

# ***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, 20 December 2023 at 10.15 am**

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

Tuesday, 12 December 2023

Karen Wiles

**Clerk to the Licensing Board**

## **BUSINESS**

1. **SEDERUNT AND DECLARATION OF MEMBERS' INTERESTS**
2. **PUBLIC SECTOR EQUALITY DUTY** 3

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.
3. **MINUTES OF THE MEETING OF 4TH OCTOBER 2023** 4 - 8
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The date of the next meeting is **28<sup>th</sup> February 2024**

## **STATEMENT ON EQUALITIES**

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

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

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

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

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

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

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

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

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

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

**ABERDEENSHIRE LICENSING BOARD****Minute of the Meeting of the ABERDEENSHIRE LICENSING BOARD, held by MICROSOFT TEAMS only on 4 OCTOBER 2023 at 10.15 am**

Sederunt:

Board Members:

Mrs M Ewenson(Convenor), Ms Dawn Black (Vice-Convenor), Mr Stewart Adams, Mr Geoff Crowson, Mr Trevor Mason, Mr Richard Menard, Mrs Jenny Nicol and Ms Mel Sullivan

In Attendance:

Jill Joss, Depute Clerk to the Board; Fiona M. Stewart Depute Clerk to the Board; Martin Ingram, Principal Solicitor (Governance)(item 8 onwards); Lisa Godini, Sarah Ward and Kevin MacDonald Licensing Standards Officers; PC Dickson, Police Scotland; Clark Simpson and Harriet Tevendale, Paralegals

Observing:

Jenny Mearns, Administrator (Livestream);Beatrice Hay, Administrator; Kelly Bissett, Trainee Solicitor

Forum Members:

None

Apologies:

Mr Jeff Goodhall and Mr Iain Taylor  
Keith Simpson, Senior Licensing Standards Officer

The Convenor welcomed everyone to the meeting.

**1 Sederunt and Declaration of Members' Interests**

The Chair asked Members if they had any interests to declare, in terms of the Councillors' Code of Conduct.

No declarations of interest were made.

**2 Public Sector Equality Duty**

In taking decisions on the undernoted items of business, the Committee **agreed**, in terms of Section 149 of the Equality Act 2010:-

(1) To have due regard to the need to:-

- (a) eliminate discrimination, harassment and victimisation;
- (b) advance equality and 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, and

- (2) to consider, where an Integrated Impact Assessment has been provided, its contents and to take those into consideration when reaching a decision.

**3 Minutes of Board Meeting 16 August 2023**

The Board **agreed** the Minutes were a correct record of the meeting subject to correction of titles for Ms Black and Ms Sullivan in the Sederunt record.

**4 Licensing (Scotland) Act 2005 - Applications for Premises and Provisional Premises Licences - Non-contentious**

Following consideration of a report by the Clerk, dated 27<sup>th</sup> September 2023, in respect of an application for a provisional premises licence, copies of which had been circulated in advance, the Board decided the application as undernoted:

**(1) Cruden Bay Post Office, 1 Main Street, Cruden Bay, AB42 0NA**

GRANTED subject to -

- the local conditions specified in the Board Report.

**5 Licensing (Scotland) Act 2005 - Major Variations of Premises Licences - Non-contentious**

Following consideration of a report by the Clerk, dated 27<sup>th</sup> September 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) The Bank Café & Restaurant, 2 the Square, Huntly, AB54 8AE**

GRANTED subject to:

- the local conditions set out in the Board Report,
- the specific conditions set out in the Board Report.

**(2) The Fife Arms Hotel, The Square, Turriff, AB53 4AE**

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 - Grant of Personal Licence - Notice of Relevant Conviction - Hearing**

1. Ben Parker, the applicant was present at the hearing.
2. Constable Dickson represented the Chief Constable at the hearing.
3. The Board afforded the applicant an opportunity to speak to his application.
4. The Board afforded Constable Dickson an opportunity to speak to the Chief Constable's notice.
5. The Board afforded the applicant an opportunity to respond.
6. Members were then afforded an opportunity to ask questions.

7. Both parties were afforded an opportunity to make concluding remarks.
8. The Board agreed they did not need to adjourn to seek legal advice in private.
9. The Depute Clerk advised everyone present of the Legal Test.
10. The Convenor confirmed that Members had sufficient evidence before them on which to reach a decision
11. Ms Black, seconded by Mr Mason, moved as a motion, none of the grounds of refusal having been found to apply, to grant the personal licence.
12. Mr Menard, seconded by Mr Adams moved as an amendment that, due to the nature of the conviction and the concealment, having regard to all five licensing objectives, the applicant was not a fit and proper person to be a holder of a personal licence, therefore to refuse the application.
13. On a division there voted:

**For the Motion**

Ms Black  
Mr Crowson  
Mrs Ewenson  
Mr Mason  
Mrs Nicol  
Ms Sullivan [6 votes]

**For the Amendment**

Mr Adams  
Mr Menard [2 votes]

14. The Convenor declared the motion carried in terms.
15. The Convenor confirmed that the decision of the Board was to grant the licence.

The decision of the Board was therefore to GRANT the application.

**7 Licensing (Scotland) Act 2005 - Grant of Personal Licence - Notice of Relevant Conviction - Hearing**

1. The applicant, Chelsea Brown was neither present nor represented at the hearing having indicated in advance that she would not be attending and having provided written submissions in advance for consideration by the Board.
2. Constable Dickson 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 Constable Dickson speak to the Chief Constable's notice.
5. An opportunity was provided to Board Members to ask questions of Constable Dickson.

6. The hearing was then paused to allow Constable Dickson to respond to a question and the Board moved on to the next item on the agenda, before coming back to the hearing.
7. Board Members resumed questions to Constable Dickson and further information was raised, but not stated, by Constable Dickson during questioning. This information was not part of the Chief Constable's notice.
8. Mr Menard, seconded by Ms Black, moved a motion to defer this application to the next Board as there was not sufficient information upon which to make a determination and for the further information to be provided by Police Scotland so that it could be circulated to the Applicant in advance of consideration at the next Board Meeting.
9. No amendment was proposed.
10. The Board confirmed the decision to be unanimous.

The decision of the Board was therefore to DEFER the application to the next meeting of the Board on 20<sup>th</sup> December 2023.

## **8 Update Report on Consultation on Draft Policy Statement**

Having considered the terms of a report by the Depute Clerk dated 27<sup>th</sup> September 2023, providing an update on the review of the Licensing Policy Statement following the end of the public consultation period, copies of which had been circulated to members in advance, the Board:

- a. Noted the terms of the updated Timeline for Review of the Policy Statement as set out in Appendix 1 to the report.
- b. Considered and commented on the responses to the Consultation Exercise contained in Appendices 2 to 4 to the report. Congratulated Depute Clerk Fiona Stewart and the Licensing Team for the hard work on the review of the Policy Statement and commented that it would be useful to go through Overprovision at the public sessions, to ensure understanding, following consideration of the responses.
- c. Considered an informal development session to be held before the final Draft Policy Statement is presented to the Board for approval at their meeting on 25<sup>th</sup> October 2023 and agreed this was to be during the week commencing 23<sup>rd</sup> October 2023 and a suitable date and time would be identified.

- d. Noted that a meeting to discuss the revised Local Conditions for Occasional Licences will be held with the Police and LSOS on 9th October 2023
- e. Noted that Information sessions with the Licensed Trade will be held in November 2023.
- f. Authorised officers to review the responses made relating to the re-establishment of the Aberdeenshire Licensing Forum and submit a proposal to the Board for consideration at their meeting on 25th October 2023

## **9 Approval of Board Dates for 2024 - 2025**

Having considered the terms of a report by the Depute Clerk, dated 22<sup>nd</sup> September 2023, seeking approval to fix the dates of Board Meetings for the Committee Cycle commencing 1st May 2024 and ending on 30th April 2025, the Board:

- a. Agreed dates for meetings of the Board between 1st May 2024 and 30th April 2025 as set out at Appendix 1 to the report.
- b. Noted that any physical meetings will take place at Woodhill House, Aberdeen but that Board Meetings continue to be held virtually at the current time.
- c. Noted that all meetings will commence at 10.15am.
- d. Noted that, once approved, the dates of the Board Meetings will be published via Aberdeenshire Council's Committee Management System, on the Council's website.
- e. Agreed the Pre-meetings for Board members should start at 9.15 and not 9am.

## **10 Date of Next Board Meeting**

The Board Noted the next meetings would be –

- (a) Special Board Meeting – 25<sup>th</sup> October 2023
- (b) Board Meeting – 20<sup>th</sup> December 2023

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



**ABERDEENSHIRE LICENSING BOARD****Minute of the Special Meeting of the ABERDEENSHIRE LICENSING BOARD,  
held by MICROSOFT TEAMS only on 25 OCTOBER 2023 at 2.15 pm**

*Sederunt:*

*Board Members:*

*Mrs M Ewenson(Convenor), Mrs Dawn Black (Vice-Convenor), Mr Geoff Crowson, Mr Jeff Goodhall, Mr Trevor Mason, Mr Richard Menard, Mrs Jenny Nicol and Mr Iain Taylor*

*In Attendance:*

*Karen Wiles, Clerk to the Board; Fiona M Stewart, Martin Ingram, and Lynsey Kimmitt, Depute Clerks to the Board'; PC Ian Duthie, Police Scotland; Lisa Godini and Kevin MacDONald, Licensing Standards Officers; Harriet Tevendale, Paralegal*

*Observing: Jenny Mearns, Senior Administrator (Livestreaming); Beatrice Hay, Administrator; and Kelly Bissett, Trainee Solicitor*

*Forum Members: None*

*Apologies: Mr Stewart Adams and Ms Mel Sullivan*

*The Convenor welcomed everyone to the meeting.*

**1 Sederunt and Declaration of Members' Interests**

The Chair asked Members if they had any interests to declare, in terms of the Councillors' Code of Conduct. No interests were declared.

**2 Public Sector Equality Duty**

In taking decisions on the undernoted items of business, the Committee **agreed**, in terms of Section 149 of the Equality Act 2010:-

- (1) To have due regard to the need to:-
  - (a) eliminate discrimination, harassment and victimisation;
  - (b) advance equality and 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, and
- (2) To consider, where an Integrated Impact Assessment has been provided, its contents and to take those into consideration when reaching a decision.

**3 Licensing (Scotland) Act 2005 - Application for Grant of Occasional Extension - The Haughton Arms**

1. The Applicant, Suraj Thapa was present at the meeting by phone.
2. Lisa Godini, Licensing Standards Officer was present at the meeting.
3. Pc Ian Duthie represented the Chief Constable at the meeting.
4. The Depute Clerk highlighted the procedure for the hearing
5. As a preliminary matter, the Board determined whether the application met the requirements of Section 68(1) of the Licensing (Scotland) Act 2005. The Board found that the application did NOT meet the requirements Section 68(1) as the terms of the current premises licence already provided for live entertainment, which would include bands playing, at the premises as a matter of normal operation. For that reason there was no special event or occasional being catered for on the premises.
6. The Board's decision was unanimous.
7. Having found the application not be competent, there was no requirement to proceed with the rest of the hearing.

**4 Approval of Statement of Licensing Policy and Overprovision Policy**

Having considered the terms of a report by the Clerk to the Board relating to the approval of the Board's Statement of Licensing Policy and Overprovision Policy for the period 2023 – 2028, dated 18<sup>th</sup> October 2023, copies of which had been circulated to Members in advance, the Board:

1. Approved the Statement of Licensing Policy and Overprovision Policy Statement as set out in Appendix 1 to the report.
2. Approved the Action Plan set out at Appendix 2 to the report
3. Authorised Officers to finalise the formatting of the Policy Statement and Publish it on the Board's Website by 1<sup>st</sup> November 2023.
4. Authorised offices to update the Policy Statement to reflect any legislative changes or changes in online links, as required, during the lifetime of the Policy.
5. Agreed to recommend that the Business Services Committee of Aberdeenshire Council consider taking steps necessary to re-instate the Aberdeenshire Licensing Forum based on the information compiled within Appendix 4 to the report.

**5 Date of Next Board Meeting**

The Board noted the date of the next Board Meeting was 20<sup>th</sup> December 2023.

# ***THE ABERDEENSHIRE LICENSING BOARD***

## **REPORT TO LICENSING BOARD – 20<sup>th</sup> December 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.

The applications were all made before approval of the Board's New Statement of Licensing Policy which took effect from 1<sup>st</sup> November 2023. In terms of the revised Scottish Guidance for Licensing Authorities applications must be determined under the Policy Statement which informed applicants of the Board's intentions, which means that these applications need to be determined under the Board's previous Policy Statement. Only applications received and processed after 1<sup>st</sup> November 2023 will be subject to the new Policy Statement.

This means that the Board's overprovision policy does not apply to the applications listed at **Appendix 1** to this Report.

### **Recommendations**

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

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

- 2.1 The applications referred to in **Appendix 1** to this Report have not been previously considered by the Board.
- 2.2 The Depute Clerk has determined that the applications listed in **Appendix 1** are non-contentious applications and asks that the Board consider the same.

### **3 Discussion**

#### **Consultations**

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

#### **Objections and Representations**

- 3.4 In relation to each of the applications to be considered by the Board –
- (a) there are no valid objections to the application;

- (b) the size and capacity of the premises, the general nature of the premises, and any entertainment to be provided on the premises are to be substantially the same as at the date of the application; and
  - (c) the hours sought in the Operating Plan are within the Licensing Board's general policy on Licensing Hours as set out in its Statement of Licensing Policy.
- 3.5 In some cases, the Licensing Standards Officers, Police Scotland and Building Standards Officers made representations. These were copied to the applicants who have made the appropriate amendments to their applications in order to satisfy the representations made.
- 3.6 If granted, certain mandatory conditions listed in the Licensing (Scotland) Act 2005 will attach to premises licences. The conditions attaching will depend on the activities listed in the operating plans of the premises.
- 3.7 The Board indicated in its Policy Statement that local conditions would apply to premises licences in certain circumstances. The Depute Clerk has listed the relevant conditions it is recommended that the Board apply to the licence in the table in **Appendix 1**. The Applicant has agreed to the proposed conditions in each case. **Appendix 2** contains the list of available local conditions, as set out in the Board's Policy Statement.
- 3.8 Any applicant who has taken issue with the representations made in respect of their application will have their application considered at a full hearing of the Board, which will be the subject of a separate report.
- 3.9 In line with the decision taken by the Board at their meeting on 12<sup>th</sup> August 2020, the applicants have not been asked to attend the Board.
- 3.10 If the Board does not consider that this is a sufficient hearing to consider the application, then consideration of the application should be deferred to a future Board Meeting to allow for further information to be provided and/or to allow the applicant to be cited to attend.

### **Implications**

- 3.11 If the Board determines that a licence should be granted, it will take effect from the date of grant and can be traded, where the application is for a full premises

licence. Where a provisional premises licence is granted, the licence must be confirmed prior to the licence being able to be traded.

### **Procedure**

- 3.12 Each application should be considered on its own merits.
- 3.13 Members' options in disposing of the applications are: -
- (a) To grant the application;
  - (b) Refuse the application;
  - (c) Grant subject to varied hours and/or additional conditions; or
  - (d) Determine that further evidence is required in which case the application should be referred to the next available Board Meeting in order that the applicant may present their case in full or further information can be obtained in the interim.
- 3.14 When coming to a decision the Board must consider the evidence provided and the contents of this report. Supplementary advice and information can be made available by Officers, if required.
- 3.15 The legal test is attached as **Appendix 3** to this report.

