal licence and at five yearly intervals thereafter.
- 6.8 Personal Licence Holders are legally required notify the Board of any change of name or address within 28 days of the change.
- 6.9 The following documentation is required for a valid Personal Licence application:-

Application Form completed in full.
Evidence of Successful Completion of Mandatory Training Course
Photograph and evidence that the photograph has been appropriately endorsed

Application Fee

- 6.10 Please refer to paragraphs 6.68 and 6.69 of this Supplementary Policy Statement for links to further Guidance and the fees.

Premises Licence

- 6.11 Premises that wish to sell alcohol for consumption on or off the premises will require to have a premises licence. This will govern, amongst other things, what activities are allowed on the premises and during which hours the premises can be open for business. Each licence will be tailored to the premises in question. The following documentation is required for a valid Premises Licence application:-

Section 50 Certificates from Planning, Building Standards and Food Hygiene.
Application Form completed in full.
Operating Plan.
Layout Plan (1 electronic copy)& Activities Matrix
Disability Access and Facilities Assessment
Licensing Objectives Risk Assessment.
Application fee based on the rateable value of premises

- 6.12 Licence Holders should pay particular attention to the operating plan and the layout plan. If a particular activity is not mentioned in the operating plan that activity cannot take place on those premises until further authorisation is sought from the Board by way of seeking a variation of the premises licence.
- 6.13 The operating plan should set out clearly the Licence Holder's proposals including the activities that would be undertaken on the premises, proposed opening hours and their policy in relation to access for children.
- 6.14 The Board should be able to determine with certainty the kind of operation which would be permitted in terms of the licence, and be assured that the premises will continue to operate on that basis once a licence is granted.
- 6.15 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 then be sold from the premises. The Board will consider each case on its own merits. This period may be extended if circumstance 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.
- 6.16 Where premises also hold a Houses In Multiple Occupation Licence, leaving no rooms available to let by tourists, the rooms should be removed from the premises licence. There should be separate entrances to the HMO part of the premises to the entrances for the licensed part of the premises.

Provisional Premises Licence

- 6.17 A Provisional Premises Licence is general applied for when premises are undergoing construction or conversion to become licensed premises. Alcohol **cannot** be sold under a Provisional Premises Licence. The application process is the same as for a full Premises Licence but only the following documents are required: -

Section 50 Certificates from Planning, Building Standards and Food Hygiene.

Application Form completed in full.
Updated Operating Plan.
Layout Plan
Licensing Objectives Risk Assessment (where available)
Disability Access and Facilities Statement

- 6.18 Details of a Designated Premises Manager is not required at this stage.
- 6.19 Please refer to paragraphs 6.68 and 6.69 of this Supplementary Policy Statement for links to further Guidance and the fees.

Application Form

- 6.20 Applicants should ensure:

That the Application Form is accurately completed in full.
That where the application is being submitted by a Partnership or Company or an organisation that details of all Partners/Directors/Connected persons are included.
That a full description including building type, location (e.g. rural, urban or city centre) and a breakdown of the public rooms (e.g. lounge bar, public bar etc) is provided.

Section 50 Certificates

- 6.21 All new premises licence applications require a Section 50 Certificate from Planning Services, Building Standards and Environmental Health. These Certificates **must** be obtained from the relevant services **before** the premises licence application can be submitted.

The application form to apply for Section 50 certificates can be accessed [here](#)¹.

Operating Plans

- 6.22 Every operating plan **must** set out clearly the Licence Holder's proposals including the activities that would be undertaken on the premises, proposed opening hours and their policy in relation to access for children and young persons.
- 6.23 Operating plans encourage a flexible licensing regime. They **must** make clear to the Board how the premises are to be run, including full details of all activities to be undertaken on the premises and the times they will be undertaken. This will include seasonal variations. Operating plans **must** be provided with each application in a prescribed format and should be particular to each premises and not completed in general terms. This will allow the Board to make an informed decision and later determine if any breach of the operating plan and/or licence conditions has occurred
- 6.24 The Board recognises that it is not always possible for Licence Holders to predict customer demand and requirements. However a balance **must** be struck between vague references to potential activities and definite details of actual activities. Matters that cannot be predicted when formulating an operating plan can be the subject of an occasional licence, an occasional extension or, for regular activities, a variation to the operating plan.
- 6.25 Where allowing gaming on the premises, the operating plan should define the types of gaming that are permitted on the premises.
- 6.26 **Applicants will require to lodge a fresh operating plan with every application made to the Board.**

¹ <https://www.aberdeenshire.gov.uk/media/25227/applicationfors50-combined.pdf>

Short Term Lets

Exemption from need to obtain a Short Term Let Licence

6.25 The Civic Government (Scotland) Act 1982 (Licensing of Short Term Lets) Order 2022, Schedule 1, Section 1 provides an exemption from the requirement to obtain a Short Term Lets licence where premises are subject to a premises licence under the Licensing (Scotland) Act 2005 AND the licence holder has included the provision of accommodation as an activity in the operating plan.

Accommodation and the Sale of Alcohol Under the Licensing (Scotland) Act 2005

6.26 In respect of the sale of alcohol, the Board requires applicants for licences to highlight whether any accommodation to be provided as part of the Premises licence is -

- to be provided with alcohol service or
- is provision of accommodation only

Applicants therefore require to include this information in their operating plan and to delineate accommodation appropriately in the layout plan attached to the licence as noted below.

Layout Plans

6.27 The layout plans of the premises should -

- Be drawn to scale. Plans should be to the scale of 1:100. The Board will accept 1:50 for off sales only. Where premises cover more than one floor, there should be a layout plan for each floor.
- Include a site/location plan showing the names of any street surrounding the premises from which members of the public have access to the premises.
- Show
 - the extent and dimensions of the boundary of the building and, if different the perimeter and dimensions of the premises to be licensed, including outside drinking areas (to be outlined in red on the plans)
 - the location and width of each point of access to and egress from the premises
 - the location and width of any other escape routes from the premises
 - the location of any equipment used for the detection or warning of fire or smoke or for fighting fires
 - the location of any steps, stairs, elevators or lifts in or on the premises
 - the location of any toilets on the premises (identified as male, female or disabled as appropriate)
 - any area specifically set aside for the use of children and young persons
 - Any area on the premises to which children and young persons will have access
 - The use or uses to which each part of the premises will be put under reference to the activities identified in the operating plan – preferably by means of an activities matrix

- The location of the area or areas to be used for the display of alcohol (off sales only)
- The maximum width and height (in metres) of the frontage to be used for the display of alcohol within that area or those areas (off sales only); and
- The maximum linear measurement (in metres) of any displays of alcohol outside the frontage.
- The Board also requires the following to be shown on the plans:
 - the position of any lockfast alcohol store for any alcohol stored, but not on display, within the premises.
 - Any accommodation provided where no service of alcohol is to be provided should be outlined in blue
 - Any accommodation provided where there is service of alcohol provided should be outlined in green
 - Indicative seating arrangements for all public parts of the premises including outside drinking areas.
 - Smoking areas

6.28 Each area should be clearly delineated including any beer gardens, outdoor seating areas and smoking areas. Inclusion of any outside areas will avoid any doubts when it comes to bye-laws concerning the consumption of alcohol in public places.

6.29 Off sales plans should clearly show all areas where alcohol will be displayed for the purpose of sale. This should include seasonal variations if additional areas are used at certain times.

The plans **must** also indicate the position of any lock-fast store for any alcohol stored, but not on display, within the premises.

Applicants should refer to Local Condition 6

6.30 The Board expects plans as far as possible to be to scale and of good quality. Inadequate plans may be rejected.

6.31 For ease of distribution and security, Applicants are requested to note that wherever possible electronic format should be **.pdf**. Other types of specialist application, like **.cad**, or general applications prone to manual alteration should not be used. In addition the Board would like electronic format files to remain under 4 megabytes in size. Electronic files **must** be capable of being printed off to scale, so that they can be read clearly. Paper plans should be of a size no larger than A3 for ease of conversion to electronic format.

6.32 The Board requires to receive **one electronic copy** of the layout plan.

6.33 **Applicants will require to lodge a fresh layout plan with every application made to the Board.**

Licensing Objectives Risk Assessment

6.34 The Board requires that Applicants applying for premises licences and occasional licences complete a risk assessment in respect of the premises and to provide a copy of this to the Board with the application and operating plan. A risk assessment **must** be an end-to-end process, Licence Holders are reminded that all activity directly connected to their premises, both inside and out, **must** be considered. **The purpose of the risk assessment is to ensure**

that applicants and Licence Holders can demonstrate compliance with the 5 licensing objectives which underpin the Licensing (Scotland) Act 2005 and which the Board promotes in terms of this Statement of Licensing Policy.

- 6.35 Please note that the Board does not accept any responsibility for your risk assessment(s) and are not in a position to sign it (them) off. You are advised to consider these matters carefully and if in doubt engage appropriate professionals to assist you in these matters. The Board reserves the right to comment on the content of your risk assessment(s) and ask for more or different information as may be required.
- 6.36 **Applicants will require to lodge a fresh risk assessment with every application made to the Board.**

Disability Access and Facilities Statement

- 6.37 For relevant information please see the following section: **Appendix 1: Disability Access and Facilities Statement.**

Confirmation of a Provisional Premises Licence

- 6.38 A provisional premises licence has to be confirmed within 4 years of the date of issue of the licence, otherwise it will automatically be revoked. Upon confirmation the Board may make a variation of the conditions to which the licence is subject. In order to confirm such a licence, the following is required:

Application Form.
Fresh Operating Plan (including Designated Premises Manager)
Section 50 Certificates from Building Standards.
Updated Disability Access and Facilities Assessment
Fresh layout Plans
Updated Licensing Objectives Risk Assessment
Balance of application fee.

- 6.39 The fee for confirmation of a Provisional Premises Licence is dependent on the rateable value of premises.
- 6.40 **Please refer to paragraphs 6.68 and 6.69 of this Supplementary Policy Statement for links to further Guidance and the fees.**

Temporary Premises Licence

- 6.41 Where a Licence Holder wishes to carry out alterations etc. to the principal licensed premises then the Board can issue a temporary licence for a secondary premises to enable the Licence Holder to continue to trade pending completion of the works.

- 6.42 To issue a Temporary Premises Licence the Board **must** be satisfied that:

The temporary premises are suitable for use for the sale of alcohol; and
that it is necessary to grant the application to enable the applicant to carry on business pending reconstruction or conversion of the principal premises

- 6.43 The Board may vary the conditions to which the licence is subject, if it considers appropriate to do so.
- 6.44 The process for obtaining a Temporary Premises Licence is the same as applying for a Premises Licence.