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

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

**Table 1 Risks and Implications**

<b>Subject</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>
----------------	------------	-----------	------------

Financial		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 Fiona M Stewart, Senior Solicitor (Democratic Services),  
Depute Clerk to the Board and Harriet Tevendale, Paralegal**

**Date: 12<sup>th</sup> December 2023**

List of Appendices:

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

**Appendix 2** – List of Board’s Local Conditions

**Appendix 3** – Legal Test



**APPENDIX ONE**

**LIST OF NON-CONTENTIOUS APPLICATIONS**

Name of Applicant and IDOX reference	Name and address of Premises	Details of Application	Remarks and Recommended Conditions
<p><b>1. Whiskyquest Ltd</b></p> <p><b>LAPREM/00060/23/HT</b></p>	<p>Whiskyquest LTD 28 Lawsondale Terrace Westhill AB32 6SE</p>	<p>Premises will be operating in a dwelling house within a residential area of Westhill. Premises will trade in online sales, collection, and deliveries for alcohol only – no members of the public will be permitted in the premises.</p> <p>Online sales will take place 24/7, however the couriers operate between 10am to 8pm deliveries only. Though licensed hours are 10am to 8pm, customers can only collect their bottles before 5pm. All collections will be handled with meet at the door policy. Alcohol is securely locked within the premises.</p>	<p><b>Representations</b></p> <p>Police Scotland have made a representation to the application and ask that the application be granted with the below conditions:</p> <ul style="list-style-type: none"> <li>• The premises will not display any external advertisement or overt signage indicating that the premises is licensed under the Licensing (Scotland) Act 2005, for the purpose of selling alcohol products from the premises.</li> <li>• That there is a recorded age verification system in place in respect of remote/online sale of alcohol and that 'Challenge 25' is carried out at point of sale/delivery and collection.</li> </ul> <p>Licensing Standards Officer - The LSO has recommended the following conditions be applied to the licence:</p> <p><b><u>Specific Conditions:</u></b></p> <p>If there are to be deliveries of alcohol to non-trade sales, the licence holder should incorporate the following control measures to the operating of the business:</p> <ul style="list-style-type: none"> <li>a) There is an age verification policy for delivery drivers and at click and collect</li> </ul>

Name of Applicant and IDOX reference	Name and address of Premises	Details of Application	Remarks and Recommended Conditions
			<p>locations where the recipient of alcohol is believed to be under the age of 25.</p> <p>b) Delivery drivers are trained to the same level as staff who sell or supply alcohol within licensed premises.</p> <p>c) That the customer signs on receipt of delivery of alcohol.</p> <p>d) The delivery drivers keep refusal registers.</p> <p>e) That orders are not left in nominated places.</p> <p>.</p> <p>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 –</p> <p>a) A daybook kept on the premises from which the alcohol is dispatched and</p> <p>b) A delivery book or invoice carried by the person delivering the alcohol.</p> <p>Information referred to above must include –</p> <p>i) The quantity, description, and price of the alcohol, and</p>

Name of Applicant and IDOX reference	Name and address of Premises	Details of Application	Remarks and Recommended Conditions
			<p>ii) The name and address of the person whom it is to be delivered to</p> <p><b><u>Local Conditions</u></b></p> <ul style="list-style-type: none"> <li>1, 2, 3, 4, 5, 6, 19, 21</li> </ul> <p>Building Standards – No comments to make</p> <p>Planning - No comments to make</p> <p>Environmental Health - No observations to make</p> <p><b>Certificate of Confirmation</b></p> <p>The applicant has submitted the certificate of compliance relating to display of the site notice at the premises</p> <p><b>Recommended Conditions for Licence:</b></p> <ol style="list-style-type: none"> <li>General Management for All Premises – Conditions 1-4</li> <li>Noise – All Premises – Condition 5</li> <li>Lockfast Store – All Premises – Condition 6</li> <li>Vulnerability – All Premises – Condition 19</li> <li>CCTV – All Premises – Condition 21</li> <li>Alcohol Deliveries, Click &amp; Collect &amp; Internet sales – 43-44</li> </ol>

Name of Applicant and IDOX reference	Name and address of Premises	Details of Application	Remarks and Recommended Conditions
			<p><b>Conditions specific to the application</b></p> <p>In respect of advertisement the following conditions be applied:</p> <ul style="list-style-type: none"> <li>The licence holder shall ensure that the premises will not display any external advertisement or overt signage indicating that the premises is licensed under the Licensing (Scotland) Act 2005, for the purpose of selling alcohol products from the premises.</li> </ul>
<p><b>2. Whisky Auction House Ltd</b></p> <p><b>LAPREM/00051/23</b></p> <p>Note: This application is not subject to the Board’s new overprovision policy as it was lodged and processed prior to the new Policy taking effect on 1<sup>st</sup> November 2023.</p>	<p>Whisky Auction House Office 3 Burnside Business Centre, Burnside Road, Peterhead AB42 3AW</p>	<p>Whisky Auction House premises will be operating in a business centre within a commercial/rural area of Peterhead.</p> <p>The premises will trade in online sales, collection and delivery of alcohol only. No members of the public will be permitted in the premises.</p> <p>The premises will not be open for trading from 24<sup>th</sup> December – 26<sup>th</sup> December &amp; 30<sup>th</sup> December – 2<sup>nd</sup> January annually.</p>	<p><b>Representations</b></p> <p><b>Police Scotland</b> - Police Scotland have made a representation to the application and ask that the application be granted with the below conditions:</p> <ul style="list-style-type: none"> <li>The premises will not display any external advertisement or overt signage indicating that the premises is licensed under the Licensing (Scotland) Act 2005, for the purpose of selling alcohol products from the premises.</li> <li>That there is a recorded age verification system in place in respect of remote/online sale of alcohol and that ‘Challenge 25’ is carried out at point of sale and delivery.</li> </ul>

Name of Applicant and IDOX reference	Name and address of Premises	Details of Application	Remarks and Recommended Conditions
		<p>Online sales will take place 24/7, while shipping only takes place during licensed hours. Preparation for the auction, packaging, distribution &amp; storage are other activities which will take place during operating hours.</p> <p>No members of the public will have access to the premises within the business centre and all alcohol is securely locked within the premises.</p> <p>Deliveries include challenge 25 and all such checks will be recorded, and no deliveries left unattended. Online age verification applied. Collections will be by appointment only and will be a meet at the door policy with again challenge 25 applied.</p>	<p><b>Licensing Standards Officer</b> – The Licensing Standard officer has recommended the following Local Conditions for said premises.</p> <p>1 to 4, 6, 19, 21, 43 and 44 and 46.</p> <p>In relation to auction sales, the applicant must take particular heed in complying with the Board's Mandatory Conditions in relation Minimum Unit Pricing and Drinks Promotions.</p> <p>Building Standards – no comments to make</p> <p>Planning - The current Use Class of the unit is Class 4 Business. It is permitted to change from Class 4 to Class 6 (Storage or Distribution), where the total floor area of the building does not exceed 235 sqm. The total floor area of unit 3 is much less than 235sqm so no change of use is required.</p> <p>The Planning Service has no further comment or observations to make.</p> <p>Environmental Health - no comments to make</p> <p>Firemaster – no observation submitted</p> <p><b>Certificate of Confirmation</b></p>

Name of Applicant and IDOX reference	Name and address of Premises	Details of Application	Remarks and Recommended Conditions
			<p>The applicant has submitted the certificate of compliance relating to display of the site notice at the premises</p> <p><b>Recommended Conditions for Licence:</b></p> <ol style="list-style-type: none"> <li>1. General Management for All Premises – Conditions 1-4</li> <li>2. Noise – All Premises – Condition 5</li> <li>3. Lockfast Store – All Premises – Condition 6</li> <li>4. Vulnerability – All Premises – Condition 19</li> <li>5. CCTV – All Premises – Condition 21</li> <li>6. Alcohol Deliveries, Click &amp; Collect &amp; Internet sales – 43-44</li> <li>7. Byelaws Prohibiting the Consumption of Alcohol in Designated Places – Conditions 45 - 46</li> </ol> <p><b>Conditions specific to the application</b></p> <p>In respect of advertisement the following conditions be applied:</p> <ul style="list-style-type: none"> <li>• The premises will not display any external advertisement or overt signage indicating that the premises is licensed under the Licensing (Scotland) Act 2005, for the purpose of selling alcohol products from the premises.</li> </ul>










## APPENDIX 2

### Local Conditions – Premises Licences

#### The Aberdeenshire Licensing Board

#### Local Conditions - Premises Licences

Licensing 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

General Management - All Premises		
<u>Number</u>	<u>Condition</u>	<u>Licensing Objectives</u>
1	The provisions relating to the 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 conditions at all times.	SPS, PPN
3	Premises Licence Holders must ensure that Refusal Registers and Daily Incident Logs are accessible for inspection by Police Scotland and Licensing Standards Officers on request.	PCD, SPS
4	The Licence Holder must ensure that any general authorisation for the sale of alcohol required within the premises is – (i) in writing, (ii) available for inspection by Police Scotland and Licensing Standards Officers on request, (iii) brought to the attention of and signed by all parties and (iv) enforced by the Premises Manager.	PCD, SPS, PPN, PIPH. PCYPFH

Noise – All Premises		
<u>Number</u>	<u>Condition</u>	<u>Licensing Objectives</u>
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

<b>Number</b>	<b>Condition</b>	<b>Licensing Objectives</b>
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-Sales Premises

<b>Number</b>	<b>Condition</b>	<b>Licensing Objectives</b>
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.	SPS, 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-Sales Premises

<b>Number</b>	<b>Condition</b>	<b>Licensing Objectives</b>
12	Alcohol shall be provided for consumption on the premises only.	PCD, SPS, PPN
13	The entertainment to be provided shall be XXX (to be defined by the Board on a case-by-case basis).	PCD, SPS, PPN
14	The entertainment provided shall be on a continuous basis with breaks of not more than 15 minutes in any one hour.	PCD, SPS, PPN
15	All public notices of 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 and (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 by Police Scotland and the LSOs on request. The policy shall be reviewed regularly, and a detailed record of reviews kept.	PCD, SPS, PPN, PIPH

#### Adult Entertainment – On-Sales Premises

<u>Number</u>	<u>Condition</u>	<u>Licensing Objectives</u>
18	Children and young persons are not permitted to attend any event involving adult entertainment.	PCYPFH

#### Vulnerability - All Premises

<u>Number</u>	<u>Condition</u>	<u>Licensing Objectives</u>
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 or distress.</p> <p>The Licence Holder must ensure that all staff, volunteers and stewards 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>	PCD, SPS, PPN, PIPH, PCYPFH

#### Door Supervisors – On-Sales Premises

<u>Number</u>	<u>Condition</u>	<u>Licensing Objectives</u>
20	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,	PCD, SPS, PPN, PIPH

	<p>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"><li>(a) Confirm that persons who seek access to the premises have paid for admission or have appropriate passes/invitations;</li><li>(b) Identify and refuse entry to drunken persons;</li><li>(c) Identify and refuse entry to any persons banned through pubwatch or by any other means;</li><li>(d) Actively police the premises and to perform all activities in line with their role under the Private Security Act 2001;</li><li>(e) Supervise entrance doors/access points at all times to ensure that no fire or other exits are blocked;</li><li>(f) Be aware of the fire safety precautions and procedures and all other policies and practices;</li><li>(g) Be aware of the premise's drug prevention policy;</li><li>(h) Provide assistance to patrons, including customer care, directions to facilities and health and safety;</li><li>(i) Ensure that no patron removes glasses, or open or closed vessels from the premises when exiting for any reason;</li><li>(j) Remain on the premises until the end of permitted hours and all patrons have vacated the premises, including patrolling the vicinity outside the premises to assist dispersal from the premises after the premises close;</li><li>(k) Be aware of the provisions of the Licensing (Scotland) Act 2005 which impact on the running of the premises</li><li>(l) All SIA Stewards must wear radios to allow for clear communication with one another and the reporting of any incidents with the</li></ul>	
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	Head Steward and, in respect of the licence, the responsible persons on duty. (m) Stewards shall report all criminal and relevant matters to Police Scotland.	
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CCTV – All Premises		
<u>Number</u>	<u>Condition</u>	<u>Licensing Objectives</u>
21	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.  Images recorded on CCTV must be kept for at least seven days and must be made available to Police Scotland on request.	PCD, SPS, PPN

Members Clubs		
<u>Number</u>	<u>Condition</u>	<u>Licensing Objectives</u>
22	Members Clubs must comply with the provisions of Supplementary Policy Statement 7 of the Board's current policy statement.	PCD, SPS, PPN, PIPH, PCYPFH
23	Members Clubs shall adhere to the terms of the Club's constitution or rules attached to their premises licence.	PCD, SPS, PPN, PIPH, PCYPFH
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.	PCD, SPS, PPN, PIPH, PCYPFH
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.	PCD, SPS, PPN, PIPH, PCYPFH
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	PCD, SPS, PPN, PIPH, PCYPFH

	persons being approved by the Club's governing body.	
27	The Club must ensure that at all times, there at least two members of staff, or Committee Members, or volunteers involved in the management of the Club who are trained to the standard of a Personal Licence Holder. If the persons trained change at any time, evidence of an up-to-date training certificate must be submitted to the Clerk within two months of change in personnel.	PCD, SPS, PPN, PIPH, PCYPFH
28	Any person requiring to hold a training certificate for the purposes of condition 26 above, must complete a refresher training course within a period of 3 months of the 5-year anniversary of the date of the initial training certificate and submit a copy of the refresher training certificate to the Clerk within 28 calendar days of receipt of the updated certificate. Further refresher training will be completed at 5 yearly intervals thereafter in line with this condition.	PCD, SPS, PPN, PIPH, PCYPFH
29	That up to 5 visitors per member shall be permitted in the club premises provided they are signed into the club by that member into a book kept for that purpose by the club. Such visitors must be bona-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

<b>Number</b>	<b>Condition</b>	<b>Licensing Objectives</b>
31	Beer Gardens and outside drinking areas must not be used for activities linked to the sale or consumption of alcohol after 10.00pm. These areas may be used after 10.00pm for the purposes of smoking only.	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 street cafes, 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 street cafes, beer gardens and outside drinking areas.	PCD, SPS, PPN, PIPH, PCYPFH

34	<p>The Licence Holder shall ensure that: -</p> <p>(a) No amplified music or noise emitted from the use of microphones, speakers or other forms of music entertainment shall be played within the area;</p> <p>(b) The area is delineated by a physical barrier;</p> <p>(c) Signage is displayed indicating that alcohol is not to be removed from the area.</p>	PCD, SPS, PPN, PIPH, PCYPFH
35	Children and Young Persons may be present in the street café, beer garden or outside drinking area for the purpose of the consumption of food.	PCYPFH

### Street Cafes and Licensed Pavement Areas

<b>Number</b>	<b>Condition</b>	<b>Licensing Objectives</b>
36	<p>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>	PCD, SPS, PPN, PIPH, PCYPFH

### Hybrid Premises

<b>Number</b>	<b>Condition</b>	<b>Licensing Objectives</b>
37	Premises operating as “other premises” during the day and wishing to operate as Nightclubs thereafter must ensure that the premises are closed down and	PCD, SPS, PPN, PCYPFH

	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.	
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**Festive Season Conditions for Premises Opening After 1.00 a.m.**

<b>Number</b>	<b>Condition</b>	<b>Licensing Objectives</b>
38	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
39	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
40	There must be written policies in existence concerning – <ul style="list-style-type: none"> <li>• The evacuation of the premises; and</li> <li>• The prevention of the misuse of drugs on the premises.</li> <li>• Duty of care ('Vulnerability through Intoxication')</li> </ul>	PCD, SPS, PPN, PIPH, PCYPFH
41	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
42	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**

<b>Number</b>	<b>Condition</b>	<b>Licensing Objectives</b>
43	The Licence Holder shall ensure that: <p>(a) 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.;</p>	SPS, PIPH, PCYPFH



	<p>(b) Delivery drivers and click and collect staff are trained to the same level as staff who sell or supply alcohol within licensed premises.</p> <p>(c) That the customer signs on receipt of delivery of alcohol.</p> <p>(d) Delivery drivers and click and collect staff keep refusal registers.</p> <p>(e) That orders are not left in nominated places.</p>	
44	<p>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 –</p> <p>(a) A daybook kept on the premises from which the alcohol is dispatched, and</p> <p>(b) A delivery book or invoice carried by the person delivering the alcohol.</p> <p>Information referred to above must include –</p> <p>(i) The quantity, description, and price of the alcohol, and</p> <p>(ii) The name and address of the person to whom it is to be delivered to.</p>	SPS, PIPH, PCYPFH

Byelaws Prohibiting the Consumption of Alcohol in Designated Places		
<u>Number</u>	<u>Condition</u>	<u>Licensing Objectives</u>
45	The Licence Holder must take care to clearly mark on the plans for the event the boundary of the venue to be included in the occasional licence.	PCD, PPN, PIPH
46	<p>The Licence Holder shall take reasonable steps to inform customers of the existence and effect of the Byelaw.</p> <p>The Licence holder must display visible signage to this effect, at exit points from the licensed area, the minimum size of which will be A4.</p>	PCD, PPN, PIPH

**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 – 20<sup>th</sup> December 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.

The applications were all made before approval of the Board's New Statement of Licensing Policy which took effect from 1<sup>st</sup> November 2023. In terms of the revised Scottish Guidance for Licensing Authorities applications must be determined under the Policy Statement which informed applicants of the Board's intentions, which means that these applications need to be determined under the Board's previous Policy Statement. Only applications received and processed after 1<sup>st</sup> November 2023 will be subject to the new Policy Statement.

This means that the Board's overprovision policy does not apply to the applications listed at **Appendix 1** to this Report.

All Applicants have, however, opted to agree the local conditions set out under the new Policy Statement as listed against each application in **Appendix 1**.

### **Recommendations**

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

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

the applications made, whether said applications should be granted or refused.

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

- 2.1. The applications referred to in **Appendix 1** of this report have not been previously considered by the Board.
- 2.2. The Depute Clerk has determined that the applications for major variation of premises licences listed at **Appendix 1** to this report are non-contentious applications and asks that the Board consider same.

## **3. Discussion**

### **Consultations**

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

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

### **Objections and Representations**

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

(a) There are no valid objections to the application.

(b) the size and capacity of the premises, the general nature of the premises, and any entertainment to be provided on the premises are to be substantially the same as at the date of the application; and

(c) the hours sought in the Operating Plan are within the Licensing Board's general policy on Licensing Hours as set out in its Statement of Licensing Policy.

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

3.6. The Board indicated in its Policy Statement that local conditions would apply to premises licences in certain circumstances. The Depute Clerk has listed the relevant conditions it is recommended that the Board apply to the licence in the table in **Appendix 1**. The Applicant has agreed to the proposed conditions in each case. **Appendix 2** contains the list of available local conditions, as set out in the Board's Policy Statement.

3.7. Any applicant who has taken issue with representations made will have their application considered at a full hearing of the Board, which will be the subject of a separate report.

3.8. In light of the fact that these applications are considered to be non-contentious, they have been put to the Board for consideration without the applicants requiring to be present.

3.9. If the Board does not consider that this is a sufficient hearing to consider the application, then consideration of the application should be deferred to a future

Board Meeting to allow for further information to be provided and/or to allow the applicant to be cited to attend.

### **Implications**

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

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

### **Procedure**

3.12 Each application should be considered on its own merits.

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

(a) To grant the application;

(b) Refuse the application;

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

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

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

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

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

4.1 The Board must determine this matter on its own merits in accordance with the legal tests set out in the relevant legislation. The Board is a separate legal entity



to Aberdeenshire Council and therefore the Council's priorities do not apply to this report.

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

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

**Table 1 Risks and Implications**

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

4.4 An Integrated Impact Assessment has not been carried out as the processing of the applications has not identified any issues that would fall within the remit of the IIA and the Board must determine this matter in line with the legal test.

4.5 There are no staffing and financial implications.

4.6 The Council's Corporate and Directorate Risk Registers do not apply to the Licensing Board as it is a separate legal entity.

4.7 The Council's Town Centre Principle does not apply in respect of this matter as the Licensing Board is a separate legal entity.

## **5. Governance**

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

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

**Report Prepared by: Fiona M Stewart, Senior Solicitor (Governance), Depute Clerk to the Board and Harriet Tevendale, Paralegal**  
**Date: 12<sup>th</sup> December 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/00233/21 LK/HT**

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

James Emmerson  
c/o Milton Brasserie  
J&R Restaurants Ltd  
Milton of Crathes  
Banchory  
AB31 5QH

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

Milton Brasserie  
J&R Restaurants Ltd  
Milton of Crathes  
Banchory  
AB31 5QH

	EXISTING LICENSED HOURS		PROPOSED LICENSED HOURS	
	ON SALE	OFF SALE	ON SALE	Off Sale
<b>Monday</b>	11:00 – 01:00	10:00 – 22:00	No change	No change
<b>Tuesday</b>	11:00 – 01:00	10:00 – 22:00	No change	No change
<b>Wednesday</b>	11:00 – 01:00	10:00 – 22:00	No change	No change
<b>Thursday</b>	11:00 – 01:00	10:00 – 22:00	No change	No change
<b>Friday</b>	11:00 – 01:00	10:00 – 22:00	No change	No change
<b>Saturday</b>	11:00 – 01:00	10:00 – 22:00	No change	No change
<b>Sunday</b>	11:00 – 01:00	10:00 – 22:00	No change	No change

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

**The applicant wants to:**

- Add an outdoor seating area which is to be used for the provision of food and alcohol.

**Certificate of Confirmation**

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

**2. Brief outline of representations made**

**Police Scotland**

A representation was made seeking the addition of conditions, namely:

1. The outdoor drinking area is to be suitably delineated by a physical barrier or similar;
2. The area is 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 area;
4. No amplified music will be played within the outdoor drinking area

**LSO**

A representation was made highlighting the following:

1. The applicant had made a change to their Operating Plan in respect of children and young person access which was not accounted for in the application form
2. It was highlighted that the capacity noted on the current premises licence is 173 but the capacity on the updated operating plan will be 142 which is inconsistent with the addition of a drinking area where you would expect the capacity to increase.
3. The LSO has requested that Local Conditions 1, 2, 3, 4, 5, 6, 19, 21, 31, 32, 33 be added to the licence.

### **Planning**

The Planning Service noted that there is no planning permission in place for the outdoor decking comprising the outdoor drinking area. \*\*

\*\* It has been agreed with Planning Services that the variation, if granted by the Board, will be issued with a notice to the applicant advising that the outdoor decking area cannot be used until all other legal consents have been obtained. Planning is pursuing the planning consent under planning legislation.

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

3. Applicant's response to representations
  - The applicant was agreeable to the conditions suggested by Police Scotland and also the Local Conditions suggested by the LSO.
  - The applicant confirmed that the capacity should be 142 and this would include the outdoor area. The applicant said that they have never been able to accommodate a capacity of 173 and is unclear as to why that is on the current licence.
  - The applicant updated the Operating Plan to ensure that the children and young person access was as it appeared on the current licence.
  - The applicant has confirmed that they will be in touch with the Planning Service regarding the outstanding planning permission. The applicant has been advised that the area should not be used until this permission is in place.

### **Recommended Local 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
7. Outdoor Drinking Areas – 31-35

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

- There are no conditions specific to this application.

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

LAPREM/00061/23

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

Kessock Service Station Ltd  
South Road  
Fraserburgh  
AB43 8TJ  
Per Janet Hood

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

Kessock Service Station  
South Road  
Fraserburgh  
AB43 8TJ

	EXISTING LICENSED HOURS		PROPOSED LICENSED HOURS	
	ON SALE	OFF SALE	ON SALE	Off Sale
<b>Monday</b>	N/A	10:00 – 22:00	No Change	No Change
<b>Tuesday</b>	N/A	10:00 – 22:00	No Change	No Change
<b>Wednesday</b>	N/A	10:00 – 22:00	No Change	No Change
<b>Thursday</b>	N/A	10:00 – 22:00	No Change	No Change
<b>Friday</b>	N/A	10:00 – 22:00	No Change	No Change
<b>Saturday</b>	N/A	10:00 – 22:00	No Change	No Change
<b>Sunday</b>	N/A	10:00 – 22:00	No Change	No Change

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

**The applicant wants to:**

1. Increase off-sales from 7.75 m2 to 14.12 m2
2. Additional activities to include online and telephone deliveries of groceries, food and alcohol
3. Update the address of the designated premises manager.

Note: This application is not subject to the Board's new overprovision policy as it was lodged and processed prior to the new Policy taking effect on 1<sup>st</sup> November 2023.

**Certificate of Confirmation**

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

**7. 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 below conditions:

Deliveries

there is a recorded age verification system in place in respect of remote/online sales and that 'Challenge 25' is carried out at any point of collection or delivery of alcohol.

**LSO**

The Licensing Standards Officer went to visit the premises and confirmed that the 21-day Site Notice was on display and signed.

They have advised the following needs to be amended:

#### Operating Plan

Question 8 - Premises Manager: I note the premises manager has updated her address in the operating plan. The issue date (of the personal licence) reflects issued 11/06/2013; however as noted the personal licence was renewed and therefore this date should reflect the issue date as 9/06/2023.

Please update the operating plan to reflect renewal of personal licence.

#### Licensing Objectives Risk Assessment

Request the licensing objectives risk assessment is updated to include measures in line for:

- deliveries in line with the licensing objectives underpinning the Licensing (Scotland) Act 2005 and recommended \*specific conditions as noted below:

#### Schedule 119

Delivery of alcohol from vehicles etc.

(1) A person who, pursuant to a sale of alcohol by that person, delivers the alcohol from a vehicle or receptacle without the information mentioned in subsection

(2) having been entered, before the despatch of the alcohol, in—

- (a) a daybook kept on the premises from which the alcohol is despatched, and
- (b) a delivery book or invoice carried by the person delivering the alcohol,

(2) The information referred to in subsection (1) is—

- (a) the quantity, description, and price of the alcohol, and
- (b) the name and address of the person to whom it is to be delivered.

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

#### Local Conditions

- 1, 2, 3, 4, 19, 21.

**(note no alcohol storage as confirmed during my site visit; alcohol purchased will go directly onto the alcohol sales area, therefore no requirement for condition 6).**

#### Specific Conditions

##### **Alcohol Deliveries and Internet Sales:**

- Age Verification policies for delivery drivers where the recipient of the alcohol is believed to be under the age of 25.

- Training for delivery drivers - such training to be the same level as staff who sell alcohol as per the Act requirements.
- Requirements 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.

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

8. Applicant's response to representations

- The applicant has accepted all conditions and provided updated documentation.

**Recommended Conditions for Licence:**

1. General Management for All Premises – Conditions 1-4
2. Noise – All Premises – Condition 5
3. Vulnerability – All Premises – Condition 19
4. CCTV – All Premises – Condition 21
5. Alcohol Deliveries, Click & Collect and Internet Sales – Conditions 43-44
6. Byelaws Prohibiting the Consumption of Alcohol in Designated Places – Conditions 45-46

**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/00033/23

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

Duncan's Ltd  
Unit 17  
Westhill Shopping Centre,  
Westhill  
AB32 6RL  
Per Janet Hood

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

Duncan's  
Unit 17  
Westhill Shopping Centre,  
Westhill  
AB32 6RL

	EXISTING LICENSED HOURS		PROPOSED LICENSED HOURS	
	ON SALE	OFF SALE	ON SALE	Off Sale
<b>Monday</b>	11:00 – 00:00	N/A	No Change	11:00 – 22:00
<b>Tuesday</b>	11:00 – 00:00	N/A	No Change	11:00 – 22:00
<b>Wednesday</b>	11:00 – 00:00	N/A	No Change	11:00 – 22:00
<b>Thursday</b>	11:00 – 00:00	N/A	No Change	11:00 – 22:00
<b>Friday</b>	11:00 – 01:00	N/A	No Change	11:00 – 22:00
<b>Saturday</b>	11:00 – 00.30	N/A	11:00 – 01:00	11:00 – 22:00
<b>Sunday</b>	11:00 – 23.45	N/A	11:00 – 00:00	11:00 – 22:00

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

**The applicant wants to:**

- Addition of off sales 11:00 – 22:00 daily
- Add activities of restaurant facilities; receptions; club meetings; dance facilities for events or receptions only; theatre live performances, comedians etc.
- Addition of outdoor drinking and updating the capacity of the premises to reflect 48 persons in external area - clement weather only.
- Extend terminal hour on Saturday to 1am.
- Extend terminal hour on Sunday to midnight.
- Remove activities of televised sport and gaming.
- Amend 5(f) of the operating plan to read acoustic music, comedians and magicians etc.
- Amend 5(e) of the operating plan to reflect the premises are open outwith core hours to provide food and non alcoholic refreshments, recorded music and may also be available at these times.
- Addition of deliveries of food and drinks both alcoholic and non alcoholic only – food can be delivered alone but no alcohol will be delivered without a meal.
- Extend licensed area to include the external decking as per layout plans submitted.
- Adding the activities on to the layout plan.
- Change premises licence description.
- Amendment to the times during which children and young persons will be allowed entry to the premises and amendment to the parts of the premises which they will be allowed entry.

**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 below conditions:

**outdoor drinking facilities**

- The area to be delineated by a physical barrier or similar;
- The area is subject to a terminal hour of 2200 hours daily;
- Signage to be displayed indicating that no alcohol is to be removed beyond the licensed area;
- No amplified music to be played therein.

**delivery of alcohol**

- there is a recorded age verification system in place in respect of remote/online sales and that 'Challenge 25' is carried out at any point of collection or delivery of alcohol.

**LSO**

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

**Local Conditions**

- 1, 2, 3, 4, 5 6, 19, 21, 31\* until 22:00 hours, 32, 33

**Specific Conditions**

- The licence holder shall ensure that –

- a) no amplified music shall be played within the outdoor seating area
- b) the outdoor area is delineated by a physical barrier
- c) signage is displayed indicating that alcohol is not to be removed from the outdoor area

- For deliveries of alcohol the licence holder shall ensure that –

- a) there is an age verification policy for delivery drivers where the recipient of the alcohol is believed to be under the age of 25
- b) delivery drivers are trained to the same level as staff who sell alcohol within the licensed premises
- c) that the customer signs on receipt of delivery of alcohol
- d) the delivery driver keeps refusal registers
- e) that order are not left in nominated place

**Environmental Health**

Environmental Health have advised that the outdoor space is immediately next to residential housing. To protect amenity, the planning approval for the outdoor space restricts operation to 08:00-21:00 Monday to Saturday and 08:00-20:00 Sunday.

Environmental Health requests that these restrictions are mirrored in the licence.

In addition, equipment associated with amplified music should not be located in outdoor areas.

## Planning

The Planning Service has no observations to the above variation of licence application but would like to highlight the following conditions that are part of planning permission approval APP/2022/1069 -

The outdoor seating areas were granted planning permission for a temporary period until 4 July 2025 (the cessation date); and the outdoor seating areas shall not operate out with the hours of 08.00-21.00 Monday to Saturday and 08.00-20.00 Sunday.