- 6.45 Please refer to paragraphs [6.68](#) and [6.69](#) of this Supplementary Policy

Statement for links to further Guidance and the fees.

Licensing of Vehicles, Vessels and Moveable structures

- 6.46 **A premises licence can be obtained for a Vehicle, Vessel or Moveable structure in certain circumstances.**
- 6.47 **A vessel which is not permanently moored or berthed is to be treated as a premises situated in the place where it is usually moored or berthed.**
- 6.48 **A vehicle or moveable structure which is not permanently situated in any place is to be treated as a premises while situated in that place. Each place it is to be so used is to be treated as separate premises.**
- 6.49 **A “moving” vehicle or moveable structure may also apply for a premises licence or an occasional licence in order to sell alcohol, and, where doing so across more than one licensing board area, should apply to the Board who covers the area where the vehicle or moveable structure is to be used to the greater or greatest extent.**
- 6.50 **In order to obtain a premises licence or a provisional premises licence for a vessel, the following is required:**

Application Form completed in full.
Operating Plan.
Layout Plan (1 electronic copy) & Activities Matrix
Disability Access and Facilities Assessment
Licensing Objectives Risk Assessment.
Application fee

Note: Section 50 certificates are not required for vessels. There is no requirement to give notice of the application to neighbours or the Scottish Fire & Rescue Service.

- 6.51 **In order to obtain a premises licence for a vehicle or moveable structure, the following is required:**

Section 50 Certificates from Planning, Building Standards and Food Hygiene.
Application Form completed in full.
Operating Plan.
Layout Plan (1 electronic copy) & Activities Matrix
Disability Access and Facilities Assessment
Licensing Objectives Risk Assessment.
Application fee based on the rateable value of premises

- 6.52 **In order to obtain a premises licence or a provisional premises licence for a “moving” vehicle or moveable structure, the following is required:**

Application Form completed in full.
Operating Plan.
Layout Plan (1 electronic copy) & Activities Matrix
Disability Access and Facilities Assessment
Licensing Objectives Risk Assessment.
Application fee

Note: Section 50 certificates are not required in these circumstances. There is no requirement to give notice of the application to neighbours, community councils or the Scottish Fire & Rescue Service.

- 6.53 **Please refer to paragraphs 6.68 and 6.69 of this Supplementary Policy Statement for links to further Guidance and the fees.**

Application to Vary A Premises Licence

- 6.54 Premises Licence Holders can apply for variations to the terms and conditions of the premises licence. All such applications **must** be accompanied by the original premises licence or a written explanation together with confirmation of the lost or stolen property reference number supplied by Police Scotland in terms of the licence. Each variation application will be considered on its own merits. In order to obtain a variation a licence, the following is required:

The existing premises Licence Application Form.
Fresh Operating Plan
Fresh layout Plans
Updated Licensing Objectives Risk Assessment
Application fee.

- 6.55 Please refer to paragraphs 6.68 and 6.69 of this Supplementary Policy Statement for links to further Guidance and the fees.

Application to Transfer A Premises

- 6.56 A Premises Licence Holder may apply to the Board to transfer the licence. They **must** transfer the licence to a legal personality and in accordance with the conditions sets out in Sections 33-34 of the Act. In order to obtain a transfer of licence under Section 33, the following is required:

The existing premises Licence Application Form.
Fresh Operating Plan
Fresh layout Plans
Updated Licensing Objectives Risk Assessment
Application fee.

- 6.57 Transfers made under section 34 **must** be made within 28 days of the business transferring to a new Licence Holder. Failure to do so may mean that the licence ceases to have effect under Section 28 of the Act.

- 6.58 In order to obtain a transfer of licence under Section 33, the following is required:

The existing premises Licence Application Form.
Fresh Operating Plan
Fresh layout Plans
Updated Licensing Objectives Risk Assessment
Application fee.

- 6.59 In order to obtain a transfer of licence under Section 34, the following is required:

The existing premises Licence Application Form.
Fresh Operating Plan
Fresh layout Plans
Updated Licensing Objectives Risk Assessment
The consent of the existing premises licence holder
Evidence that the business has transferred*
Evidence that the Licence Holder has died*
Evidence that the licence holder is incapacitated and the applicant has

appropriate authority to act*
Evidence that the licence holder is insolvent and the applicant has the appropriate authority to act*
Application fee.

* as appropriate depending on the reason the transfer application is required

6.60 If any variations are required relating to an application for transfer, the applicant should also complete and submit the appropriate variation application forms.

6.61 Please refer to paragraphs 6.68 and 6.69 of this Supplementary Policy Statement for links to further Guidance and the fees.

Occasional Extensions

6.62 An Occasional Extension of permitted hours can be granted to a Licence Holder **to extend the operating hours for a specific premises licence but only where the Board considers it appropriate to do so in connection with –**

(a) A Special Event or occasion to be catered for on the premises, OR

(b) A special event of local or national significance.

Extended hours have effect for the period specified in the application or such other period as the Board consider appropriate, but must not exceed the period of one month.

6.63 In order to obtain an occasional extension, the following is required:

Application Form.
Application fee.

6.64 Please refer to paragraphs 6.68 and 6.69 of this Supplementary Policy Statement for links to further Guidance and the fees.

Occasional Licences

6.65 An occasional licence may be granted to the holder of a premises licence, personal licence or a representative of a voluntary organisation for premises authorising him/her to sell alcohol at an occasion/function for a period of not more than 14 days where the event is taking place outwith their licensed premises. Members Clubs may also apply to permit non- members access to their premises for events run by the Club.

6.66 In order to obtain an occasional licence the following is required:

Application Form.
Licensing Objectives Risk Assessment
Layout Plan*
Evidence of Public Entertainment Licence*
Application fee.

*required as appropriate to the application

6.67 Please refer to paragraphs 6.68 and 6.69 of this Supplementary Policy Statement for links to further Guidance and the fees.

Further Guidance and Fees

6.68 Further Guidance and forms can be found [here](#)².

6.69 Details of fees are available [here](#)³.

6.70 A flowchart showing the steps involved in processing an application for a premises licence or major variation of premises licence is attached as **Appendix 2** to this Supplementary Policy Statement.

6.71 The Timescales the Board has for determining applications for licences is set out in **Appendix 3** to this Supplementary Policy Statement.

GDPR

6.72 Details of Privacy Notices detailing what the Board will do with information contained in applications, reviews, objections and representations and how long the information will be retained for can be accessed [here](#)⁴.

Application Forms

6.73 Applications can be accepted in electronic format, paper format or a combination of the two.

6.74 Applications in the first instance will be vetted by the Depute Clerk of the relevant Board. It is therefore essential that Applicants complete all questions on the relevant application form and provide as much detail as possible.

Consultation

Notification of Application of New Premises Licence and Major Variations

6.75 The Board **must**, within 21 days of receipt of an application for a premises licence give notice of the application to:-

each person having a notifiable interest in neighbouring land (defined by Regulation as within a 4 metre radius of the premises)
any community council within whose area the premises are situated
Aberdeenshire Council (planning services, building standards and environmental health)
Chief Constable of Police Scotland
Scottish Fire and Rescue Service
Public Health
LSOs

6.76 The Board will also publish notice of each application on Aberdeenshire Council's website and/or a designated public access system available on the internet. This can be accessed [here](#)⁵.

Notification of Transfer of Premises Licence and of Personal Licence

6.77 Notification of the above applications will be as follows:

Transfer of Premises Licences	Chief Constable
Personal Licences	Chief Constable and LSOs

Each party has 21 days to respond to the application.

Notification of Occasional Licences and Occasional Extensions

² <https://www.aberdeenshire.gov.uk/licensing/licences-and-permits/?tag=Alcohol&records>

³ Link will be added as soon as the fees table has been published on the website

⁴ Create link to website

⁵ Link to be created

- 6.78 Notification will be given as follows to the Chief Constable and the Licensing Standards Officer who have 21 days to respond to the application.
- 6.79 The Board will also publish notice of each application on Aberdeenshire Council's website and/or a designated public access system available on the internet. These can be accessed [here](#)⁶ for Occasional Licences and [here](#)⁷ for any Occasional Extensions.
- 6.80 Members of the public only have 7 days from the publication of this notice to lodge representations or objections with the Board.

Objections and Representations

- 6.81 Any person may submit an objection or representation to the Board.

Objection	An objection is opposition to the grant of any licence at all. It must relate to one of the five licensing objectives and to specific premises. Any person considering lodging an objection should seek independent legal advice before doing so.
Representation	A representation is not opposition to the grant of a licence in principal but concerns the terms or conditions of the proposed licence or major variation. Representations can also be made in support of an application. Any person considering making an application should seek independent legal advice before doing so.

- 6.82 Any objection **must** relate to one of the 5 licensing objectives and relate to specific premises.
- 6.83 An objector opposes the grant of any licence at all. Objectors should address the statutory grounds of refusal, including the licensing objectives, within their objection.
- 6.84 The Board will reject what it considers to be frivolous or vexatious objections or representations and may seek to recover resultant wasted expenses.
- 6.85 The Board will address each case on its own merits, based on its local knowledge of the area and those that will be directly affected by the granting of a licence.
- 6.86 Further Guidance on Objections/Complaints, together with a Pro-Forma style of objection are available [here](#)⁸ on the Board's website.
- 6.87 Alcohol Focus Scotland has published a toolkit designed to help anyone who would like to have a say on how alcohol impacts on their community and how the licensing process works in Scotland, the toolkit can be accessed [here](#)⁹.

Conditions

⁶ Link to be created

⁷ Link to be created

⁸ <https://www.aberdeenshire.gov.uk/licensing/alcohol-appeal-objection/>

⁹ <https://www.alcohol-focus-scotland.org.uk/media/133477/Community-licensing-toolkit.pdf>

- 6.88 Mandatory conditions are set out both in the Act and in Regulations. The Board will consider on an individual basis whether it is necessary or expedient to impose additional conditions, to promote one or more of the licensing objectives or otherwise to give effect to the provisions of this policy statement or to the provisions of the Act. The decision whether to impose a condition will be made on an objective basis, having regard to the licence application, any representations made or any other relevant information available to the Board when considering the application. The Board will seek to avoid the imposition of disproportionate conditions. **Appendix 2¹⁰ to the Main Policy Statement sets out the Local Conditions agreed by the Board.**
- 6.89 The Board can vary, remove and attach new conditions to premises licences when considering applications for transfer or variation of a premises licence.
- 6.90 Occasional Licences are also subject to mandatory conditions and a pool of local conditions which will be attached by the Board as appropriate to the specific event licensed. **Appendix 3¹¹ to the Main Policy Statement sets out the Local Conditions agreed by the Board.**
- 6.91 There are no mandatory conditions attached to personal licences.
- 6.92 **Applicants should confirm, when submitting their operating plans, the measures put in place to comply with any such conditions, whether mandatory or discretionary.**

Premises Licences will be subject to mandatory conditions and to local conditions attached by the Board. Applicants should refer to **Appendices 2 and 3** of the Board's Policy Statement, for information on Conditions and Management of Licensed Premises.