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

5. Applicant's response to representations
  - The applicant has accepted all conditions.

### Recommended Conditions for Licence:

1. General Management for All Premises – Conditions 1-4
2. Noise – All Premises – Condition 5
3. Lockfast Store – All Premises – Condition 6
4. Children and Young Persons – Conditions 7-11
5. Vulnerability – All Premises – Condition 19
6. CCTV – All Premises – Condition 21
7. Members Clubs – Conditions 22 - 30
8. Beer Gardens and outside Drinking Areas – Conditions 31 – 35 \*\* **Terminal Hour of condition 31 being restricted to 9pm (Monday to Saturday) & 8pm (Sunday)**
9. Festive Season Conditions for Premises opening after 1.00am – Conditions 38-42
10. Alcohol Deliveries, Click & Collect & Internet Sales – Conditions 43-44

### Conditions specific to the application

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

- equipment associated with amplified music shall not be located in outdoor areas
- the outdoor seating areas shall not operate out with the hours of 08.00-21.00 Monday to Saturday and 08.00-20.00 Sunday

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

LAPREM/00093/23

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

Tarland Golf Club  
Per Euan Wallace  
Aberdeen Road  
Tarland  
Aboyne  
AB34 4TB

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

Tarland Golf Club  
Aberdeen Road  
Tarland  
Aboyne  
AB34 4TB

	EXISTING LICENSED HOURS		PROPOSED LICENSED HOURS	
	ON SALE	OFF SALE	ON SALE	Off Sale
<b>Monday</b>	09:30 – 22.30	N/A	No Change	No Change
<b>Tuesday</b>	09:30 – 22.30	N/A	No Change	No Change
<b>Wednesday</b>	09:30 – 22.30	N/A	No Change	No Change
<b>Thursday</b>	09:30 – 22.30	N/A	No Change	No Change
<b>Friday</b>	09:30 – 22.30	N/A	09:30 – 00:00	No Change
<b>Saturday</b>	09:30 – 22.30	N/A	09:30 – 00:00	No Change
<b>Sunday</b>	09:30 – 22.30	N/A	No Change	No Change

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

**The applicant wants to:**

- Increase the terminal hour on a Friday and Saturday from 22:30 to 00:00
- Addition of recorded music as an activity
- Update of the activities in 5(f) of the operating plan to reflect food theme nights/darts/quiz nights
- Removal of seasonal variations

**Certificate of Confirmation**

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

Brief outline of representations made

**LSO**

The Licensing Standards Officer went to visit the premises and confirmed that the 21-day Site Notice was on display and signed.

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

Local Conditions

- 1, 2, 3, 4, 5, 6, 19, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30

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

4. Applicant's response to representations

- Applicant has accepted all conditions.

**Recommended Conditions for Licence:**

1. General Management for All Premises – Conditions 1-4
2. Noise – All Premises – Condition 5
3. Lockfast Store – All Premises – Condition 6
4. Children and Young Persons – Conditions 7-11
5. Vulnerability – All Premises – Condition 19
6. CCTV – All Premises – Condition 21
7. Members Clubs – Conditions 22 - 30

**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/00075/23/HT

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

Twin Pillars Ltd  
C/O Dennis Forsyth  
Cheers Bar  
10A Broad Street  
Fraserburgh  
AB43 9AH

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

Cheers Bar  
10A Broad Street  
Fraserburgh  
AB43 9AH

	EXISTING LICENSED HOURS		PROPOSED LICENSED HOURS	
	ON SALE	OFF SALE	ON SALE	Off Sale
<b>Monday</b>	09:00 - 01:00	10:00 – 22:00	No Change	No Change
<b>Tuesday</b>	09:00 - 01:00	10:00 – 22:00	No Change	No Change
<b>Wednesday</b>	09:00 - 01:00	10:00 – 22:00	No Change	No Change
<b>Thursday</b>	09:00 - 01:00	10:00 – 22:00	No Change	No Change
<b>Friday</b>	09:00 - 01:00	10:00 – 22:00	No Change	No Change
<b>Saturday</b>	09:00 - 01:00	10:00 – 22:00	No Change	No Change
<b>Sunday</b>	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:**

- Addition of non-serviceable accommodation – 6 bedrooms (3 double and 3 single)
- Addition of a new extended outdoor drinking area
- Addition of activities to operating plan – comedy shows, card games (poker), board games/dominoes, quiz nights, bingo and barbecues
- Updating Children/young person’s access in the premises.
- Amend beer garden capacity from 130 to 100
- Amend layout plan to show the addition of the accommodation areas and new extended outdoor drinking area.
- Further amendment to the layout plan to reflect bedrooms, kitchen, living room, office, and store on the first floor of the premises.
- Licensing risk assessment has been reviewed and modified to incorporate these changes.

**Certificate of Confirmation**

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

- Brief outline of representations made

## Planning

Planning Services have been consulted on your application for a variation to your licence for the above premises.

It is noted that the outdoor seating/drinking area has been extended and this would require an application for planning permission for change of use of this land to form an extension to the existing public house and beer garden.

The floor plan also shows non serviceable accommodation on the first and second floors. This element also requires planning permission for change of use to Class 7 Use.

Planning Permission has been approved and granted and this representation has been resolved.

## LSO

The LSO raised the following points which needed addressed/amended.

### Application Form:

I note the applicant has not requested the description of the premises licence to be updated to reflect the addition of first and second floor non serviceable accommodation, kitchen, living room and office with storage. I request the applicant to update this accordingly.

### Layout Plan:

The layout plan key refers to private area, marked as Green Hatched – I've been unable to identify any private areas; applicant to confirm, and if no private areas, then green hatch on key to be removed, or if private areas, to mark clearly on the layout plans.

The breakdown of capacity of premises marked on the layout plans, refer to Accommodation x 30, this is incorrect, accommodation should reflect capacity as 10, as per capacity referred to in Q8 of the operating plan and the remaining x 20 tbc, as noted below ref \*Q7 of the Operating Plan.

### Operating Plan:

Q6 – must be updated to reflect the statement included in the licensing objectives risk assessment at point 5.1-5.7 - in respect of protection Children & Young Persons from harm ref Terms and Times of access. *“Over 16s only allowed on the premises after 11pm as part of social functions when accompanied by a responsible adult. This entry is restricted to meals in the restaurant during the day/early evening and private parties held in the Snug or conservatory at night. There is a policy statement displayed covering this”.*

\*Q7 - Capacity refers to other areas x 20 – for clarification can the applicant be broken down which areas the x 20 refers to, see also comments noted below in terms of risk assessment points 6 & 10 ref training room.

Licensing Objectives Risk Assessment - to be updated with the following points:

2.2 / 2.2 refers to capacity of outdoor area as 130, however as per application this is reduced to 100 – please update RA.

5. Paragraph header requires updating to reflect the licensing objective of Protecting Children and Young person from Harm.

\*6. General / 10. Cheers Tavern Accommodation: refers to “Adjoining *the premises and fronting on to Broad Street is the “Tavern which consists of 5 letting bedrooms, an office and a training room c/w a small kitchen facility”* this statement should be updated to reflect applicants’ proposal for 6 rooms, office, living room: no mention of the training room? If this room is used for this purpose (training room) then it should be reflected on the layout plan and operating plan under capacity.

9. Extension to outdoor Area, reflects Occupancy levels seated at 100, however the application reflects capacity of extended outdoor area of 140.

Please exhibit amended documentation.

Conditions:

I recommend the following local conditions are attached, should the Licensing Board see fit to grant this application in line with the licensing boards new policy:

- General 1 – 4,
- Noise 5,
- Lockfast 6,
- Children & Young Person 7-11,
- Adult Entertainment 18,
- Vulnerability 19,
- CCTV 21,
- Beer Garden & Outside drinking areas 31-34,
- Festive 38 – 42
- Byelaws 45-46

Specific conditions:

In respect of SIA Door Stewards, whilst no requirement on a day-to-day basis, the premises licence holder has stated in the licensing objectives risk assessment, under Preventing Crime & Disorder 1.1 – 1.15, “*Trained and (SIA) licensed door staff used on Friday and Saturday 2x, or at any other time the premises is expected to become busy (such as large events, festive period and special occasions)”*”

- 1) I therefore recommend Condition 20 as a specific condition a minimum of x 2 SIA for:
- a) Friday & Saturdays at peak times
  - b) for large events
  - c) festive periods of peak times, and
  - d) for special occasions.

It is noted that the overall capacity has increased to 546 (not including accommodation areas) and now has two entry / exit points to manage; therefore, the premises licence holder must assess the number of SIA stewards required at any one time in order to manage the premises and patrons.

2) 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 and SIA shall be informed of the policy. The policy shall be made available to customers, and for inspection by Police Scotland and the LSOs on request. The policy shall be reviewed regularly, and a detailed record of reviews kept. Such policy must be provided to the licensing board for consideration and if subsequently updated, then revisions must also be agreed by the licensing board

**Environmental Health**

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

Due to the potential for a detrimental impact on neighbouring noise sensitive properties I would request that the following conditions are placed on the licensing consent:

- Amplified music noise from the premises shall be inaudible inside any sensitive receptors and at the site boundary between the hours 23:00 - 01:00.
- Amplified noise making equipment shall not be used externally.
- Beer Garden operating hours shall be limited to between 11:00 and 22:00 Monday to Sunday.

### **Building Standards**

Building Standards have advised there is a BW/2020/0957 which is sitting on temporary and until works are complete in the other part of the building, we will not be in a position to issue completion to the outdoor seating area.

They would also like clarification on whether the accommodation to first and second floor is still a flat or if this has been changed? If this has then we will need evidence of building warrant for this as we have them as flats from historic warrants.

These issues have been rectified with Building Standards directly and their representation has now been removed.

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

4. Applicant's response to representations

- Applicant has accepted all conditions and provided documentation to be approved by the LSO

### **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. Adult Entertainment – Condition 18
6. Vulnerability – All Premises – Condition 19
7. Door Supervisors – Condition 20\* \* a minimum of x 2 SIA for: Friday & Saturdays at peak times, for large events, festive periods of peak times, and for special occasions.
8. CCTV – All Premises – Condition 21
9. Beer Gardens and outside Drinking Areas – Conditions 31 – 35
10. Festive Season Conditions for Premises opening after 1.00am – Conditions 38-42
11. Byelaws – Conditions 45-46

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

1. Amplified music noise from the premises shall be inaudible inside any sensitive receptors and at the site boundary between the hours 23:00 - 01:00.
2. Beer Garden operating hours shall be limited to between 11:00 and 22:00 Monday to Sunday.
3. 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 and SIA shall be informed of the policy. The policy shall be made available to customers, and for inspection by Police



Scotland and the LSOs on request. The policy shall be reviewed regularly, and a detailed record of reviews kept. Such policy must be provided to the licensing board for consideration and if subsequently updated, then revisions must also be agreed by the licensing board.






**\*\*It is recommended that this application is granted in principle subject to receipt of an amended application form, Layout plan, operating plan, and risk assessment.**

## APPENDIX 2

### Local Conditions – Premises Licences

#### The Aberdeenshire Licensing Board

#### Local Conditions - Premises Licences

Licensing 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

General Management - All Premises		
Number	Condition	Licensing Objectives
1	The provisions relating to the 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 conditions at all times.	SPS, PPN
3	Premises Licence Holders must ensure that Refusal Registers and Daily Incident Logs are accessible for inspection by Police Scotland and Licensing Standards Officers on request.	PCD, SPS
4	The Licence Holder must ensure that any general authorisation for the sale of alcohol required within the premises is – (i) in writing, (ii) available for inspection by Police Scotland and Licensing Standards Officers on request, (iii) brought to the attention of and signed by all parties and (iv) enforced by the Premises Manager.	PCD, SPS, PPN, PIPH. PCYPFH

Noise – All Premises		
Number	Condition	Licensing Objectives
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

<b>Lockfast Store – All Premises</b>		
<b>Number</b>	<b>Condition</b>	<b>Licensing Objectives</b>
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

<b>Children and Young Persons – On-Sales Premises</b>		
<b>Number</b>	<b>Condition</b>	<b>Licensing Objectives</b>
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.	SPS, 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

<b>Premises Providing Late Night Entertainment – On-Sales Premises</b>		
<b>Number</b>	<b>Condition</b>	<b>Licensing Objectives</b>
12	Alcohol shall be provided for consumption on the premises only.	PCD, SPS, PPN
13	The entertainment to be provided shall be XXX (to be defined by the Board on a case-by-case basis).	PCD, SPS, PPN
14	The entertainment provided shall be on a continuous basis with breaks of not more than 15 minutes in any one hour.	PCD, SPS, PPN
15	All public notices of 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 and (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	PCD, SPS, PPN, PIPH

	and weapons within the venue and stating that criminal offences will be reported to Police Scotland.	
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 by Police Scotland and the LSOs on request. The policy shall be reviewed regularly, and a detailed record of reviews kept.	PCD, SPS, PPN, PIPH

#### Adult Entertainment – On-Sales Premises

Number	Condition	Licensing Objectives
18	Children and young persons are not permitted to attend any event involving adult entertainment.	PCYPFH

#### Vulnerability - All Premises

Number	Condition	Licensing Objectives
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 or distress.</p> <p>The Licence Holder must ensure that all staff, volunteers and stewards 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>	PCD, SPS, PPN, PIPH, PCYPFH

#### Door Supervisors – On-Sales Premises

Number	Condition	Licensing Objectives
20	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	PCD, SPS, PPN, PIPH

	<p>drink alcoholic liquor for the duration of their active employment. Their duties are to:</p> <ul style="list-style-type: none"><li>(a) Confirm that persons who seek access to the premises have paid for admission or have appropriate passes/invitations;</li><li>(b) Identify and refuse entry to drunken persons;</li><li>(c) Identify and refuse entry to any persons banned through pubwatch or by any other means;</li><li>(d) Actively police the premises and to perform all activities in line with their role under the Private Security Act 2001;</li><li>(e) Supervise entrance doors/access points at all times to ensure that no fire or other exits are blocked;</li><li>(f) Be aware of the fire safety precautions and procedures and all other policies and practices;</li><li>(g) Be aware of the premise's drug prevention policy;</li><li>(h) Provide assistance to patrons, including customer care, directions to facilities and health and safety;</li><li>(i) Ensure that no patron removes glasses, or open or closed vessels from the premises when exiting for any reason;</li><li>(j) Remain on the premises until the end of permitted hours and all patrons have vacated the premises, including patrolling the vicinity outside the premises to assist dispersal from the premises after the premises close;</li><li>(k) Be aware of the provisions of the Licensing (Scotland) Act 2005 which impact on the running of the premises</li><li>(l) All SIA Stewards must wear radios to allow for clear communication with one another and the reporting of any incidents with the Head Steward and, in respect of the licence, the responsible persons on duty.</li><li>(m) Stewards shall report all criminal and relevant matters to Police Scotland.</li></ul>	
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<b>CCTV – All Premises</b>		
<b>Number</b>	<b>Condition</b>	<b>Licensing Objectives</b>
21	<p>Where a CCTV system is installed, this must comply with the required standard and be maintained in working order and staff must be able to operate the system.</p> <p>Images recorded on CCTV must be kept for at least seven days and must be made available to Police Scotland on request.</p>	PCD, SPS, PPN

<b>Members Clubs</b>		
<b>Number</b>	<b>Condition</b>	<b>Licensing Objectives</b>
22	Members Clubs must comply with the provisions of Supplementary Policy Statement 7 of the Board's current policy statement.	PCD, SPS, PPN, PIPH, PCYPFH
23	Members Clubs shall adhere to the terms of the Club's constitution or rules attached to their premises licence.	PCD, SPS, PPN, PIPH, PCYPFH
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.	PCD, SPS, PPN, PIPH, PCYPFH
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.	PCD, SPS, PPN, PIPH, PCYPFH
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.	PCD, SPS, PPN, PIPH, PCYPFH
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	PCD, SPS, PPN, PIPH, PCYPFH

	any time, evidence of an up-to-date training certificate must be submitted to 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 bona-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

Number	Condition	Licensing Objectives
31	Beer Gardens and outside drinking areas must not be used for activities linked to the sale or consumption of alcohol after 10.00pm. These areas may be used after 10.00pm for the purposes of smoking only.	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 street cafes, 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 street cafes, beer gardens and outside drinking areas.	PCD, SPS, PPN, PIPH, PCYPFH
34	The Licence Holder shall ensure that: -  (a) No amplified music or noise emitted from the use of microphones, speakers or other forms of music entertainment shall be played within the area;  (b) The area is delineated by a physical barrier;	PCD, SPS, PPN, PIPH, PCYPFH

	(c) Signage is displayed indicating that alcohol is not to be removed from the area.	
35	Children and Young Persons may be present in the street café, beer garden or outside drinking area for the purpose of the consumption of food.	PCYPFH

### Street Cafes and Licensed Pavement Areas

Number	Condition	Licensing Objectives
36	<p>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>	PCD, SPS, PPN, PIPH, PCYPFH

### Hybrid Premises

Number	Condition	Licensing Objectives
37	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	PCD, SPS, PPN, PCYPFH



	commencement of operating as a nightclub at the premises.	
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### Festive Season Conditions for Premises Opening After 1.00 a.m.

Number	Condition	Licensing Objectives
38	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
39	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
40	There must be written policies in existence concerning – <ul style="list-style-type: none"> <li>• The evacuation of the premises; and</li> <li>• The prevention of the misuse of drugs on the premises.</li> <li>• Duty of care ('Vulnerability through Intoxication')</li> </ul>	PCD, SPS, PPN, PIPH, PCYPFH
41	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
42	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

Number	Condition	Licensing Objectives
43	The Licence Holder shall ensure that: <ul style="list-style-type: none"> <li>(a) 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.;</li> <li>(b) Delivery drivers and click and collect staff are trained to the same level as staff who sell or supply alcohol within licensed premises.</li> <li>(c) That the customer signs on receipt of delivery of alcohol.</li> </ul>	SPS, PIPH, PCYPFH

	<p>(d) Delivery drivers and click and collect staff keep refusal registers.</p> <p>(e) That orders are not left in nominated places.</p>	
44	<p>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 –</p> <p>(a) A daybook kept on the premises from which the alcohol is dispatched, and</p> <p>(b) A delivery book or invoice carried by the person delivering the alcohol.</p> <p>Information referred to above must include –</p> <p>(i) The quantity, description, and price of the alcohol, and</p> <p>(ii) The name and address of the person to whom it is to be delivered to.</p>	SPS, PIPH, PCYPFH

### Byelaws Prohibiting the Consumption of Alcohol in Designated Places

Number	Condition	Licensing Objectives
45	The Licence Holder must take care to clearly mark on the plans for the event the boundary of the venue to be included in the occasional licence.	PCD, PPN, PIPH
46	<p>The Licence Holder shall take reasonable steps to inform customers of the existence and effect of the Byelaw.</p> <p>The Licence holder must display visible signage to this effect, at exit points from the licensed area, the minimum size of which will be A4.</p>	PCD, PPN, PIPH

**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)<sup>1</sup>**
  - (b) **That the Licensing Board considers that the granting of the application would otherwise be inconsistent with one or more of the Licensing objectives.**
  - (c) **that, having regard to –**
    - (i) **the nature of the activities proposed to be carried on in the subject premises,**
    - (ii) **the location, character and condition of the premises, and**
    - (iii) **the persons likely to frequent the premises****The Board considers that the premises are unsuitable for use for the sale of alcohol in accordance with the proposed variation.**
  - (d) **that the Board considers that, if the application were to be granted, there would, as a result, be overprovision of licensed premises, or licensed premises of the same or similar description as the subject premises (taking account of the variation) in the locality.**
- (6) **Where the Licensing Board grants the application, the Board may make a variation of the conditions to which the licence is subject.**
- (7) **Where the Licensing Board REFUSES the application-**

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

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

1. 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 – 20 DECEMBER 2023**

**LICENSING (SCOTLAND) ACT 2005**

**APPLICATION FOR A PREMISES LICENCE - HEARING**

**FARM TO TABLE, LAURENCEKIRK**

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

- 1.1 This report relates to an application for a grant of a premises licence where a representation has been received due to the application being out with the terms of the Board's Licensing Policy Statement and which requires consideration by the Board. Premises Licences can only be determined by the Licensing 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 grant of a premises licence for Farm to Table, Westerton of Pitarrow, Laurencekirk AB30 1RT. The application was lodged on 28<sup>th</sup> March 2023 by Westerton Farmers, Farm Office, 7 Cairnton Cottages, Cairnton Farm, Fordoun, Laurencekirk AB30 1SN by their agent Ross

Adamson, General Manager . A revised application form was subsequently lodged on 11th September 2023.

## **Proposal**

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**

### **Consultations**

3.1. The Depute Clerk carried out an initial examination of the application, following which, various matters required to be rectified by the applicant to enable the application to be processed. The application was then processed and the following bodies were consulted thereon:

- (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) Public Health
- (f) The appropriate Community Council and
- (g) Neighbouring Occupiers.

3.2. At the same time as the application was 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 that the site notice had been appropriately displayed.

3.3. The application was also advertised on the Council's Website.

### **Objections and Representations**

3.4. Representations were made as follows:

(a) Licensing Standards Officers

3.5. The representations are attached and form **Appendix 2** to this report.

3.6. The representations were copied to the applicant on 24 October 2023

### **Implications**

3.7. If the Board determines that the premises licence should be granted, the lockfast store shall be located out with the premises, which is contrary to the licensing policy.

### **Conditions**

3.8. If granted, certain mandatory conditions listed in the Licensing (Scotland) Act 2005 will attach to premises licences.

3.9. If granting the application, the following local conditions will apply to the licence, as agreed in advance with the applicant:

- General Management for All Premises – Conditions 1 – 4
- Noise – All Premises – Condition 5
- Lockfast Store – All Premises – Condition 6 (Subject to hearing)
- Vulnerability – All Premises – Condition 19
- CCTV – All Premises – Condition 21

3.10. The Board may also attach conditions which are specific to the premises where required. There are none applied to this application.

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

## Procedure

- 3.11 Each application should be considered on its own merits.
- 3.12 The legal test is attached as **Appendix 4** to this report.
- 3.13 The Applicant has been requested to attend the Board
- 3.14 Those consultees who have lodged representations have been asked to attend the Board.
- 3.15 Copies of this report together with the Legal Test and Board's Guidance on procedures for Hearings, were issued to all Parties .
- 3.16. All parties have been given the opportunity to attend the Board Meeting by phone, to lodge written submissions or both. Any written submissions lodged will be circulated to all parties prior to the meeting and will form **Appendix 5** to this report.
- 3.17. Members should follow the procedure outlined at **Appendix 6** of this report.
- 3.18. 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
  - (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.
- 3.19. When coming to a decision the Board must consider the evidence provided and the contents of the legal test. Supplementary advice and information can be made available by Officers, if required.

## 4 Priorities, Implications and Risk

- 4.1 The Board must determine this matter on its own merits in accordance with the legal 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. The application is out with the terms of the Board's policy.

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 1.5 of the Scheme of Delegation which provides that consideration of a premises/provisional premises licence is a matter reserved to the Board.

**Karen Wiles**

**Clerk to the Board**

**Report Prepared by** Fiona Stewart, Senior Solicitor (Governance), Depute Clerk to the Board and Harriet Tevendale, Paralegal

**Date: 5th December 2023**

**IDOX REFERENCE NUMBER: LAPREM/00252/22**

**List of Appendices:**

Appendix 1 – Application

Appendix 2 – 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, AND RISK ASSESSMENT**

**Licensing (Scotland) Act 2005, section 20**  
**APPLICATION FOR PREMISES LICENCE/PROVISIONAL**  
**PREMISES LICENCE\***

\*Delete as appropriate

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

To:

**The Depute Clerk:-  
Aberdeenshire Licensing Board  
Aberdeenshire Council  
Legal & People  
Viewmount  
Arduthie Road  
Stonehaven  
AB39 2DQ**

**APPLICANT INFORMATION** *Licensing (Scotland) Act 2005, section 20(1)*

**Question 1**

*Name, address and postcode of premises to be licensed.*

Farm To Table  
Westerton of Pitarrow  
Laurencekirk  
AB30 1RT

**Question 2**

*Particulars of applicant*

2(a) *Where applicant is an individual, provide full name, date and place of birth, and home address including postcode.*

N/A

2(b) *Where applicant is a partnership, please provide full name and postal address of partnership.*

Westerton Farmers  
Farm Office, 7 Cairnton Cottages  
Cairnton Farm  
Fordoun  
Laurencekirk  
AB30 1SN

2(c) *Where applicant is a company, please provide name, registered office and company registration number.*

N/A

2(d) *Where the applicant is a club or other body, please provide full name and postal address of club or other body.*

N/A

2(e) *Where applicant is a partnership, company, club or other body, please provide the names, dates and places of birth, and home addresses of connected persons.\**

David Gammie

[REDACTED]

Fiona Smith

[REDACTED]

**\* Connected person is defined in section 147(3) of the Licensing (Scotland) Act 2005.**

**Question 3**

*Previous applications*

<i>Has the applicant been refused a premises licence under section 23 of the Licensing (Scotland) Act 2005 in respect of the same premises?</i>	<b>YES/NO*</b>
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*If YES – provide full details*

**Question 4**

*Previous convictions*

<i>Has the applicant or any connected person ever been convicted of a relevant or foreign offence<sup>a</sup></i>	<b>YES/NO*</b>
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*\*If YES – provide full details*

*For the purpose of this Act, a conviction for a relevant offence or foreign offence is to be disregarded if it is spent for the purpose of the Rehabilitation of Offenders Act 1974*

<b>Name &amp; position (if applicable)</b>	<b>Date of conviction or sentence</b>	<b>Court</b>	<b>Offence</b>	<b>Penalty</b>

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<sup>a</sup> In addition to any convictions held by the applicant at the time of application, applicants should also familiarise themselves with the contents of section 24(1) of the Licensing (Scotland) Act 2005 in respect of any convictions for relevant or foreign offences which they may receive during the period beginning with the making of the premises licence application and ending with determination of the application.

**DESCRIPTION OF PREMISES** *Licensing (Scotland) Act 2005, section 20(2)(a)*

**Question 5**

5 *Description of premises (where application is submitted by a members' club, please also complete question 6)*

<p>Farm shop selling fresh vegetables, fruit, salads, other food and drink and locally produced goods. We also offer a small menu of takeaway food and hot drinks.</p> <p>We are a small, single floor/storey retail premises in a rural location on a farm.</p> <p>The shop is located 3 or 4 miles outside of Laurencekirk.</p>
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**Question 6**

6 *To be completed by members' clubs only*

<p><i>Do the club's constitution and rules conform to the requirements of regulation 2 of the Licensing (Clubs) (Scotland) Regulations 2007?</i></p>	<p>YES/NO*</p>
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*\*Delete as appropriate*

**ADDITIONAL MATERIAL – PREMISES LICENCE APPLICATION LODGED NO LATER THAN 16TH JANUARY 2009**

<p><i>Is there a licence under the Licensing (Scotland) Act 1976 held in respect of the premises?</i></p>	<p>YES/NO*</p>
---	----------------

*\*Delete as appropriate*

<p><i>If so, do you consider the application to be a "Grandfather Rights" application (i.e. one falling within article 18 or 19 of the Licensing (Transitional and Saving Provisions) (Scotland) Order 2007)?</i></p>	<p>YES/NO*</p>
---	----------------

*\*Delete as appropriate*



**DECLARATION BY APPLICANT OR AGENT ON BEHALF OF APPLICANT**

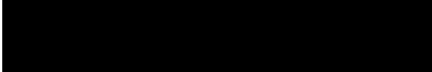
**If signing on behalf of the applicant please state in what capacity.**

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

Signature  .. \* (see note below)

Date 23 June 2023 .....

Capacity General Manager..... ~~APPLICANT~~/AGENT (delete as appropriate)

Telephone number and email address of signatory 

**GDPR**

The applicant, any connected person and any other person who has supplied personal information as part of this application **MUST READ AND UNDERSTAND THE ATTACHED PRIVACY NOTICE.**

<i>I have enclosed the relevant documents with this application – please tick the relevant boxes</i>	
<i>Operating plan</i>	✓
<i>Layout plan</i>	✓
<i>Planning certificate</i>	✓
<i>Building standards certificate</i>	✓
<i>Food hygiene certificate</i>	✓

**\* 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.

**Licensing (Scotland) Act 2005**  
**Section 20(2)(b)(iia)**

**DISABLED ACCESS AND FACILITIES STATEMENT**

**Question 1**

**Disabled Access and Facilities**

1(a)	Is there disabled access to the premises	YES/ <del>NO</del> *
1(b)	Do you have facilities for those with a disability	YES/ <del>NO</del> *
1(c)	DO you have any other provisions available to aid the use of the premises by disabled people	YES/ <del>NO</del> *
<i>*Delete as appropriate</i>		

If you have answered YES to any of the questions above please complete, as appropriate, the following sections.

**Question 2**

**Disabled access to, from and within the premises**

Please provide a clear and detail description of how accessible the premises are for disable people. E.g. ramps, accessible floors, signage.

We have a car park with accessible parking spaces which are marked by signage. The parking is less than 50 metres from the main entrance. There is a drop-off point at the main entrance. From the car park to the entrance, there is level access. The car parking area is one single, level area running to the main entrance of the shop. There are no pavements, kerbs or separate paths. The main doors are double width and slide open automatically. The route through the shop between shop , shelving etc is 800mm wide, or more.

**Question 3**

**Facilities available**

Please describe in detail the facilities provided for disabled people e.g. disabled toilets, lifts, accessible tables.

We have accessible height sales/till counter, hand wash point and tables in seating area.

**Question 4**

**Other provisions**

Please provide details of any other provisions made to aid the use of the premises by disabled people e.g. assistance dogs welcome, large print menus.

Assistance dogs are welcome in the shop.

DECLARATION BY APPLICANT OR AGENT ON BEHALF OF APPLICANT

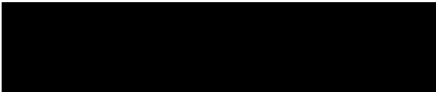
**If signing on behalf of the applicant please state in what capacity.**

The contents of this Disabled Access and Facilities Statement are true to the best of my knowledge and belief.

Signature  ..... \* (see note below)

Date 23/06/2023 .....

Capacity ..General Manager..... ~~APPLICANT~~/AGENT (delete as appropriate)

Telephone number and email address of signatory 

**\* Data Protection Act 1998**

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Licensing (Scotland) Act 2005, section 20(2)(b)(i) <b>OPERATING PLAN</b>	
<i>If you are completing this form by hand, please write legibly in block capitals using ink.</i>	
To: <b>The Depute Clerk to the:-                  (please tick the appropriate box)</b>  <input type="checkbox"/> North Board  <input type="checkbox"/> Central Board  <input checked="" type="checkbox"/> South Board	<p><b><i>Please send your application to :-</i></b></p> <p><b>Aberdeenshire Council                  Viewmount                  Arduthie Road                  Stonehaven                  AB39 2DQ</b></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?	<del>YES/NO</del> *
1(b) Will alcohol be sold for consumption solely OFF the premises?	YES/ <del>NO</del> *
1(c) Will alcohol be sold for consumption both ON and OFF the premises?	<del>YES/NO</del> *
*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>		
<i>Tuesday</i>		
<i>Wednesday</i>		
<i>Thursday</i>		
<i>Friday</i>		
<i>Saturday</i>		
<i>Sunday</i>		

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>	10:00	22:00
<i>Tuesday</i>	10:00	22:00
<i>Wednesday</i>	10:00	22:00
<i>Thursday</i>	10:00	22:00
<i>Friday</i>	10:00	22:00
<i>Saturday</i>	10:00	22:00
<i>Sunday</i>	10:00	22:00

Question 4

SEASONAL VARIATIONS

Does the applicant intend to operate according to seasonal demand?  YES  NO\* YES

\*If YES – provide details

We close in the early afternoon for a 1/2 day on Christmas Eve and Hogmanay.  
We are fully closed on Christmas Day and for the first week in January.