Adult Entertainment

- 6.93 Premises offering adult entertainment will be treated on a case-by-case basis.
- 6.94 Applicants should note that adult entertainment will be taken to include lap dancing, strippers, lingerie parties and similar forms of entertainment.
- 6.95 The Board expects Applicants to give consideration to the promotion of the licensing objectives in relation to the protection of children and young persons from harm and the prevention of crime and disorder.
- 6.96 **Licence Holders providing such entertainment should have regard to the Sexual Entertainment Venue Licensing regime. If the adult entertainment provided falls within the scope of this regime and is being provided on more than four occasions per year, an application for a Sexual entertainment licence will be required and it will be insufficient to regulate this through inclusion of "Adult Entertainment" in the Operating Plan.**

COMPLAINTS AND ENFORCEMENT

- 6.97 The Board has no powers under the Licensing (Scotland) Act 2005 to investigate complaints. Any complaint received by the Board will be forwarded to the Licensing Standards Officer and Police Scotland for investigation.

Licensing Standards Officers

- 6.98 LSOs work with Licence Holders, the public, the Police and the business

¹⁰ Link to be created once Final Policy Statement is published

¹¹ Link to be created once Final Policy Statement is published

community in seeking to promote the licensing objectives and ensuring compliance with the law.

6.99 The LSOs will investigate complaints against licensed premises in relation to matters relating to the licensing objectives. In the first instance, complainers are encouraged to raise the complaint directly with the licensee or business concerned to seek a resolution.

6.100 If direct communication with the Licence Holder proves ineffective then the complaint may be raised with the LSO, perhaps for mediation.

6.101 Where an interested party has made valid representations about licensed premises, or a valid application for a licence to be reviewed, the LSO may initially recommend a conciliation meeting to address and clarify the issue of concern.

Police Scotland

6.102 Police Scotland has wide ranging powers in relation to criminal activity. An Information Sharing Protocol is in place between the Board and Police Scotland. Police Scotland has the power to bring a review before the Board. Police Scotland will usually only bring a review to the Board if a Formal Intervention action has not been successful although there may be circumstances that require a review to be brought at an earlier stage.

The Board

6.103 In relation to any objection or request for review of licences, the Board will follow best practice in enforcement including the adoption of the best Regulation Principles and the Hampton Standards: Proportional; Accountable; Consistent; Transparent and Targeted.

6.104 When a matter is submitted to the Board by the LSOs it will be anticipated, except in the most serious cases, that attempts have been made through advice and negotiation to address the issues.

6.105 The Board will give each party a chance to make written submissions and comments on the other party's submissions before making a decision based on the facts. The Board may also choose to hold a hearing and will give all parties reasonable notice of the same. Each party should provide the Board with copies of documents or evidence upon which they wish to rely no later than 7 days before the hearing.

6.106 It is envisaged that very few such cases will need to be submitted to the Board. However, it should be appreciated that, in appropriate cases, the Board will not hesitate to use its powers to suspend or revoke a licence where necessary to protect the licensing objectives in relation to the business.

6.107 The Board will take particular matters seriously when it comes to active promotion of the licensing objectives. A list of particularly [serious matters](#) is detailed in [Appendix 1](#) to this Supplementary Policy Statement.

BOARD DECISION-MAKING

Openness and accessibility

6.108 The Board will deal with all of their business in an open and transparent way. Information and assistance will be made available to those who wish to apply for a licence, to make representations or to object to an application. The Board is also aware of the need to ensure that the licensing process is accessible to

all. Assistance will be available on request for those who require special arrangements to access any part of the process.

6.109 The Board's procedures documents can be accessed [here](#)¹².

Scheme of Delegation

6.110 It is the Board's aim to provide an efficient and cost effective service to all those who are involved in the licensing process. Therefore, the Board has adopted a Scheme of Delegation to ensure that decisions can be made in a way which is consistent with this aim. This Scheme in particular sets out the decisions which may be made by the Clerk to the Board or his/her staff.

6.111 The Board's Scheme of Delegation can be accessed [here](#)¹³.

Performance of the Board and Compliance with the Licensing Objectives

6.112 The Air Weapons and Licensing (Scotland) Act 2015¹ amended the Licensing (Scotland) Act 2005² to place a statutory duty on Licensing Boards to publish an "**Annual Functions Report**" within 3 months of the end of each financial year.

6.113 The Annual Functions report must include:

- (a) A statement explaining how the Board has regard to the licensing objectives, and the licensing policy statement and any supplementary policy statement (including the Board's statement under Section 7(1) (duty to assess overprovision)) in the exercise of their function under the Licensing (Scotland) Act 2005 during the financial year.
- (b) A summary of the decisions made by (or on behalf of) the Board during the financial year, and
- (c) Information about the number of licences held under the Act in the Board's area (including information about the number of occasional licences issued during the year).

6.114 The Air Weapons and Licensing (Scotland) Act 2015 also amended the Licensing (Scotland) Act 2005 to place a statutory duty on Licensing Boards to publish an "**Annual Finance Report**" within 3 months of the end of each financial year.

6.115 The Annual Finance Report must include –

- (a) A statement of the amount of relevant income received by the Licensing Board during the financial year, and the amount of relevant expenditure incurred in respect of the Board's area during the year, and
- (b) An explanation of how the amounts in the statement were calculated.

6.116 The Board can opt to publish a combined Functions and Finance Report which is the Aberdeenshire Licensing Board has opted to do.

6.117 The Board's combined Functions and Finance Reports can be accessed [here](#)¹⁴.

¹² Link to be created

¹³ Link to be created

¹⁴ Link to be created

APPENDIX 1: LIST OF SERIOUS MATTERS

6.118 The Board considers the following to be serious matters where this impacts on the sale and supply of alcohol:

Use of the premises for the use or supply of drugs;
Use of the premises for laundering the proceeds of crime including drug crimes;
Use of the premises for the sale or distribution of firearms;
Use of the premises for the sale or supply of stolen or counterfeit goods;
Underage purchase and consumption of alcohol;
Use of the premises for prostitution or sale/distribution of pornography;
Use of the premises for unlawful gaming;
Use of the premises for the organisation of racist, homophobic or sexual abuse or attacks;
Use of the premises for the illegal sale of tobacco;
Failure to promptly respond to a warning properly given by the Fire Authority or other competent authority on a matter of public safety at premises;
Failure to avoid easily avoidable but critical risks, including any obstruction of an escape route to, and if necessary beyond a fire exit, and the locking or fastening of fire exit doors during times that premises are open for trade, will be considered an extremely serious failure owing to the dangers to the public;
Nuisance from noise or smell caused by a failure to install any or inadequate equipment and/or failure to maintain such equipment;
Failure to implement an effective policy to prevent fly posting and to contain or collect litter from flyers or other advertising materials discarded in the vicinity of the premises;
Failure to implement an effective policy to contain or collect litter discarded in the vicinity of the premises;
Previous convictions for licensing offences;
Breaches of immigration requirements;
Previous failure to comply with licence conditions.
Promotion of binge drinking and failure to promote responsible drinking.
Any other matter that the Boards consider to be serious in the particular circumstances of the application or licence being considered by them.

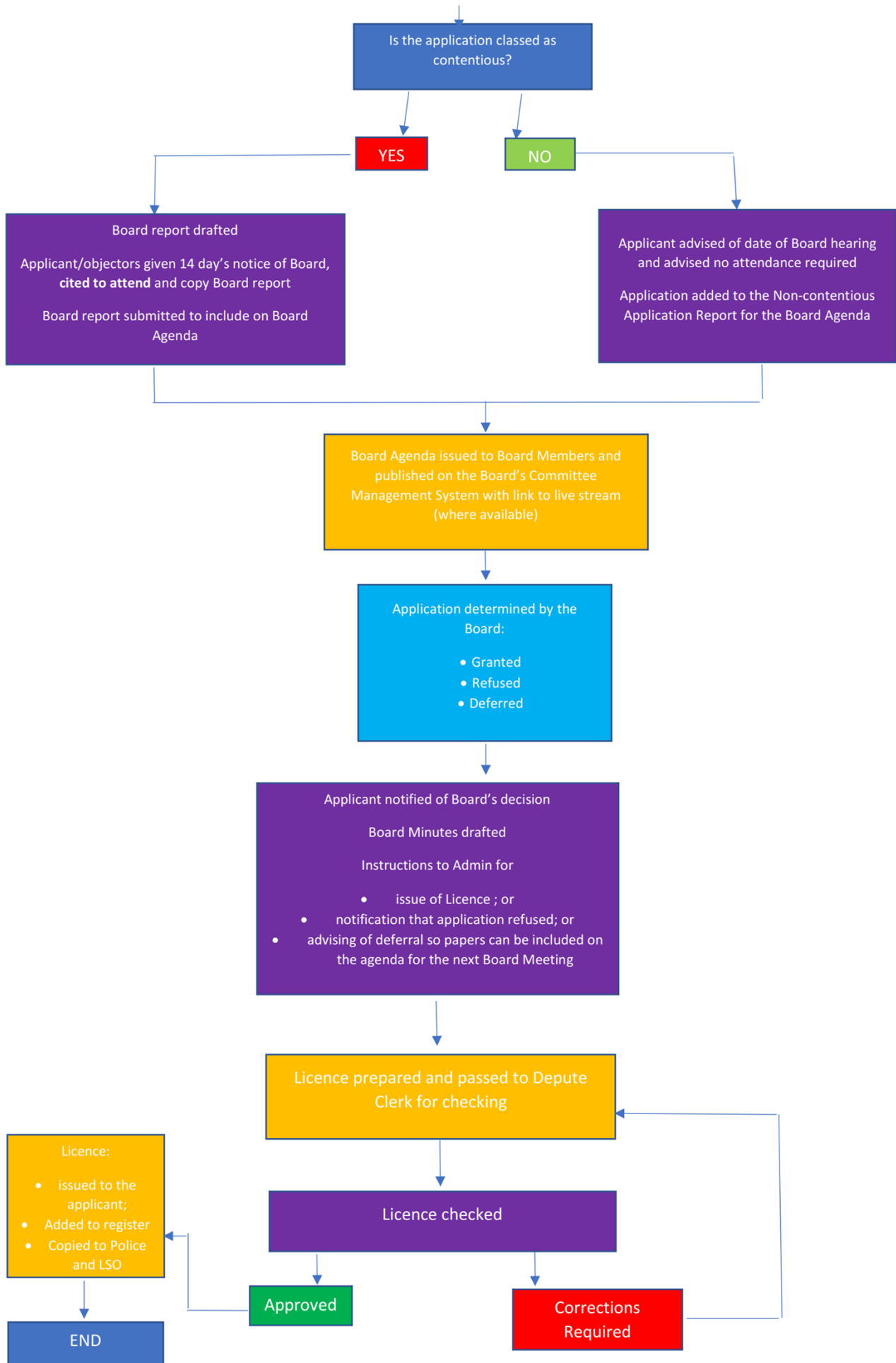
The above list is not exhaustive.