Question 5

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

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



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

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

Recorded music will be played via a small speaker/radio as background music.

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.

We offer other public-facing activities on site (outwith the premises to be licensed) such as pick your own vegetables, salads, herbs, a children's play area and animals. We also offer a small menu of takeaway food and hot drinks.  
We have some seating available where takeaway food and drink can be consumed. No alcohol can be consumed in these seating areas.

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?	YES/NO*
When fully occupied, are there likely to be more customers standing than seated?	YES/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/NO*
	*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

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

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

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

Question 7

CAPACITY OF PREMISES

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

The alcohol display area will be 3.48m<sup>2</sup>.

Question 8

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

Personal details

8(a) Name

Ross Adamson

8(b) Date of birth

[REDACTED]

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
04/02/2022	Aberdeenshire Council	AB-PER241

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  (see note below)

Date ~~22/06/2023~~ 23/06/2023 .....

Capacity : APPLICANT/AGENT (delete as appropriate).

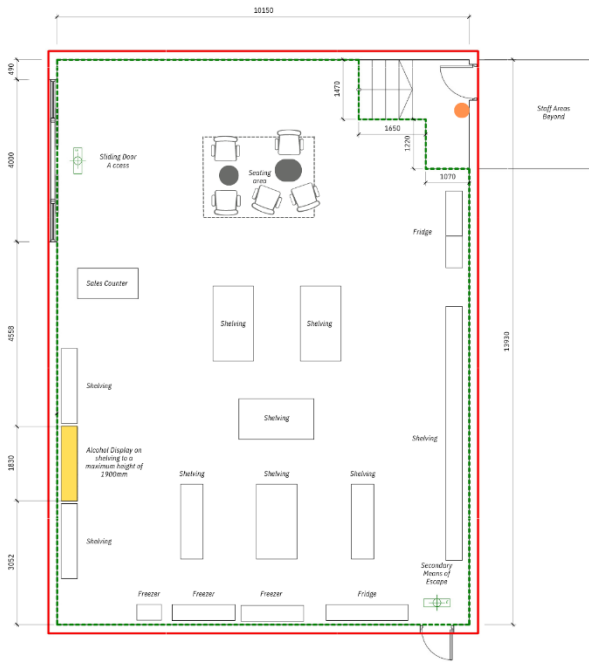
Telephone number and email address of signatory  .....

Address of Agent (if applicable)  
.....  
.....

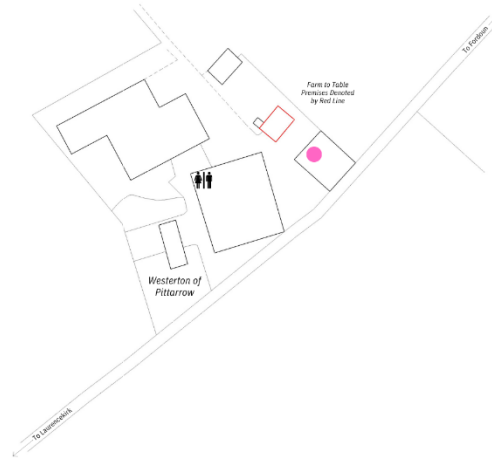
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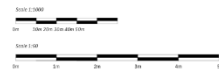




**Floor Plan**  
1 : 50



**Location Plan**  
1 : 1000



**Legend**

- Application Area —
- Public Accessible Areas including Children - - -
- Alcohol Display Area
- Alcohol Stock Locked Storage Area ●
- Electrical ●
- Illuminated Emergency Light Fixing □
- Fire extinguisher ●
- Toilets ♂ ♀

**REVISIONS**

No	Description	Date

**Client**  
Westerton Farmers

**Project**  
Farm to Table  
Westerton of Pittarrow Farm

**Drawing**  
Licensing Plan

Scale @ A1 Date Drawn  
As Indicated March 2023 LICENSING

## **The Licensing (Scotland) Act 2005 Aberdeenshire Licensing Board's Risk Assessment Guidance Note**

The aim of this document is to offer advice and assistance to licence holders in relation to carrying out a risk assessment exercise.

The Board, in its statement of Licensing Policy strongly recommended that licence holders undertake a risk assessment before making any application to the Board for a premises licence. The results of that risk assessment should then be submitted to the Board when lodging the application for a premises licence in terms of the Licensing (Scotland) Act 2005. By requesting applicants to carry out such an exercise the Board is promoting the licensing objectives. Applicants will also promote the licensing objectives through any action carried out in response to such an assessment.

The Board does not consider this to be too onerous a task. Risk assessments are commonplace and action may not be required under every heading.

The Board has sought to give applicants as much assistance with the process as possible. Each matter detailed in this document is by way of information and recommendation. Every premises is unique. Not all matters will be relevant to each premises. A risk assessment is as individual as an operating plan and will vary according to the nature of the business. Applicants best understand their own business and it is for applicants to decide what is appropriate in each case.

There are five basic principles to bear in mind when carrying out a risk assessment:-

1. Identify potential hazards in the premises
2. Decide who (e.g. employees, visitors) might be in danger where a risk does materialise.
3. Evaluate the risks arising from the hazards and decide whether your existing measures are adequate or whether more should be done to get rid of the risks or to control the risks.
4. Record your findings and details of the action you took as a result. Tell your employees about your findings.
5. Keep the assessment under review and revise it when necessary.



Applicants should be clear about giving reasons for their assessment of the risk for each matter listed.

Where applicants adopt a particular policy as a result of the risk assessment then the policy should be put in writing, and brought to the specific attention of appropriate staff members. It should be continually enforced and reviewed at regular intervals in light of changes of circumstance or incidents. It should be made available for inspection either by Grampian Police, a representative of the Board or Aberdeenshire Council or by the Licensing Standards officer.

The completed risk assessment will provide valuable information to the Board and demonstrate that applicants have taken these matters into account and are actively promoting the licensing objectives. It encourages voluntary participation in best practice and should mean that applicants will face less adverse representations from responsible authorities and the public. This, in turn, should reduce the need for the Board to (a) be too prescriptive in its statement of policy; and (b) hold detailed hearings and possibly attach conditions to premises licences.

**The Licensing Objectives are:**

- 1. Preventing crime and disorder**
- 2. Securing Public Safety**
- 3. Preventing public nuisance**
- 4. Protecting and improving public health**
- 5. Protecting children from harm**

This assessment is designed to assist you in carrying out your risk assessment, and so the headings follow the order of the licensing objectives.

1.	Licensing Objective: Prevent Crime and Disorder	High Risk	Med. Risk	Low Risk	Reasons for Assessment	Action Taken
	<b>Entry and Exit</b>					
1.1	Applicants should consider whether door supervisors or other security staff are required in respect of the venue and the licensable activity proposed.					N/A
1.2	<p>In the event that door supervisors are used by the applicant's premises:</p> <ul style="list-style-type: none"> <li>• Such persons must hold the relevant qualifications under the Private Security Industry Act 2001;</li> <li>• Should be properly trained and sufficient in number, both inside and outside the premises according to the nature and extent of the licensable activities carried on.</li> <li>• Should be required to vet, regulate and control persons entering or leaving the premises and to seek to ensure the prevention of crime and disorder but also to safeguard public safety and internal security at the premises;</li> <li>• Should be trained in, have regard to and comply with the Guidance for Door Stewards issued by Grampian Police, available from Grampian Police.</li> </ul>					N/A
1.3	External duties should include in particular the exclusion of persons who appear to have had too much to drink and/or who appear inclined to disorder. Duties inside the premises should include the monitoring of persons on the premises for excessive consumption of alcohol and/or who exhibit the potential for disorder.					N/A
1.4	In the event that door supervisors or other security staff are used, applicants should made appropriate arrangements for a daily register of staff and the recording of incidents in an approved incident log.					N/A
1.5	The daily register and incident log should be open to inspection by authorised officers of the Board, Aberdeenshire Council and Grampian Police on request.					N/A

1.	Licensing Objective: Prevent Crime and Disorder	High Risk	Med. Risk	Low Risk	Reasons for Assessment	Action Taken
1.6	Applicants should consider whether measures should be put in place 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. Please refer to Police Guidelines on this matter.					N/A
1.7	Where such measures are in place, applicants will also be expected to make arrangements to record the search of individuals and the seizure of any property which may be required for evidential purposes. Applicants will also be expected to provide a suitable receptacle for the safe retention of illegal substances and to inform the Police so that appropriate disposal can be arranged.					N/A
1.8	Applicants should also consider discouraging 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 Grampian Police.					N/A
1.9	For town centre venues the Board recommends the Safer Clubbing Guide, found at the following link: <a href="http://www.drugs.gov.uk/publication-search/young-people/safer-cubbing-guide.pdf?view=Binary">www.drugs.gov.uk/publication-search/young-people/safer-cubbing-guide.pdf?view=Binary</a> Applicants should confirm that the Guide has been considered and measures implemented where necessary.					N/A
1.10	Applicants 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. The Board recommends the existing Pubwatch Schemes as examples of good practice.					N/A
1.11	Applicants should consider whether a personal licence holder and/or the premises manager should be a member of a recognised licensee's association or other representative body such as Pubwatch.					N/A

1.	Licensing Objective: Prevent Crime and Disorder	High Risk	Med. Risk	Low Risk	Reasons for Assessment	Action Taken
1.12	Applicants should also note the advantages of consultation with the Police, particularly where events are of a character that is 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.					N/A
1.13	Applicants may consider the use of exclusions of known troublemakers from their premises to minimise the risk of disorder. In certain cases, organisations of licensees may consider the operation of exclusion or banning scheme so that known troublemakers are refused entry to all licensed premises in particular vicinity. If such a scheme is in force locally, applicants should consider whether to become part of it. In exceptional cases, applicants may seek to refer a particular case to the Police for consideration of an Anti-Social Behaviour Order (ASBO) to enforce an exclusion					N/A
1.14	Applicants should consider policies on managing groups of people, particularly larger, single sex groups.					N/A
1.15	Applicants should consider a policy to prevent the sale of alcohol to persons that appear to be drunk. This also promotes the objectives of preventing public nuisance and protecting public health. There is no legal definition of drunk and it is up to staff to decide whether to serve a particular person or to determine whether that person is too drunk. Staff should be made aware, in a written policy, of the signs that a person is too far under the influence of alcohol and when service should be refused e.g. the first signs are loss of inhibition, impairment of judgement and emotional effects, followed by impairment of speech and movement and loss of memory followed by acute alcohol poisoning, evidenced by impairment of automatic functions like breathing and heart rate. Applicants are encouraged to keep a refusals book and make the same available for inspection.			X	No consumption on premises under premises licence.  Premises is in remote rural location and unlikely to be visited by people who are already drunk.	Refusals log is in place on premises.

1.	Licensing Objective: Prevent Crime and Disorder	High Risk	Med. Risk	Low Risk	Reasons for Assessment	Action Taken
1.16	Applicants should consider adopting a policy to ensure patrons are not put in vulnerable situations after leaving e.g. allowing the phoning of a taxi and waiting in a specific area within the premises. Any policy should be in writing, advised to all staff members, where appropriate made clear to customers, be available for inspection, reviewed regularly and a detailed record of reviews maintained.					N/A
<b>Proof of Age</b>						
1.17	Challenge 25 – Applicants must request proof of age for all persons who appear to be under 25 who are trying to buy alcohol to demonstrate that they are actually over 18 years of age.			X	Typical age demographic of shop customers & nature of alcoholic goods sold (higher priced wines etc) means we generally see fewer younger adults in the premises.	Challenge 25 & associated team training are carried out & recorded.
1.18	Proof of age is a valid passport, a valid EU photocard driver's licence or a valid Young Scot or other approved card with the "PASS" logo/hologram. Proof of age means requesting proof, checking that the proof is valid, checking the proof of ID belongs to the person producing it and has no obvious signs of tampering.			X	Typical age demographic of shop customers & nature of alcoholic goods sold (higher priced wines etc) means we generally see fewer younger adults in the premises.	Challenge 25 & associated team training are carried out & recorded.
1.19	Applicants are encouraged to keep a refusals book and make the same available for inspection.			X	Refusals log book is in place in the event that a challenge & refusal is carried out by trained team member.	Refusals log is in place on premises.
<b>Glass and Bottles</b>						

1.	Licensing Objective: Prevent Crime and Disorder	High Risk	Med. Risk	Low Risk	Reasons for Assessment	Action Taken
1.20	Glasses and bottles may on occasion be used as weapons in and near licensed premises and can and do cause serious injury. Applicants should note that glass and bottles can impact upon public safety and cause a public nuisance in addition to the crime and disorder implications.					N/A
1.21	Applicants are expected to take reasonable steps to prevent the removal of glasses and opened bottles from premises.					N/A
1.22	Applicants should also consider policies which provide that, on appropriate occasions, all drinks are dispensed into toughened glassware or plastic containers and that at certain times during late hours of operation and/or when significant numbers of people are on premises there is exclusive use of toughened glassware or plastic containers including dispensing all bottled drinks into such vessels. Applicants should assess the potential risk of crime and harm and adopt an appropriate policy.					N/A
1.23	Applicants should have considered adopting written procedures for a system of regular glass/bottle/container collection and cleaning, as tidy areas that are regularly cleaned and monitored benefit customers and encourage better behaviour.					N/A
	<b>Byelaws on Alcohol in Designated Places</b>					
1.24	Where such orders are in force, applicants are expected to 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 premises.					N/A

2.	Licensing Objective Securing Public Safety	High Risk	Med. Risk	Low Risk	Reasons for Assessment	Action Taken

2.	Licensing Objective Securing Public Safety	High Risk	Med. Risk	Low Risk	Reasons for Assessment	Action Taken
2.1	Applicants may provide evidence that such matters have already been addressed within an existing health and safety risk assessment or similar in which case a separate risk assessment for these purposes is not required.					N/A
2.2	Applicants may have a capacity limit imposed on the premises through fire or building regulations, or both. However, applicants should note that the Board might seek to impose capacity conditions where there are no such limits, on grounds of safety, following representations on safety grounds. The Board may also seek to impose capacity figures which are lower than the capacity limit on crime and disorder grounds.					N/A
2.3	Applicants should demonstrate how they intend to control and maintain the agreed occupancy levels within the venue.					N/A
2.4	Applicants should consider adopting procedures for evacuation of the premises.		X		No high fire risk activities take place in premises (one single space with 3 exists available).  Medium risk based on shop electrical equipment (fridges, camera & till systems etc).	Evacuation procedure in place & all staff trained.
2.5	Applicants should have in place procedures for reporting accidents or incidents at the premises.			X	Retail premises with low risk of accidents/incidents occurring.	First aid kit & accident/incident reporting book in place on premises.

2.	Licensing Objective Securing Public Safety	High Risk	Med. Risk	Low Risk	Reasons for Assessment	Action Taken
2.6	Applicants should have in place procedures for routine maintenance of the premises and for daily inspections, with a record log.			X		Checks of premises, equipment etc take place & are recorded at start & end of each day.
2.7	Applicants should have in place procedures for checking all exit routes from the premises and signage at same.			X		Entry/exit checks take place daily & are recorded at start & end of day.
2.8	Applicants should have in place procedures for the removal of obstructions and security devices to exit routes and doors, prior to occupation of the premises.					N/A
2.9	Applicants should have in place procedures for the installation, testing, maintenance and certification of fire and alarm systems, electrical equipment including emergency lighting, music and music cut out systems, fire retardant systems. Record logs should be maintained.			X		All electrical and fire safety equipment installed & regularly checked (PAT tests etc) by qualified electrician.
2.10	Applicants should have in place procedures for regular inspection and maintenance of the building structure. Records should be maintained.					N/A
2.11	Applicants should consider adopting written procedures for the inspection and maintenance of furnishings and fabrics, guarding to stairs, balconies, landings and ramps, general condition of floor surfaces (e.g. trip hazards, non-slip surfaces), provision of safety glazing in critical locations, suspended decorations, lights and amplification systems, guarding to fires, candles and open flames.					N/A



2.	Licensing Objective Securing Public Safety	High Risk	Med. Risk	Low Risk	Reasons for Assessment	Action Taken
2.12	Applicants should consider safety measures when hot food and drink is prepared in close proximity to the public, to save any risk of burns and scalding.			X	Both units are designed to be in public areas and do not get dangerously hot to touch.	Counter top oven and hot holding units set back on counter top with warning notices.
2.13	Applicants should provide details of the first aid facilities and the treatment available on the premises, including details of the numbers of trained first aid staff. Consideration should also be give to the treatment of any persons who appear to be unwell, including those affected by drugs and/or alcohol.			X	No high risk activities occur on premises.	HSE compliant first aid kit available and management team members are first aid trained.
2.14	Applicants should demonstrate the safety measures to be implemented during the use of any special effects (like strobe lighting or smoke machines) on the premises, including the arrangements for prior notification to customers. The proposed use of pyrotechnics should be advised to the Fire Authority.					N/A
2.15	Applicants should be aware of the legal requirements in respect of facilities and access to their premises for people with disabilities. Applicants are recommended to address the needs of people with disabilities in an operating plan. This may include, access, facilities, physical and managerial methods for the safe evacuation of disabled persons. It may also identify trained members of staff to implement emergency egress plans and clarify whether equipment such as lifts are safe to use.			X	Low risk as accessibility is generally good – single level space, wide doors, no steps etc).	Accessibility guide exists for premises.

3.	Licensing Objective Prevention of Public Nuisance	High Risk	Med. Risk	Low Risk	Reasons for Assessment	Action Taken
3.1	<p>Applicants should determine and implement steps to prevent noise, vibration, smells or other nuisances escaping both from sources within the premises and from external sources under the control of the applicant such as: amplified and non-amplified music levels, singing and speech, disposal to waste and bottle bins, plant and machinery (including extraction systems), food preparation, the cleaning of premises and equipment.</p> <p>External doors should also be kept closed, except where necessary for access and egress i.e. doors should not be secured open and will be fitted with self-closers if necessary.</p>					N/A
3.2	<p>Steps to be taken may include: the installation/adoption of soundproofing, air conditioning to allow windows to be kept closed, sound limitation devices, use of lobby doors, cooling down period with reduced music levels at the end of the night, adopting hours of operation appropriate to the activities in question and the location, adopting a schedule for the disposal and collection of waste at times appropriate for the locality.</p>					N/A
3.3	<p>In considering applications from pubs, clubs and similar premises, and their activities, the Board expects licensees 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. This is available at:- <a href="http://www.ioa.or.uk/publications.asp">http://www.ioa.or.uk/publications.asp</a></p>					N/A
3.4	<p>Particular care should be taken where the noise source is in the open air, e.g. smoking areas, beer gardens, play areas, car parks, access roads, temporary structures or queues. Licensees should comply with the terms of the Board's smoking policy in not allowing smokers to take drinks out to smoking areas, particularly where they are situated close to residential properties where increased noise levels from continued outdoor socialisation promotes public nuisance. Speakers should not be positioned outside at any time.</p>					N/A

3.	Licensing Objective Prevention of Public Nuisance	High Risk	Med. Risk	Low Risk	Reasons for Assessment	Action Taken
3.5	Applicants should consider any special measures that should be adopted in premises located near noise-sensitive premises such as nursing homes, hospitals or places of worship.					N/A
3.6	Applicants should determine and implement steps to prevent excessive or ill-designed external lighting to premises, outdoor areas and car parks (including lighting intended specifically for public safety and security) intruding upon the comfort and amenity of nearby residents to such an extent as to be a nuisance.					N/A
3.7	Nuisance by smell is commonly attributable to the commercial preparation of hot food in kitchens with no or inadequate or poorly maintained filtration and extraction equipment. Applicants should determine and implement steps to prevent smells causing a nuisance to local residents and businesses.					N/A
3.8	The provision of hot food at and from premises after 11pm is often associated with the litter of paper containers and food discarded into the streets and onto private property in the vicinity of the premises. Applicants should determine and implement steps to prevent additional litter (e.g. food waste and food packaging, cans and bottles) in the vicinity of the premises. Such steps may include an agreed cleaning schedule in respect of litter in and in the vicinity of the premises).					N/A
3.9	The Board will not tolerate the detrimental impact on the amenity of those living and working in an area caused by fly posting and the irresponsible distribution of advertising flyers or other materials such as stickers. The Board expects applicants to determine and implement steps to prevent fly posting and other unauthorised advertising and to consider measures necessary to control the litter that can be produced by the irresponsible distribution of flyers and other advertising materials.					N/A

3.	Licensing Objective Prevention of Public Nuisance	High Risk	Med. Risk	Low Risk	Reasons for Assessment	Action Taken
3.10	Applicants should consider the steps to be taken to prevent disturbance by customers arriving at or leaving the premises, including the considerations that have been given to the cumulative effect of this in areas with other licensed premises in the immediate vicinity. This will be more important between 11pm and 7am than at other times.					N/A
3.11	Applicants should consider the steps to be taken to prevent queuing (either by pedestrians 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.					N/A
3.12	Applicants should consider the steps to be taken to ensure staff leave the premises safely and quietly. This will be of greater importance between 11pm and 7am than at other times.					N/A
3.13	Applicants 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, stereos, noise from engines idling and exhaust fumes.					N/A
3.14	Applicants should consider whether there is sufficient provision for public transport with regard to the proposed opening hours (including taxis and private hire cars) for patrons. Failure to do so may result in nuisance and this will be considered a serious failure.					N/A
3.15	Applicants should consider whether the service of the premises by licensed taxi or private hire cars is likely to disturb local residents and take reasonable steps to prevent disturbance from this source. Examples of actions that can be taken include the provision of an indoor waiting area, arrangements for door staff to advise customers that their transport has arrived (rather than taxis beeping) and phones in entrances lobbies perhaps linked directly to a private hire company.					N/A

4.	Licensing Objective Protecting and Improving Public Health	High Risk	Med Risk	Low Risk	Reasons for Assessment	Action Taken
4.1	Licensees should have regard to the Wine and Spirit Trade Association Social Responsibility Standards for the production and Sale of Alcoholic Drinks in the UK available at – <a href="http://www.wsta.co.uk/index.php?option+comcontent&amp;task=59&amp;Itemid=104">http://www.wsta.co.uk/index.php?option+comcontent&amp;task=59&amp;Itemid=104</a>					Responsible Retailing Standards (e.g. Challenge 25) used as part of staff training.
4.2	Applicants should consider whether the provision made for alternatives to alcoholic drinks adequately protects and promotes public health, particularly in terms of reasonably priced alternatives to alcohol i.e. soft drinks, tea, coffee, food and non-alcoholic substitutes (with an AB of below 0.5%)/ This is especially important for drivers.					N/A
4.3	Applicants should consider security arrangements to prevent tampering with unattended drinks.					N/A
4.4	Applicants should consider promoting public health by educating customers through the display of information on the number of units of alcohol for different types of alcoholic drinks available. This might be through the use of leaflets, posters, simple signage or free unit calculators etc. Information may also be displayed about the effects of alcohol on the body which may be beneficial as well as detrimental.					N/A

5.	Licensing Objective Protection of Children from Harm	High Risk	Med Risk	Low Risk	Reasons for Assessment	Action Taken
5.1	The Board expects that employers will make careful checks where premises or entertainment is specifically targeted towards children to ensure all persons employed or involved with the supervision or management are deemed appropriate persons to be engaged in the activity.					N/A

5.	Licensing Objective Protection of Children from Harm	High Risk	Medium Risk	Low Risk	Reasons for Assessment	Action Taken
5.2	The Board commends the Portman Group Code of Practice on the naming, packaging and promotion of alcoholic drinks. Where applicants intend children to be present on licensed premise or where the sale of alcohol takes place the Code should be given due regard and addressed in this assessment. The Code can be found at: <a href="http://www.portmangroup.co.uk/?pid=1&amp;level=1">http://www.portmangroup.co.uk/?pid=1&amp;level=1</a>					N/A
5.3	In the case of “children only” events, e.g. an under 18 disco, production of play, pantomime or similar events, applicants should consider what would be an acceptable ratio of adult supervisors to children on the premises for the activity.					N/A
5.4	In the case of premises giving film exhibitions, licensees or clubs should include in their operating plan arrangements for restricting children from viewing age restricted films, classified according to the recommendation of the British Board of Film Classification, or by the licensing authority in terms of a Cinema Licence.					N/A
5.5	Where children are to be allowed into licensed premises, applicants should consider the arrangements made for children including – the siting of toilets, whether children have to pass through what might be an unsuitable area to get to a toilet, where food is available, having a children’s menu, siting games and gaming, including machines, pool/snooker tables, darts etc., away from areas where children will be present.					N/A
5.6	Applicants should consider appropriate signage both internally and externally, where children are to be allowed into licensed premises. The Licensing (Scotland) Act 2005 introduces mandatory requirements for signage. Applicants should also bring to the attention of parents any conditions under which children will be allowed access, including supervisory requirements.					N/A

5.	Licensing Objective Protection of Children from Harm	High Risk	Medium Risk	Low Risk	Reasons for Assessment	Action Taken
5.7	Applicants should consider controlling stock to promote the objective of protecting children from harm. This will include keeping stocks of alcohol away from areas where there may be other products attractive to children e.g. placing alcopops near ordinary fizzy drinks. It will also include assessing the likelihood of children attempting to buy alcohol and where the risk is high, removing those products most attractive to children and young persons, like vodka, cider, fortified/tonic wine, alcopops etc. This is especially true of those types of products sold in half, pocket style bottles with screw tops.			X	Range of alcoholic products is higher priced wines & beer.	Alcohol will not be displayed close to any products aimed at children (e.g. juices, snacks etc).





**APPENDIX 2**

**COPY REPRESENTATIONS**

**Licensing Standard Officer**

Dear Colleague

I can confirm that I have conducted a site visit to the premises and the site notice has been displayed correctly.

I have no objections to make on any part of the application, however I am required to make representation to the Board of a potential departure from policy for the following:-

In terms of the Board's Policy all lockfast stores MUST be located within the premises that are to be licensed therefore the terms of the application as currently submitted do not comply with policy. The applicant has been advised of this but feels the lockfast store proposed to be used is a better alternative to anything else the premises can provide.

Relevant parts of the Policy Statement are as follows:

Appendix 1 to the Main Policy Statement – After Section A:37 - 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

Local Condition 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.

Supplementary Policy Statement 6 – Section 6.25 - plans must show the location of a lockfast store WITHIN the premises

I have attached four photographs which show the following

1. The only possible lockable areas within the shop (licensed area) 2. A lockable container in a nearby brick shed with roller grill open 3. A lockable container in a nearby brick shed with roller grill in locked position 4. Outside of brick shed showing lockable roller doors and side door

The applicant has provided an additional layout plan where the proposed lockfast store is housed.

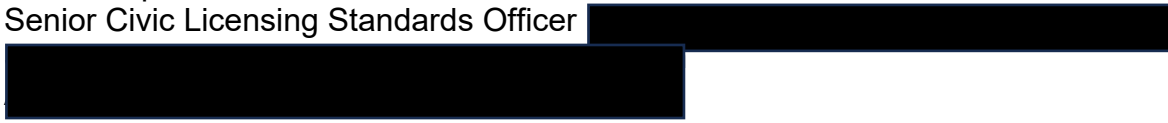
I have no other comments to make on the application, other that to bring this matter to the Board's attention.

In the event that Board see fit to grant, I would like to recommend the following local conditions from the new pool of local conditions.

1-4 (inc), 5, 6 (subject to hearing as per above) and 21

Regards

Keith Simpson  
Senior Civic Licensing Standards Officer
















**APPENDIX 3**  
**Local Conditions**



**Local Conditions**

Licensing 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

General Management - All Premises		
Number	Condition	Licensing Objectives
1	The provisions relating to the management of licensed premises contained within the Board's current Policy Statement, particularly <b>Appendix 1</b> thereto, <b>must</b> be complied with.	PCD, SPS, PPN, PIPH, PCYPFH
2	Premises Licence Holders <b>must</b> ensure that the premises internally and externally, are maintained in good, clean and tidy conditions at all times.	SPS, PPN
3	Premises Licence Holders <b>must</b> ensure that Refusal Registers and Daily Incident Logs are accessible for inspection by Police Scotland and Licensing Standards Officers on request.	PCD, SPS
4	The Licence Holder <b>must</b> ensure that any general authorisation for the sale of alcohol required within the premises is – (i) in writing, (ii) available for inspection by Police Scotland and Licensing Standards Officers on request, (iii) brought to the attention of and signed by all parties and (iv) enforced by the Premises Manager.	PCD, SPS, PPN, PIPH, PCYPFH

Noise – All Premises		
Number	Condition	Licensing Objectives
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		
Number	Condition	Licensing Objectives
6	All alcohol not on display within the premises <b>must</b> be kept within a designated lockfast store <b>on</b> the	PCD, SPS

	premises, and shown on the layout plan attached to the premises licence.	
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Children and Young Persons – On-Sales Premises		
Number	Condition	Licensing Objectives
7	Children under the age of twelve years, <b>shall not</b> have direct access to pool tables, darts boards or gaming machines in any part of the premises to which they have access or are allowed entry.	SPS, PCYPFH
8	The Licence Holder <b>shall</b> provide safe high chairs for the use of young children.	SPS, PCYPFH
9	The Licence Holder <b>shall</b> provide heating facilities for baby/toddler's food at no cost to the customer.	SPS, PCYPFH
10	The Licence Holder <b>shall</b> provide containers for the disposal of soiled nappies.	SPS, PPN, PCYPFH
11	The Licence Holder <b>shall</b> ensure that heating sources are adequately protected.	SPS, PCYPFH

Premises Providing Late Night Entertainment – On-Sales Premises		
Number	Condition	Licensing Objectives
12	Alcohol <b>shall</b> be provided for consumption on the premises only.	PCD, SPS, PPN
13	The entertainment to be provided <b>shall</b> be XXX (to be defined by the Board on a case-by-case basis).	PCD, SPS, PPN
14	The entertainment provided <b>shall</b> be on a continuous basis with breaks of not more than 15 minutes in any one hour.	PCD, SPS, PPN
15	All public notices of advertisements including social media <b>shall</b> contain the following information:  (a) The name and address of the premises; (b) The entertainment to be provided on the premises; (c) The commencement time of the entertainment; (d) The price of entry; (e) The terminal hour for the premises and (f) The time of the curfew, where operated, must be advertised.	PCD, SPS, PPN
16	The Licence Holder <b>shall</b> display a notice at the entrances to the venue clearly defining the policy of the venue relating to the use of illegal substances and weapons within the venue and stating that criminal offences will be reported to Police Scotland.	PCD, SPS, PPN, PIPH
17	The premises <b>shall</b> have a dispersal policy to ensure patrons are not put in vulnerable situations	PCD, SPS, PPN, PIPH

	after leaving the premises. The policy <b>must</b> be in writing. All members of staff <b>shall</b> be informed of the policy. The policy shall be made available to customers, and for inspection by Police Scotland and the LSOs on request. The policy <b>shall</b> be reviewed regularly, and a detailed record of reviews kept.	
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Adult Entertainment – On-Sales Premises		
Number	Condition	Licensing Objectives
18	Children and young persons are <b>not permitted</b> to attend any event involving adult entertainment.	PCYPFH