APPENDIX 2: FLOWCHART

LICENSING APPLICATION – FLOWCHART

Premises Licences and Major Variations





APPENDIX 3: STATUTORY TIMELINES FOR DETERMINING APPLICATIONS

Premises Licences

The table below lists the relevant sections of the Act, whether the Board must or may hold a hearing and the time limit for doing as set out in the legislation.

<u>Section</u>	<u>Type of Application</u>	<u>Hearing</u>	<u>Time limit</u>
Section 23(2)	Consideration of premises licence	MUST	119 days after last day on which objections can be lodged
Sections 29 – 30	Consideration of major variation of premises licence	MUST	119 days after last day on which objections can be lodged
Section 33	Transfer of licence where there are relevant convictions	MUST	42 days after the date on which Board received Section 33(6)(b) notice
Section 59	Application for occasional licence with representations by Police/LSO or written objections made	MAY	42 days after the date on which the Board received the occasional licence application
Section 68	Application for extended hours for a special event	MAY	42 days after the date on which the Board received the application

Personal Licences

The table below lists the relevant sections of the Act, whether the Board must or may hold a hearing and the time limit for doing as set out in the legislation

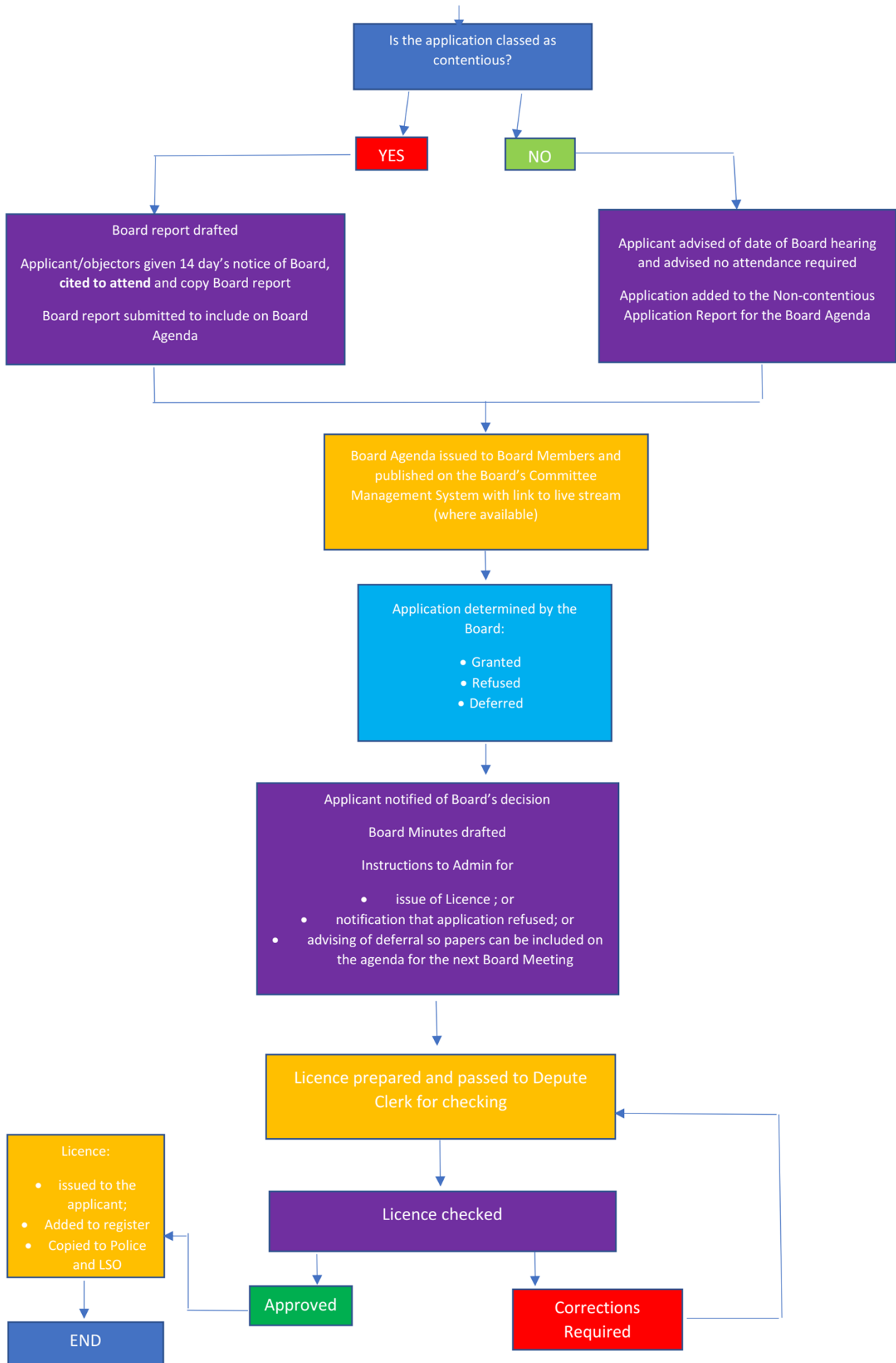
<u>Section</u>	<u>Type of Application</u>	<u>Hearing</u>	<u>Time limit</u>
Sections 73 & 75	Consideration of application where Chief Constable has specified relevant offence	MUST	42 days after the date on which Chief Constable notifies relevant offence

APPENDIX 1: LIST OF SERIOUS MATTERS

6.1 The Board considers the following to be serious matters where this impacts on the sale and supply of alcohol:

Use of the premises for the use or supply of drugs;
Use of the premises for laundering the proceeds of crime including drug crimes;
Use of the premises for the sale or distribution of firearms;
Use of the premises for the sale or supply of stolen or counterfeit goods;
Underage purchase and consumption of alcohol;
Use of the premises for prostitution or sale/distribution of pornography;
Use of the premises for unlawful gaming;
Use of the premises for the organisation of racist, homophobic or sexual abuse or attacks;
Use of the premises for the illegal sale of tobacco;
Failure to promptly respond to a warning properly given by the Fire Authority or other competent authority on a matter of public safety at premises;
Failure to avoid easily avoidable but critical risks, including any obstruction of an escape route to, and if necessary beyond a fire exit, and the locking or fastening of fire exit doors during times that premises are open for trade, will be considered an extremely serious failure owing to the dangers to the public;
Nuisance from noise or smell caused by a failure to install any or inadequate equipment and/or failure to maintain such equipment;
Failure to implement an effective policy to prevent fly posting and to contain or collect litter from flyers or other advertising materials discarded in the vicinity of the premises;
Failure to implement an effective policy to contain or collect litter discarded in the vicinity of the premises;
Previous convictions for licensing offences;
Breaches of immigration requirements;
Previous failure to comply with licence conditions.
Promotion of binge drinking and failure to promote responsible drinking.
Any other matter that the Boards consider to be serious in the particular circumstances of the application or licence being considered by them.

The above list is not exhaustive.



APPENDIX 3: STATUTORY TIMELINES FOR DETERMINING APPLICATIONS

Premises Licences

The table below lists the relevant sections of the Act, whether the Board must or may hold a hearing and the time limit for doing as set out in the legislation.

<u>Section</u>	<u>Type of Application</u>	<u>Hearing</u>	<u>Time limit</u>
Section 23(2)	Consideration of premises licence	MUST	119 days after last day on which objections can be lodged
Sections 29 – 30	Consideration of major variation of premises licence	MUST	119 days after last day on which objections can be lodged
Section 33	Transfer of licence where there are relevant convictions	MUST	42 days after the date on which Board received Section 33(6)(b) notice
Section 59	Application for occasional licence with representations by Police/LSO or written objections made	MAY	42 days after the date on which the Board received the occasional licence application
Section 68	Application for extended hours for a special event	MAY	42 days after the date on which the Board received the application

Personal Licences

The table below lists the relevant sections of the Act, whether the Board must or may hold a hearing and the time limit for doing as set out in the legislation

<u>Section</u>	<u>Type of Application</u>	<u>Hearing</u>	<u>Time limit</u>
Sections 73 & 75	Consideration of application where Chief Constable has specified relevant offence	MUST	42 days after the date on which Chief Constable notifies relevant offence

SUPPLEMENTARY POLICY 7 – MEMBERS CLUBS

Members Clubs

- 7.1 With some exceptions, members' clubs are regulated under the Licensing (Scotland) Act 2005. To authorise the sale of alcohol on the premises, a premises licence is necessary.
- 7.2 Members Clubs are non-profit making with a constitution **and limited access by members of the public**. Each club, in submitting an application for a premises licence **must** also submit a copy of its current constitution.
- 7.3 The Board expects members' clubs to reflect certain operational requirements in their constitution and may impose conditions on a premises licence to that effect on the following matters –

That the business and affairs of the club shall be under the management of a committee or governing body;
That no person under 18 is to be admitted as a member of the club; (unless the club is devoted primarily to some sporting purpose or is a students' union)
That correct accounts and books shall be kept showing the financial affairs and intromissions of the club;
That no member of the committee or governing body, and no manager or staff employed in the club, shall have any personal interest in the sale of alcoholic liquor in the premises or in the profits arising therefrom;
That the membership of the club be at least 25 members to be properly constituted;
That no persons shall be allowed to become honorary or temporary members of the club or be relieved of the payment of the regular entrance fee or subscription, except those possessing certain qualifications defined in the constitution;
That no person is to be supplied with alcohol on a club premises unless that person is a member of the club or is on the premises at the invitation of a member and in the company of that member, or is a member of another qualifying club; (unless an occasional licence is in place). These conditions are found in the Licensing (Clubs) (Scotland) Regulations 2007.

The above list is not exhaustive.

- 7.4 All constitutions will be checked by the Board for compliance with the Regulations and only when satisfied that the constitution complies will an application be granted. Approved constitutions are attached to premises licences issued by the Board.
- 7.5 If a members' club is running an event where the number of members is insufficient to sign in the number of non-members, an occasional licence **must** be applied for.
- 7.6 Unless an Occasional Licence is in force, all promotional materials (including adverts and promotion by way of social media) **must** specify that events are open to 'Members and their guests only'.
- 7.7 Members Clubs should not be run in the same way as a pub or a nightclub. Events run at Members Clubs should primarily be run for the benefit of Members and their guests, whether under an occasional licence or not. Events should not be run for non-members or third-party organisations not connected to the Club.
- 7.8 Membership of such clubs must relate to the primary functions that the club is set up for and should only be granted after formal written application, payment

of the proper subscription and recording in the Nominal Roll. Membership solely to allow patrons admission to use the bar or restaurant of prescribe clubs in exchange for a fee is **not acceptable**.

- 7.9 Clubs **must keep their constitutions updated** and, when revised, submit a copy of the revised constitution within 28 calendar days of the draft constitution/rules being approved by the Club's governing body to the Clerk to the relevant Board as part of a minor variation of premises licence application to update the terms of the licence [see 7.11 below].
- 7.10 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 Board, within 28 calendar days of the changes to connected persons being approved by the Club's governing body. Failure to comply may result in a request for review of premises licence by the LSOs.
- 7.11 Any changes in respect of a Clubs constitution or their list of connected persons will be treated as a minor variation in terms of their licence.
- 7.12 Clubs **must** also ensure their constitution, accounts and entry book are available for inspection by the LSOs and the Police at all reasonable times.
- 7.13 Separate entry books should be kept for "hospitality" so that it is clear that those enjoying hospitality are not guests of members being signed in by members, but are members of another prescribed club being offered hospitality by the club. Such entry books should provide the names and addresses of the members being entertained, together with details of the registered clubs that they are members of.
- 7.14 Refusals Registers should also be kept.
- 7.15 All entry books and refusals registers should be on sequentially numbered pages. These may be audited by Licensing Standards Officers as part of their routine inspection of premises.
- 7.16 To ensure compliance with all of the licensing objectives, the Board expects at least two members of staff, or Committee Members or volunteers involved in the management of the Club to obtain a training qualification to the standard required by Personal Licence Holders. Clubs will require to provide evidence of such training when applying for their premises licences. Any person requiring to hold a training certificate for these purposes, **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 Board within 28 calendar days of receipt of the updated certificate. Further refresher training **must** be completed at 5 yearly intervals thereafter.
- 7.17 Members Clubs may apply to the Board for a variation of the terms of their premises licence to allow up to 5 guests to be signed in per member. This will require a revised constitution to be submitted with the application for variation. Clubs who do not wish to take advantage of this, will only be able to sign in 3 guests as per the approved constitution attached to their current premises licence.

The content of this supplementary policy statement is reflected in **local conditions 22-30**

Members clubs must apply for one occasional licence per each separate event during the festive season, including festive lunches and dinners.

SUPPLEMENTARY POLICY 8 – EXCLUDED PREMISES

Excluded Premises - Garages

8.1 Some premises are excluded from authorising the sale of alcohol including premises or parts of a premises used as a garage. Such premises are used as a garage if there is (a) sale by retail of petrol or derv (diesel), (b) the sale of motor vehicles, or (c) the maintenance of motor vehicles.

8.2 However, where those premises or parts of premises are used for the sale by retail of petrol or derv, alcohol may be authorised to be sold in some circumstances. Alcohol may be sold where the Board determines that in relation to such premises persons resident in the locality are, or are likely to become, reliant to a significant extent on the premises as the principal source of (a) petrol or derv, or (b) groceries.

8.3 In determining an application for such a premises, the Board expects the applicant to provide sufficient information to enable them to consider –

The locality in which the premises are situated
What other sources of (a) petrol or derv and/or (b) groceries are in that locality, and
The extent to which persons resident in that locality are, or are likely to become, reliant on the premises as the principal source of (a) petrol/derv, or (b) groceries.

8.4 Factors the Board may consider include –

The number of premises selling petrol/derv or groceries in the locality
The distance to the nearest other premises selling petrol/derv or groceries
The opening hours of other premises selling petrol/derv or groceries in the locality
The number and/or percentage of persons resident in the locality who are, or are likely to become, reliant on the premises, and
To what extent, the premises are relied on as the principal source of (a) petrol/derv or (b) groceries.

8.5 The Board acknowledges the concerns regarding the perceived message in relation to encouraging drink driving. However, there is no direct evidence before the Board to suggest that Board's position should change or that such premises are not complying with the five Licensing Objectives.

GLOSSARY

Please refer to Section 147 of the Licensing (Scotland) Act 2005 for definitions.

Additional terms will be added during the lifetime of this policy when necessary to assist understanding of the policy and also the licensing process within Aberdeenshire.

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REVIEW OF LICENSING POLICY STATEMENT – CONSULTATION TIMELINE

Supervising Officers – Martin Ingram

Lead Officer Fiona Stewart

Team: Jill Joss, Lynsey Kimmitt, Clark Simpson, Harriet Tevendale

KEY – Tracking Column	Target deadline met	Ongoing	Target deadline missed
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Officers will use Aberdeenshire Council's Policy Development & Review Framework as the foundation for the Review of the Common Good Policy. This can be found at Section Part 4B – Policy Development and Review Framework of the Scheme of Governance

Item Number	Responsible Officer	Activity	Timescale	Tracking	Updated	Comments
Part One - Preparation						
1A	Fiona	Draft Policy Statement Finalised	June Board 2023			
1B	Fiona	Report for Board Finalised	June Board 2023			
1C	Fiona	Draft IIA Updated	June Board 2023			
1D	The Team	Draft Consultation Timeline Prepared	June Board 2023			
1E	The Team	Engage Questions and format Prepared	23 rd June 2023			
Part Two – Board Approval						
2A	Jill clerking Report Fiona with the Team	Approval of Draft Policy for formal Consultation by the Board	28 th June 2022			
Part Three – Formal Consultation Process						
3A	Fiona, Jill & Clark	Public Consultation via Engage Platform and Social Media	10 th July – 1 st September 2023			
3B	Clark & Harriet	Consultation with Police Scotland	10 th July – 1 st September 2023			

Item Number	Responsible Officer	Activity	Timescale	Tracking	Updated	Comments
3C	Clark & Harriet	Consultation with Scottish Fire & Rescue Service	10 th July – 1 st September 2023			
3D	Clark & Harriet	Consultation with Licensing Standards Officers	10 th July – 1 st September 2023			
3E	Clark & Harriet	Consultation with Public Health	10 th July – 1 st September 2023			
3F	Clark & Harriet	Consultation with the Licensed Trade & Trade Association, Grocers Federation, Scottish Beer & Pub Association and local Pub/shopwatchers	10 th July – 1 st September 2023			
3G	Clark & Harriet	Consultation with the ADP	10 th July – 1 st September 2023			
3H	Clark & Harriet	Consultation with the Health & Social Care Partnership	10 th July – 1 st September 2023			
3I	Clark & Harriet	Consultation with the Integrated Joint Board	10 th July – 1 st September 2023			
3J	Clark & Harriet	Consultation with the Citizens Panel and Lived Experience Forum	10 th July – 1 st September 2023			
3K	Clark & Harriet	Consultation with the Community Planning Board	10 th July – 1 st September 2023			
3L	Clark & Harriet	Consultation with Visit Scotland and Visit Aberdeenshire	10 th July – 1 st September 2023			
3M	Clark & Harriet	Consultation with Schools, Youth Parliament and	10 th July – 1 st September 2023			

Item Number	Responsible Officer	Activity	Timescale	Tracking	Updated	Comments
		Youth Forums, Fraserburgh College				
3N	Clark & Harriet	Consultation with Criminal Justice, HMP Grampian and YOI Grampian	10 th July – 1 st September 2023			
3O	Clark & Harriet	Consultation with Community Councils	10 th July – 1 st September 2023			
3P	Clark & Harriet	Consultation with all Councillors	10 th July – 1 st September 2023			
3Q	Clark & Harriet	Consultation with Alcohol Focus Scotland	10 th July – 1 st September 2023			
3R	Clark & Harriet	Consultation with any other group/organization/person that may be relevant	10 th July – 1 st September 2023			
Part 4A - Engagement with Area Committees						
4A	Fiona, Lynsey & Jill	Banff & Buchan	22 nd August 2023			
4B	Fiona, Lynsey & Jill	Marr	22 nd August 2023			
4C	Fiona, Lynsey & Jill	Buchan	29 th August 2023			
4D	Fiona, Lynsey & Jill	Garioch	29 th August 2023			
4E	Fiona, Lynsey & Jill	Formartine	5 th September 2023			
4F	Fiona, Lynsey & Jill	Kincardine & Mearns	4 th September 2023			
Part 4B - Potential Engagement Session (depending on responses to consultation)						
4G	The Team	Licensing Objective 1 General Session - Teams	August 2023			

Item Number	Responsible Officer	Activity	Timescale	Tracking	Updated	Comments
4H	The Team	Licensing Objective 2 General Session - Teams	August 2023			
4I	The Team	Licensing Objective 3 General Session - Teams	August 2023			
4J	The Team	Licensing Objective 4 General Session - Teams	August 2023			
4K	The Team	Licensing Objective 5 General Session - Teams	August 2023			
4L	The Team	Engagement Session with Consultees	August 2023			
4M	The Team	Engagement Session with Community Councils/Forum	August 2023			
4N	The Team	Licensed Trade Annual Meeting Type Event to discuss the Policy	End of August/Early September 2023			
Part 5 – Update Report for the Board						
5A	Fiona	Update Report August Board	16 th August 2023			
Part 6 – Final Preparation of Policy						
6A	The Team	Informal Session with the Board on outcome of consultation exercise	Mid September 2023			

Item Number	Responsible Officer	Activity	Timescale	Tracking	Updated	Comments
6B	The Team	Finalising Policy Statement and IIA	September – Mid October 2023			
6C	Fiona & Clark	Compiling Evidence & Updating IIA	September – Mid October 2023			
6D	Fiona & Jill	Outcome of Consultation Report to the Board	4 th October 2023			
Part 7 – Approval of Policy Statement						
7A	Fiona & Jill	Final Report and Approval of Policy Statement	SPECIAL BOARD MEETING 25 th October 2023			
Part 8 – Publication of Policy Statement						
8A	Clark	Publication on website	1 st November 2023			

Aberdeenshire Council

Integrated Impact Assessment

Review of Licensing Policy Statement 2022 - 2027

Assessment ID	IIA-000785
Lead Author	Fiona Stewart
Additional Authors	Jill Joss, Lynsey Kimmitt, Clark Simpson
Approved By	DRAFT - NOT FOR CIRCULATION
Approved On	DRAFT - NOT FOR CIRCULATION
Publication Date	DRAFT - NOT FOR CIRCULATION

1. Overview

This document has been generated from information entered into the Integrated Impact Assessment system.

Statutory review of Licensing Policy Statement and Overprovision Policy Statement required in terms of the Licensing (Scotland) Act 2005 to be completed within 18 Months of the local Government elections on 5th May 2022

During screening 6 of 10 questions indicated that detailed assessments were required, the screening questions and their answers are listed in the next section. This led to 4 out of 5 detailed impact assessments being completed. The assessments required are:

- Childrens' Rights and Wellbeing
- Equalities and Fairer Scotland Duty
- Health Inequalities
- Town Centres First

In total there are 16 positive impacts as part of this activity. There is 1 negative impact, the impact has been mitigated.

A detailed action plan with 8 points has been provided.

This assessment has been approved by **NOT YET APPROVED.**

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?	Yes
Would this activity / proposal / policy have consequences for the health and wellbeing of the population in the affected communities?	Yes
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?	No
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	All Negative Impacts Can Be Mitigated
Climate Change and Sustainability	Not Required
Equalities and Fairer Scotland Duty	All Negative Impacts Can Be Mitigated
Health Inequalities	Only Some Negative Impacts Can Be Mitigated
Town Centre's First	No Negative Impacts Identified

4. Childrens' Rights and Wellbeing Impact Assessment

4.1. Wellbeing Indicators

Indicator	Positive	Neutral	Negative	Unknown
Safe	Yes			
Healthy	Yes		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 19 - Protection from all forms of violence Article 24 - Health and health services Article 31 - Leisure, play and culture
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4.3. Positive Impacts

Impact Area	Impact
Healthy	<p>5 licensing objectives underpin the Licensing (Scotland) Act 2005. 2 of these are -</p> <ul style="list-style-type: none"> - securing public safety - protecting children and young persons from harm. <p>The purpose of the Statement of Licensing Policy is to demonstrate how the Board will comply with and promote the licensing objectives in relation to how it carries out its functions. Appendix 1 to the main policy statement gives guidance to Licence Holders as to how the Board expects premises to operate in compliance with the licensing objectives to ensure that those premises which permit access for children and young persons operate in a manner whereby persons under 18 are not sold or supplied with alcohol and that sale of alcohol is not a primary focus for events held mainly for children and young persons.</p>

Impact Area	Impact
Included	<p>5 licensing objectives underpin the Licensing (Scotland) Act 2005. 2 of these are -</p> <ul style="list-style-type: none"> - securing public safety - protecting children and young persons from harm. <p>The purpose of the Statement of Licensing Policy is to demonstrate how the Board will comply with and promote the licensing objectives in relation to how it carries out its functions. Appendix 1 to the main policy statement gives guidance to Licence Holders as to how the Board expects premises to operate in compliance with the licensing objectives to ensure that those premises which permit access for children and young persons are suitable and safe environments and are family friendly.</p>
Safe	<p>5 licensing objectives underpin the Licensing (Scotland) Act 2005. 2 of these are -</p> <ul style="list-style-type: none"> - securing public safety - protecting children and young persons from harm. <p>The purpose of the Statement of Licensing Policy is to demonstrate how the Board will comply with and promote the licensing objectives in relation to how it carries out its functions. Appendix 1 to the main policy statement gives guidance to Licence Holders as to how the Board expects premises to operate in compliance with the licensing objectives to ensure that those premises which permit access for children and young persons are suitable and safe environments and are family friendly.</p>

4.4. Negative Impacts and Mitigations

Impact Area	Details and Mitigation						
Healthy	<p>There is little information available in respect of the impact of alcohol on children within Aberdeenshire and their drinking habits.</p> <table border="0"> <tr> <td>Can be mitigated</td> <td>Yes</td> </tr> <tr> <td>Mitigation</td> <td>Seek further evidence during the consultation exercise on the draft Policy Statement and views on whether the measures the Board has identified are appropriate and meet the requirements of the Licensing (Scotland) Act 2005 and demonstrate compliance with and promotion of the 5 licensing objectives</td> </tr> <tr> <td>Timescale</td> <td>10th July - 1st September 2023</td> </tr> </table>	Can be mitigated	Yes	Mitigation	Seek further evidence during the consultation exercise on the draft Policy Statement and views on whether the measures the Board has identified are appropriate and meet the requirements of the Licensing (Scotland) Act 2005 and demonstrate compliance with and promotion of the 5 licensing objectives	Timescale	10th July - 1st September 2023
Can be mitigated	Yes						
Mitigation	Seek further evidence during the consultation exercise on the draft Policy Statement and views on whether the measures the Board has identified are appropriate and meet the requirements of the Licensing (Scotland) Act 2005 and demonstrate compliance with and promotion of the 5 licensing objectives						
Timescale	10th July - 1st September 2023						

4.5. Evidence

Type	Source	It says?	It Means?
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Type	Source	It says?	It Means?
External Data	Scottish Government Guidance for Licensing Authorities	This document gives Guidance to Boards on how they should comply with their legal requirements under the Licensing (Scotland) Act 2005 including Guidance on how to prepare and publish Statements of Licensing Policy and how to determine licence applications or consider complaints or requests to review licences.	This document supports Boards to comply with their legal duties complying with their duties under the Licensing (Scotland) Act 2005 and how they demonstrate compliance with and promotion of the 5 licensing objectives.
External Data	The Scottish Schools Adolescent Lifestyle and Substance Use Survey 2018 (SALSUS)	42% of 13 year olds and 77% of 15 year olds had had an alcoholic drink in Aberdeenshire.	Evidence that young persons in Aberdeenshire are accessing alcohol. The Board are using this evidence to shape their revised Policy Statement in relation to the licensing objectives and in respect of the consideration of overprovision in Aberdeenshire.
External Data	The Scottish Government Children's Social Work Statistics for 2020/21	parental drinking is a concern identified for 24% of children on the child protection register in Scotland.	The Board are using this evidence to shape their revised Policy Statement in relation to the licensing objectives.
External Data	MESAS 2022 Report also containing Data From SALSUS	Across Scotland there has been an increase in the number of 13 year olds (+8%) and 15 year olds (+5%) who had tried alcohol in 2017 when compared to the figures for 2015 and those who had drunk alcohol in the last week had also increased (13 year olds by 2% and 15 year olds by 3%). These figures are however substantially lower on the levels from 2002	The Board are using this evidence to shape their revised Policy Statement in relation to the licensing objectives.
External Data	Studies by the World Health Organisation and led by the University of St. Andrews 2018	Scotland's teenagers are consuming far less alcohol than in previous generations. This study was published by the BBC on 25th September 2018	The Board are using this evidence to shape their revised Policy Statement in relation to the licensing objectives

Type	Source	It says?	It Means?
External Consultation	Engagement Exercise conducted with consultees, the Licensed Trade and the Public on the Main issues identified by the Board	https://committees.aberdeenshire.gov.uk/committees.aspx?commid=516&meetid=20486 (Item 13, Appendix 1)	This evidence provided direction on what issues were to be considered and reviewed in preparing the Statement of Licensing Policy
Other Evidence	Evidence considered in determining whether or not localities are overprovided in Aberdeenshire	Sets out the evidence and how the Board has scored the evidence in relation to drafting its Overprovision Policy to be published alongside the consultation on the draft policy statement	Provides the justification for stipulating that localities are overprovided, require a watching brief or are not overprovided with Aberdeenshire

4.6. Information Gaps

little information available in respect of the impact of alcohol on children within Aberdeenshire and their drinking habits

4.7. Measures to fill Information Gaps

Measure	Timescale
Seek further evidence from consultees and from children and young people as part of the consultation exercise on the draft policy statement	10th July - 1st September 2023

4.8. Accounting for the Views of Children and Young People

To be updated following the consultation exercise

4.9. Promoting the Wellbeing of Children and Young People

To be updated following the consultation exercise

4.10. Upholding Children and Young People's Rights

By ensuring that the Board fulfils its statutory duties and complies with and promotes the 5 licensing objectives, especially protecting children and young persons from harm, the Board's activities upholds the rights of children and young persons

4.11. Overall Outcome

All Negative Impacts Can Be Mitigated.

This is based on the evidence the Board has collated to date and will be updated following the consultation on the draft policy statement.

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 (Younger)	<p>The provisions set out within the policy are designed to ensure that the Licensing Board promotes and complies with the 5 licensing objectives and sets out their expectations on how Licence Holders demonstrate compliance with the licensing objectives.</p> <p>1 of the objectives is the protection of children and young persons from harm in relation to the sale of alcohol. Appendix 1 to the Main Policy Statement offers guidance to Licence Holders on actions that can be taken to demonstrate compliance with each of the 5 licensing objectives.</p>
Disability	<p>The Policy Statement includes advice on the legal requirement for applicants applying for premises/provisional premises licences to submit a disabled Access and Facilities Statement as part of their licence application.</p>

Impact Area	Impact
Area deprivation	Section 7 sets out the duty of each Licensing Board to assess the extent to which it considers there to be overprovision of licensed premises in any locality in the Board Area. The Board has taken into account evidence from multiple sources in relation to localities where there is evidence of the impact of area deprivation in determining whether any locality in Aberdeenshire is overprovided with licensed premises.
Low income	Section 7 sets out the duty of each Licensing Board to assess the extent to which it considers there to be overprovision of licensed premises in any locality in the Board Area. The Board has taken into account evidence from multiple sources in relation to localities where there is evidence of the impact of low income in determining whether any locality in Aberdeenshire is overprovided with licensed premises.
Low wealth	Section 7 sets out the duty of each Licensing Board to assess the extent to which it considers there to be overprovision of licensed premises in any locality in the Board Area. The Board has taken into account evidence from multiple sources in relation to localities where there is evidence of the impact of low wealth in determining whether any locality in Aberdeenshire is overprovided with licensed premises.
Material deprivation	Section 7 sets out the duty of each Licensing Board to assess the extent to which it considers there to be overprovision of licensed premises in any locality in the Board Area. The Board has taken into account evidence from multiple sources in relation to localities where there is evidence of the impact of material deprivation in determining whether any locality in Aberdeenshire is overprovided with licensed premises.
Socioeconomic background	Section 7 sets out the duty of each Licensing Board to assess the extent to which it considers there to be overprovision of licensed premises in any locality in the Board Area. The Board has taken into account evidence from multiple sources in relation to localities where there is evidence of socioeconomic impact in determining whether any locality in Aberdeenshire is overprovided with licensed premises.

5.4. Evidence

Type	Source	It says?	It Means?
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Type	Source	It says?	It Means?
External Data	Scottish Government Guidance to Licensing Authorities	This document gives Guidance to Boards on how they should comply with their legal requirements under the Licensing (Scotland) Act 2005 including Guidance on how to prepare and publish Statements of Licensing Policy and how to determine licence applications or consider complaints or requests to review licences.	This document supports Boards to comply with their legal duties complying with their duties under the Licensing (Scotland) Act 2005 and how they demonstrate compliance with and promotion of the 5 licensing objectives.
External Data	Scottish Index of Multiple Deprivation 2020 (v2)	<p>The Board used this document to assess areas of deprivation in Aberdeenshire.</p> <p>The Board considered Multiple Deprivation, Income Deprivation, Health Deprivation and Deprivation as a result of Crime.</p> <p>The Board considered the evidence in relation to their connection with the licensing objectives.</p>	<p>The information was used to establish localities within Aberdeenshire and assess the risk profile of settlements and to assess the risks in terms of overprovision.</p> <p>The Board found from the data that, despite deprivation being relatively low in Aberdeenshire as a whole, there are settlements which experience deprivation and therefore have a heightened risk relation to the sale and consumption of alcohol. These locations are generally in North Aberdeenshire in towns such as Banff, Fraserburgh and Peterhead.</p>
External Data	Studies conducted by Scottish Health Action on Alcohol Problems Organisation (SHAAP)	The studies show that areas of deprivation have a heightened risk of harm when it comes to the sale and consumption of alcohol when compared to areas which suffer from little or no deprivation (alcohol related deaths are 5.6 x more likely and alcohol related hospitalisations are 8 x more likely).	<p>The information was used to establish localities within Aberdeenshire and assess the risk profile of settlements and to assess the risks in terms of overprovision.</p> <p>The Board found from the data that, despite deprivation being relatively low in Aberdeenshire as a whole, there are settlements which experience deprivation and therefore have a heightened risk relation to the sale and consumption of alcohol. These locations are generally in North Aberdeenshire in towns such as Banff, Fraserburgh and Peterhead.</p>

Type	Source	It says?	It Means?
Other Evidence	Engagement Exercise conducted with consultees, the Licensed Trade and the Public on the Main issues identified by the Board	https://committees.aberdeenshire.gov.uk/committees.aspx?commid=516&meetid=20486 (Item 13, Appendix 1)	This evidence provided direction on what issues were to be considered and reviewed in preparing the Statement of Licensing Policy, including evidence from Public Health, the Alcohol and Drug Partnership and the Health and Social Care Partnership in relation to deprivation which was considered by the Board in determining the overprovision policy

5.5. Information Gaps

There may still be data available which will be relevant in determining overprovision in particular.

5.6. Measures to fill Information Gaps

Measure	Timescale
The Board will ask consultees to identify and provide further data that can be considered prior to finalising the Board Policy Statement in October 2023	10th July - 1st September 2023

5.7. Engagement with affected groups

To be updated following consultation

5.8. Ensuring engagement with protected groups

The Lived Life Experience Forum will be consulted as part of the review process to be undertaken

5.9. Evidence of engagement

To be updated following consultation

5.10. Overall Outcome

All Negative Impacts Can Be Mitigated.

Based on the evidence submitted to date, the Board has identified its "localities" for the purpose of overprovision as being settlements within Aberdeenshire. Having analysed the data submitted, the Board has determined that there is no overprovision in relation to on sale premises but that Banff, Fraserburgh and Peterhead are overprovided in relation to off sale premises. Several other settlements will have Watching Brief status with the remaining settlements not being overprovided.

The overprovision policy will be reviewed in light of any evidence collated as a result of the consultation exercise before the Board approves its Final Statement of Licensing Policy, including its Overprovision Policy

5.11. Improving Relations

The Board already takes equalities into account at every Board Meeting.

Integrated Impact Assessments are used in respect of individual applications where matters arise relating to the protected characteristics.

5.12. Opportunities of Equality

To be completed following completion of the consultation exercise

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6. Health Inequalities Impact Assessment

6.1. Health Behaviours

Indicator	Positive	Neutral	Negative	Unknown
Healthy eating		Yes		
Exercise and physical activity		Yes		
Substance use – tobacco		Yes		
Substance use – alcohol	Yes			
Substance use – drugs	Yes			
Mental health		Yes		

6.2. Positive Impacts

Impact Area	Impact
Substance use – alcohol	<p>Section 4 of the Act sets out 5 licensing objectives in relation to the sale of alcohol under the Act. 1 of these is Protecting and Improving Public Health</p> <p>The provisions set out within the policy are designed to ensure that the Licensing Board promotes and complies with the 5 licensing objectives and sets out their expectations on how Licence Holders demonstrate compliance with the licensing objectives.</p> <p>Appendix 1 to the main policy statement in particular sets out guidance on how licence holders should comply with the 5 licensing objectives. This includes recommendations regarding the use of drug policies within licensed premises and the Board has local conditions to make sure that Licence Holders have policies in place to be able to deal appropriate with persons who are vulnerable through the use of alcohol and/or drugs.</p> <p>The Policy must be evidence based and comply with the statutory provisions set out in the Licensing (Scotland) Act 2005 and the Statutory Guidance for Licensing Authorities.</p> <p>Section 7 sets out the duty of each Licensing Board to assess the extent to which it considers there to be overprovision of licensed premises in any locality in the Board Area. The Board has taken into account evidence from multiple sources in relation to substance use relating to alcohol, particularly in relation to the impacts caused when considering whether there is overprovision of licensed preises within Aberdeenshire.</p>

Impact Area	Impact
<p>Substance use – drugs</p>	<p>Misuse of Drugs is often connected to use or misuse of alcohol.</p> <p>Section 4 of the Act sets out 5 licensing objectives in relation to the sale of alcohol under the Act. 1 of these is Protecting and Improving Public Health</p> <p>The provisions set out within the policy are designed to ensure that the Licensing Board promotes and complies with the 5 licensing objectives and sets out their expectations on how Licence Holders demonstrate compliance with the licensing objectives.</p> <p>Appendix 1 to the main policy statement in particular sets out guidance on how licence holders should comply with the 5 licensing objectives. This includes recommendations regarding the use of drug policies within licensed premises and the Board has local conditions to make sure that Licence Holders have policies in place to be able to deal appropriate with persons who are vulnerable through the use of alcohol and/or drugs.</p> <p>The Policy must be evidence based and comply with the statutory provisions set out in the Licensing (Scotland) Act 2005 and the Statutory Guidance for Licensing Authorities.</p> <p>Section 7 sets out the duty of each Licensing Board to assess the extent to which it considers there to be overprovision of licensed premises in any locality in the Board Area. The Board has taken into account evidence from multiple sources in relation to substance use relating to drugs, particularly in relation to the impacts caused when considering whether there is overprovision of licensed premises within Aberdeenshire.</p>

6.3. Evidence

Type	Source	It says?	It Means?
<p>External Data</p>	<p>Scottish Government Statutory Guidance to Licensing Authorities</p>	<p>This document gives Guidance to Boards on how they should comply with their legal requirements under the Licensing (Scotland) Act 2005 including Guidance on how to prepare and publish Statements of Licensing Policy and how to determine licence applications or consider complaints or requests to review licences.</p>	<p>This document supports Boards to comply with their legal duties in complying with their duties under the Licensing (Scotland) Act 2005 and how they demonstrate compliance with and promotion of the 5 licensing objectives.</p>

Type	Source	It says?	It Means?
External Data	The Licensing (Scotland) Act 2005	<p>Section 4 - sets out the Licensing Objectives</p> <p>Section 6 sets out the requirement for each Licensing Board to publish a statement of Policy with respect to the exercise of their functions under the Act within 18 months of each local government election in Scotland</p> <p>Section 7 sets out the duty of each Licensing Board to assess the extent to which it considers there to be overprovision of licensed premises in any locality in the Board Area.</p> <p>Schedule 3 to the Act sets out mandatory conditions which attach to each premises licence granted.</p> <p>Schedule 4 to the Act sets out mandatory conditions which attach to all occasional licences.</p> <p>The Act sets out grounds of refusal within the Act for various licence types, some of which enable the Board to refuse licence applications where there is evidence of failure to comply with or promote any or all of the 5 licensing objectives.</p>	<p>The provisions of the Act are set out to ensure that licences are granted in line with the provisions of the Board's Policy and in compliance with the 5 licensing objectives underpinning the Act to ensure that premises are suitable, safe, family friendly where children and young persons have access and that no children or young persons have access to alcohol or are exposed to any activities related to the sale of alcohol which would be unsuitable for children or young persons and promote responsible sale of alcohol for consumption in an appropriate, supervised environment, where the Licence Holder can be held accountable where there is evidence of failure to comply with the requirements of the Act, or any or all of the licensing objectives.</p>

Type	Source	It says?	It Means?
External Data	Scottish Health Survey 2019	In Aberdeenshire 1 in 4 men (24%) and 1 in 7 women (13%) drank at a level harmful or hazardous to their health i.e. more than 14 units per week.	This evidence provided direction on what issues were to be considered and reviewed in preparing the Statement of Licensing Policy
External Data	Public Health Scotland's Monitoring and Evaluating Alcohol Strategy - Monitoring Report 2022 (MESAS 2022)	The majority of alcohol sales in Scotland were through off sales premises (85%)	This evidence provided direction on what issues were to be considered and reviewed in preparing the Statement of Licensing Policy
External Data	The Scottish Health Survey 2021	Harmful levels of weekly alcohol consumption have declined since 2003 (from 34% to 23% and units down fro 16.10 units to 11.30 units per week	This evidence provided direction on what issues were to be considered and reviewed in preparing the Statement of Licensing Policy
External Data	Statistics on Alcohol-Related Hospitalisations	The statistics for Aberdeenshire are positive when compared to the national statistics	This evidence provided direction on what issues were to be considered and reviewed in preparing the Statement of Licensing Policy
External Data	Scottish Ambulance Statistics	5.5% of all call outs in the last year were alcohol-related - a low number	This evidence provided direction on what issues were to be considered and reviewed in preparing the Statement of Licensing Policy

Type	Source	It says?	It Means?
External Data	Public Health Scotland's Dashboard Information for Aberdeenshire	<p>We considered alcohol-related hospitalisations across a number of different characteristics and found that in terms of position nationally (rank 1 being worst and 32 being best) that for:</p> <ul style="list-style-type: none"> • General Acute Admissions: Aberdeenshire is 32nd for Stays, Patients and New Patients when it to all alcohol conditions, 29th for Stays, 31st for Patients and 26th for New Patients when it came to admissions for alcohol liver disease, 32nd for Stays, Patients and New Patients when it came to mental and behavioural admissions and 14th for Stays and Patients and 11th for New Patients in terms of admissions based on the toxic effects of alcohol. • Psychiatric Admissions: Aberdeenshire is ranked 28th for Stays, Patients and New Patients. <p>The trends in respect of these over the last ten years was largely positive with all in decline except those in terms of alcohol liver disease which had increased as follows: 32.6% for Stays, 10.6% for Patients and 26.8% for New Patients, all of these though have declined if the statistics over the last five years is considered and the opposite is the case in terms of Toxic Effects of Alcohol which have increased over the last five years: increasing 53.2% for Stays, 45.5% for Patients and 36.6% for New Patients.</p> <p>The figures for alcohol liver disease and toxic effects of alcohol are therefore of most concern.</p>	<p>The figures for alcohol liver disease and toxic effects of alcohol are therefore of most concern.</p> <p>This evidence provided direction on what issues were to be considered and reviewed in preparing the Statement of Licensing Policy</p>

Type	Source	It says?	It Means?
External Data	National Regisgers of Scotland - Alcohol specific mortality rates	Alcohol specific mortality rates have increased when compared to figures from 2000/2004 by around 7% and had doubled since 2011. Aberdeenshire were ranked 31st Nationally in terms of alcohol-related deaths.	Rising statistics are of concern. This evidence provided direction on what issues were to be considered and reviewed in preparing the Statement of Licensing Policy
External Data	SIMD 2020(V2)	The Board comapred alcohol related hospitalisations across settlements within Aberdeenshire to identify hotspots	Hotspots were found in North Aberdeenshire acvross Banff, Ellon, Fraserburgh, Inverurie, Peerhead and Macduff. This evidence provided direction on what issues were to be considered and reviewed in preparing the Statement of Licensing Policy
External Data	Data on Drug-Related Hospitalisations	The Board found similar trends to Alcohol-related Hospitalisations	This evidence provided direction on what issues were to be considered and reviewed in preparing the Statement of Licensing Policy
External Data	Scottish Government Studies on the effect of Minimum Unit Pricing (MUP)	MUP is having a positive impact in reducing the number of alcohol related deaths and hospitalisations across Scotland	This evidence provided direction on what issues were to be considered and reviewed in preparing the Statement of Licensing Policy

6.4. Information Gaps

There may still be gaps in the data that the Board can use to determine the impact of substance use in relation to alcohol and drugs and how that relates to the Board's Statement of Licensing Policy

6.5. Measures to fill Information Gaps

Measure	Timescale
Review data and evidence ingathered as a result of the formal consultation exercise	10th July -1st September 2023

6.6. Overall Outcome

Only Some Negative Impacts Can Be Mitigated.

The Licensing (Scotland) Act 2005 is designed to regulate the sale of alcohol. The duty to assess overprovision allows the Board to co-relate various harms with the sale of alcohol from licensed premises within the area covered by the Board.

The Board does not hold all of the solutions relating to the use of alcohol and drugs but through its policy statement, works in partnership with other agencies to work toward reducing harm from

alcohol and drug misuse in Aberdeenshire

The Board promotes the licensing objectives, including protecting and improving public health by complying with and promoting the objectives through its Statement of Licensing Policy and in its decision making against the legal tests set out in the Licensing (Scotland) Act 2005.

It has a duty to produce an annual Functions Report which evidences how the Board has met its duties under the Act, complied with its policy and the licensing objectives in the work undertaken during each financial year.

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7. Town Centre's First Impact Assessment

7.1. Local Factors

Indicator	Positive	Neutral	Negative	Unknown
Town centre assets		Yes		
Footfall		Yes		
Changes to road layouts		Yes		
Parking		Yes		
Infrastructure changes		Yes		
Aesthetics of the town centre		Yes		
Tourism	Yes			
Public safety	Yes			
Town centre business	Yes			
Cultural heritage and identity		Yes		
Social and cultural aspects	Yes			

7.2. Positive Impacts

Impact Area	Impact
Public safety	<p>The Licensing (Scotland) Act 2005 sets out 5 licensing objectives with which the Board must comply and promote. 1 of these is securing Public Safety.</p> <p>The Board's Policy Statement sets out how the Board will comply and promote the objectives and Appendix 1 to the main Policy Statement sets out the Board's expectations of how Licence Holders will demonstrate compliance with the licensing objectives.</p> <p>Licensed premises are located within and are often assets within town centres in Aberdeenshire, the Board works alongside other agencies to ensure that businesses operate within the requirements of their licences and are positive assets within our Town Centres</p>

Impact Area	Impact
Social and cultural aspects	<p>Licensed Premises often form main social and cultural hubs within our town centres, particularly for the purposes of marking important occasions in people's lives or the activities undertaken within the community in our towns.</p> <p>The provisions set out within the policy are designed to ensure that the Licensing Board promotes and complies with the 5 licensing objectives and sets out their expectations on how Licence Holders demonstrate compliance with the licensing objectives.</p> <p>Appendix 1 to the main policy statement in particular sets out guidance on how licence holders should comply with the 5 licensing objectives. This serves to ensure licensed premises continue to fulfil this important role responsibly within our town centres.</p>
Town centre business	<p>Licensed Premises are often important businesses operating within our town centres, particularly for the purposes of marking important occasions in people's lives or the activities undertaken within the community in our towns. The provisions set out within the policy are designed to ensure that the Licensing Board promotes and complies with the 5 licensing objectives and sets out their expectations on how Licence Holders demonstrate compliance with the licensing objectives. Appendix 1 to the main policy statement in particular sets out guidance on how licence holders should comply with the 5 licensing objectives. This serves to ensure licensed premises continue to fulfil this important role responsibly within our town centres.</p>
Tourism	<p>Supplementary Policy Statement 5 sets out how the Board works with Tourism agencies to support the responsible sale of alcohol enhancing the provision of Tourism within Aberdeenshire.</p>

7.3. Evidence

Type	Source	It says?	It Means?
Internal Data	Statistical evidence on the number of licensed premises and their location within Aberdeenshire	Lists the number, type and location of licensed premises within settlements in Aberdeenshire and the number of licensed premises in relation to the population of those settlements	Demonstrates that licensed premises form an important factor in the life of town centres and communities within Aberdeenshire

7.4. Information Gaps

There may be further evidence to support the important role licensed premises play within town centres in Aberdeenshire

7.5. Measures to fill Information Gaps

Measure	Timescale
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Measure	Timescale
Seek further evidence as part of the formal consultation exercise from consultees	10th July - 1st September 2023

7.6. Overall Outcome

No Negative Impacts Identified.

No negative impacts identified as yet. There may be further evidence in relation to anti-social behaviour and public nuisance identified through the consultation exercise and outcomes will be reviewed once consultation has ended

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8. Action Plan

Planned Action	Details	
<p>The Licensing Team to conduct formal consultation on the draft Policy Statement once approved by the Aberdeenshire Licensing Board at their meeting on 28th June 2005.</p>	<p>Lead Officer Repeating Activity Planned Start Planned Finish Expected Outcome</p>	<p>Fiona Stewart No Monday July 10, 2023 Tuesday August 01, 2023 In gather further evidence to support the revisals made to the Policy Statement Identify the need for further revisals to be made in light of any evidence gathered To be met within existing budgets</p>
<p>Organise Engagement Sessions between the Board and organisations/consultees as required where evidence ingather demonstrates a need to do so</p>	<p>Lead Officer Repeating Activity Planned Start Planned Finish Expected Outcome</p>	<p>Martin Ingram No Tuesday August 01, 2023 Friday September 15, 2023 To allow the Board to further assess evidence submitted related to the consultation exercise To be met from existing budgets</p>
<p>Arrange Meeting with the Licensed Trade and the Board and partner agencies to discuss the implications of the changes made to the Policy Statement</p>	<p>Lead Officer Repeating Activity Planned Start Planned Finish Expected Outcome</p>	<p>Martin Ingram No Tuesday August 01, 2023 Friday September 15, 2023 To discuss and further assess the views of the Licensed Trade on the revisals to the Policy Statement to be met from existing budgets</p>
<p>Arrange and present a consultation report on the revised Policy Statement to all 6 Area Committees in Aberdeenshire Council</p>	<p>Lead Officer Repeating Activity Planned Start Planned Finish Expected Outcome</p>	<p>Fiona Stewart No Tuesday August 15, 2023 Tuesday September 19, 2023 To include the views of the Area Committees of Aberdeenshire Council for the Board to consider before finalising the statement of Licensing Policy To be met from existing budgets</p>

Planned Action	Details
To update the Licensing Board on the progress of the consultation exercise	<p>Lead Officer Fiona Stewart</p> <p>Repeating Activity No</p> <p>Planned Start Tuesday August 01, 2023</p> <p>Planned Finish Wednesday August 16, 2023</p> <p>Expected Outcome To keep the Board informed of progress</p> <p>Resource Implications To be met within existing budgets</p>
Licensing Team to assess the evidence gathered via the consultation process and meet with the Board informally to review the evidence	<p>Lead Officer Fiona Stewart</p> <p>Repeating Activity No</p> <p>Planned Start Monday September 18, 2023</p> <p>Planned Finish Friday September 29, 2023</p> <p>Expected Outcome To establish key evidence and whether further changes require to be made to the Policy Statement</p> <p>Resource Implications To be met from existing budgets</p>
Prepare Final Policy Statement for approval by the Board on 25th October 2023 with publication thereof by 1st November 2023	<p>Lead Officer Fiona Stewart</p> <p>Repeating Activity No</p> <p>Planned Start Monday October 02, 2023</p> <p>Planned Finish Wednesday November 01, 2023</p> <p>Expected Outcome Policy Statement approved and published by the required deadline of 1st November 2023</p> <p>Resource Implications To be met within existing budget</p>
IIA to be revised and finalised following close of consultation to include with report to the Board to approve Policy Statement on 26th October 2023	<p>Lead Officer Fiona Stewart</p> <p>Repeating Activity No</p> <p>Planned Start Friday September 15, 2023</p> <p>Planned Finish Wednesday July 19, 2023</p> <p>Expected Outcome Finalised Integrated Impact Assessment</p> <p>Resource Implications To be met from existing budget</p>