Vulnerability - All Premises		
Number	Condition	Licensing Objectives
19	<p>The Licence Holder <b>must</b> have in place a Duty of Care policy to ensure a standard approach is taken when any patron appears to be displaying signs of excessive intoxication or distress.</p> <p>The Licence Holder <b>must</b> ensure that all staff, volunteers and stewards have additional training in identifying signs of excessive intoxication and an enhanced awareness of vulnerability through intoxication.</p> <p>The Licence Holder <b>shall</b> ensure that staff training records are made accessible for inspection by Police Scotland and Licensing Standards Officers.</p>	PCD, SPS, PPN, PIPH, PCYPFH

Door Supervisors – On-Sales Premises		
Number	Condition	Licensing Objectives
20	The Premises Licence Holder <b>must</b> ensure that sufficient numbers of Security Industry Authority licensed stewards are on duty to ensure a safe and responsibly run premises. Such persons <b>must</b> be easily identifiable as such to persons present, display the appropriate identification, and should be made aware of their duties, policies and practices, by the Premises Licence Holder. They <b>must</b> be responsible, capable, aware of their duties and not drink alcoholic	PCD, SPS, PPN, PIPH

	<p>liquor for the duration of their active employment. Their duties are to:</p> <ul style="list-style-type: none"> <li>(a) Confirm that persons who seek access to the premises have paid for admission or have appropriate passes/invitations;</li> <li>(b) Identify and refuse entry to drunken persons;</li> <li>(c) Identify and refuse entry to any persons banned through pubwatch or by any other means;</li> <li>(d) Actively police the premises and to perform all activities in line with their role under the Private Security Act 2001;</li> <li>(e) Supervise entrance doors/access points at all times to ensure that no fire or other exits are blocked;</li> <li>(f) Be aware of the fire safety precautions and procedures and all other policies and practices;</li> <li>(g) Be aware of the premise's drug prevention policy;</li> <li>(h) Provide assistance to patrons, including customer care, directions to facilities and health and safety;</li> <li>(i) Ensure that no patron removes glasses, or open or closed vessels from the premises when exiting for any reason;</li> <li>(j) Remain on the premises until the end of permitted hours and all patrons have vacated the premises, including patrolling the vicinity outside the premises to assist dispersal from the premises after the premises close;</li> <li>(k) Be aware of the provisions of the Licensing (Scotland) Act 2005 which impact on the running of the premises</li> <li>(l) All SIA Stewards must wear radios to allow for clear communication with one another and the reporting of any incidents with the Head Steward and, in respect of the licence, the responsible persons on duty.</li> <li>(m) Stewards shall report all criminal and relevant matters to Police Scotland.</li> </ul>	
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<b>CCTV – All Premises</b>		
Number	Condition	Licensing Objectives

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

28	Any person requiring to hold a training certificate for the purposes of condition 26 above, <b>must</b> complete a refresher training course within a period of 3 months of the 5-year anniversary of the date of the initial training certificate and submit a copy of the refresher training certificate to the Clerk within 28 calendar days of receipt of the updated certificate. Further refresher training will be completed at 5 yearly intervals thereafter in line with this condition.	PCD, SPS, PPN, PIPH, PCYPFH
29	That up to 5 visitors per member <b>shall</b> be permitted in the club premises provided they are signed into the club by that member into a book kept for that purpose by the club. Such visitors <b>must</b> be bona-fide guests of the member signing them in.	SPS, PPN
30	All promotional materials, including the use of social media, <b>must</b> specify that events are open to Members and Guests only, unless an Occasional Licence is in place. Events <b>must</b> be advertised in the press as for "Members and Guests only"	SPS, PPN

Beer Gardens and Outside Drinking Areas		
Number	Condition	Licensing Objectives
31	Beer Gardens and outside drinking areas <b>must not</b> be used for activities linked to the sale or consumption of alcohol after 10.00pm. These areas may be used after 10.00pm for the purposes of smoking only.	PCD, SPS, PPN, PIPH, PCYPFH
32	The Licence Holder <b>must</b> take reasonable steps to ensure that litter and, where used, glass and bottles are removed from street cafes, beer gardens and outside drinking areas on a regular basis.	SPS, PPN, PIPH, PCYPFH
33	The Licence Holder <b>shall</b> consider the use of safe alternatives to glass containers and bottles in street cafes, beer gardens and outside drinking areas.	PCD, SPS, PPN, PIPH, PCYPFH
34	The Licence Holder <b>shall</b> ensure that: -  (a) No amplified music or noise emitted from the use of microphones, speakers or other forms of music entertainment shall be played within the area;  (b) The area is delineated by a physical barrier;  (c) Signage is displayed indicating that alcohol is not to be removed from the area.	PCD, SPS, PPN, PIPH, PCYPFH

35	Children and Young Persons may be present in the street café, beer garden or outside drinking area for the purpose of the consumption of food.	PCYPFH
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Street Cafes and Licensed Pavement Areas		
Number	Condition	Licensing Objectives
36	<p>The Licence Holder <b>shall</b> ensure that there is a Street Café consent in place and <b>shall</b> 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>	PCD, SPS, PPN, PIPH, PCYPFH

Hybrid Premises		
Number	Condition	Licensing Objectives
37	Premises operating as “other premises” during the day and wishing to operate as Nightclubs thereafter <b>must</b> ensure that the premises are closed down and cleared of patrons, particularly children and young persons, for at least one hour prior to the commencement of operating as a nightclub at the premises.	PCD, SPS, PPN, PCYPFH

Festive Season Conditions for Premises Opening After 1.00 a.m.		
Number	Condition	Licensing Objectives
38	A person trained to the satisfaction of the Licensing Board in administering first aid <b>must</b> be present on	SPS, PIPH, PCYPFH

	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 .	
39	A designated person who is the holder of a personal licence <b>must</b> be present on the premises from 1.00a.m. (on any day when the premises are open at that time) until the time at which the premises next close.	PCD, SPS, PPN, PIPH, PCYPFH
40	There <b>must</b> be written policies in existence concerning – <ul style="list-style-type: none"> <li>• The evacuation of the premises; and</li> <li>• The prevention of the misuse of drugs on the premises.</li> <li>• Duty of care ('Vulnerability through Intoxication')</li> </ul>	PCD, SPS, PPN, PIPH, PCYPFH
41	There <b>must</b> be persons responsible for checking on the safety and wellbeing of persons using any toilet facilities on the premises.	PCD, SPS, PPN, PIPH, PCYPFH
42	A person who holds a licence granted under Section 8 of the Private Security Industry Act 2001 <b>must</b> be positioned at every entrance to the premises from 1.00a.m. (on any day when the premises are open at that time) until the time at which the premises next close.	PCD, SPS, PPN, PIPH, PCYPFH

Alcohol Deliveries, Click and Collect and Internet Sales		
Number	Condition	Licensing Objectives
43	The Licence Holder <b>shall</b> ensure that: <ul style="list-style-type: none"> <li>(a) 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.;</li> <li>(b) Delivery drivers and click and collect staff are trained to the same level as staff who sell or supply alcohol within licensed premises.</li> <li>(c) That the customer signs on receipt of delivery of alcohol.</li> <li>(d) Delivery drivers and click and collect staff keep refusal registers.</li> <li>(e) That orders are not left in nominated places.</li> </ul>	SPS, PIPH, PCYPFH
44	The Licence Holder <b>shall</b> ensure compliance with Section 119 of the 2005 Act which requires the	SPS, PIPH, PCYPFH



	<p>following in relation to delivery of alcohol from vehicles –</p> <p>(a) A daybook kept on the premises from which the alcohol is dispatched, and</p> <p>(b) A delivery book or invoice carried by the person delivering the alcohol.</p> <p>Information referred to above <b>must</b> include –</p> <p>(i) The quantity, description, and price of the alcohol, and</p> <p>(ii) The name and address of the person to whom it is to be delivered to.</p>	
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Byelaws Prohibiting the Consumption of Alcohol in Designated Places		
Number	Condition	Licensing Objectives
45	The Licence Holder <b>must</b> take care to clearly mark on the plans for the event the boundary of the venue to be included in the occasional licence.	PCD, PPN, PIPH
46	<p>The Licence Holder <b>shall</b> take reasonable steps to inform customers of the existence and effect of the Byelaw.</p> <p>The Licence holder <b>must</b> display visible signage to this effect, at exit points from the licensed area, the minimum size of which will be A4.</p>	PCD, PPN, PIPH

**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 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.

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.

### **Premises Licence**

1. In terms of Section 17 of the 2005 Act, a premises licence is required to authorise the sale of alcohol on premises.
2. In terms of Section 20 of the 2005 Act, a premises licence application consists of:-
  - (a) an application form
  - (b) a disabled access and facilities statement
  - (c) the appropriate Section 50 certificates (planning, building standards and environmental health)
  - (d) a licensing objectives risk assessment (policy requirement)

(e) layout plans

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

Section 1.5	Determination of a premises licence application	Reserved to the Board
Section 1.8	Determination of a provisional premises licence application	Reserved to the Board
Section 3.3	Determining whether to cite an applicant to a hearing for a premises licence application	Delegated to the Clerk to the Board or any person appointed to assist them

4. 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 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.

5. 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.
6. 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 of, the premises.
7. 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.
8. 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.
9. 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.

### **Provisional Premises Licence**

10. A premises licence application may be made in relation to any premises despite the fact that, at the time the application is made, the premises are yet to be, or

are in the course of being constructed or converted for use as licensed premises. Such an application is referred to as a “provisional premises licence application”.

11. A premises licence issued in respect of any such premises does not take effect unless and until it is confirmed by the Licensing Board which issued it in accordance with Section 46 of the Act.
12. The provisional period, in relation to a provisional premises licence, is the period of 4 years beginning with the date of issue of the licence.
13. On the application of the holder of a provisional premises licence made before the expiry of the provisional period, the Licensing Board which issued the licence may, if satisfied as to the undernoted matter, extend the provisional period by such period as the Board considers appropriate. The matter referred to is –
  - (a) completion of the construction or conversion of the premises to which the licence relates has been delayed, and
  - (b) the delay has been caused by factors outwith the premises licence holder’s control
14. Where the provisional period in relation to any provisional premises licence has been extended as outlined in paragraph 13 above, references to the provisional period are to the period as so extended.
15. The processing and determination of a provisional premises licence is the same as outlined for a premises licence in paragraphs 1 – 9 of this document.

### **Statutory Guidance**

16. 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).

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8.19 The Schedule specifies a range of offences which cover violent and sexual offences, other statutory offences (e.g. relating to the misuse of drugs, betting and gambling offences, driving offences amongst others) and other common law offences (e.g. conspiracy to defraud, breach of the peace amongst others). Convictions for a “relevant offence” may result in refusal by a Board to grant a licence or the review of a licence.

8.20 This section also allows the persistent commission of a lower level offence - which would not by itself be sufficiently serious - to amount to a “relevant offence”. The Criminal Justice and Licensing (Scotland) Act 2010 amended section 129 by inserting two new sub-sections. The purpose of these insertions being that where a person has been found guilty of an offence and a probation order or order for absolute discharge has been imposed, the person is treated as having been convicted for the purposes of these provisions of the 2005 Act.

8.21 “Foreign offences” are offences under the laws of countries other than Scotland which correspond to relevant offences. Section 147(2) sets out who is a “connected person” in relation to a company, partnership or club. This ensures that checks are carried out on the persons in control of these bodies as well as the bodies themselves.

8.22 Section 130 (Effect of appeal against conviction for relevant or foreign offence) of the 2005 Act provides that the duties placed on Boards under the 2005 Act relating to relevant and foreign offences may still be carried out if the conviction is subject to appeal but the Board has discretion to postpone any action it has decided to take. It also provides that the Board’s actions will have no effect if the conviction is overturned on appeal.

#### *Objections and representations*

8.23 The 2005 Act provides that any person (whether an individual or a corporate body or unincorporated body) may object or make representations in relation to a premises licence application provided the Board does not consider that the objections or representations are frivolous or vexatious in nature. Argyll and Bute Licensing Board provide an example of what they consider would be a vexatious objection or representation on the Council’s alcohol licensing pages:

- “A theatre has established in an area close to residential housing. Certain performances at the theatre are considered to be particularly noisy by the neighbouring residents. The neighbours consider this to be a nuisance. They may, or may not have complained previously to the theatre owner. They may or may not have complained previously to the Council Environmental Health Department.
- “The owner of the theatre then applies for a licence to establish a theatre bar and sell alcohol. The neighbours notice that there happens to be an ongoing “licence application and decide to make objections/representations relating to the licensing objective of preventing public nuisance. This is designed to place pressure on the theatre owner to reduce noise. In this scenario where the noise constitutes a statutory

nuisance then the appropriate enforcement agency would be the Argyll and Bute Council's Environmental Health Department.

- "The licensing system should not be used as a convenient means of placing pressure on the applicant. The neighbours would no doubt find it difficult to establish a link between the noise and the proposed sale of alcohol. The Argyll and Bute Licensing Board would be entitled to consider the premises suitable for the sale of alcohol and leave enforcement in respect of noise problems to environmental health".

8.24 The Criminal Justice and Licensing (Scotland) Act 2010 made a number of amendments to the objections and representation provisions within the 2005 Act. A new provision was inserted which means that an objection or representation concerning a premises licence application may include any information that the person submitting the objection or representation considers relevant to consideration of any of the grounds for refusal (set out at section 23(5) of the 2005 Act), including information in relation to the applicant, a connected person in relation to the applicant, or any person who would be an interested party in relation to the premises if the application were to be granted.

*Connected persons and interested parties*

8.25 As discussed above the Criminal Justice and Licensing (Scotland) Act 2010 inserted a new section (section 40A) relating to connected persons and interested parties into the 2005 Act. The policy rationale for inserting this new provision, as outlined during the parliamentary passage of what was then the Criminal Justice and Licensing (Scotland) Bill, was to tackle a concern that was highlighted to the Scottish Government by the police. Namely that there was a tier of people and organisations responsible for the operation of licensed premises who cannot be held to account for the operation of licensed premises.

8.26 The premises licence might be held by the property owner, but a tenant might be in control of operating the business on the premises. Alternatively, a management company with no property rights over the premises might be employed by the property owner to exercise management control over the business that is carried on in the premises. Prior to the insertion of section 40A, the police were unable to make representations to licensing boards on the conduct of those groups or to take action against them if offences take place on the premises. There was also no requirement on the part of the licence holder to notify the licensing board of the existence of those groups.

8.27 The new section 40A ensured that:

- the licence holder must notify the existence of those "interested parties" to the licensing board, thus enabling the board to consider the conduct of those parties in determining licence applications or considering whether to review an existing licence.
- that any changes in the details of "connected persons" are notified to licensing boards who will forward the information to the chief constable.

8.28 As a result, the licensing board and the police are kept informed of the details of, for example, the partners of firms and the directors of companies that hold premises licences, which will enable a premises licence to be reviewed if the police or the board have concerns about the conduct of the partners or directors of licence-holding partnerships or companies.

8.29 The Air Weapons and Licensing (Scotland) Act 2015 subsequently amended section 40A to remove the references to interested parties and the requirement to notify changes of interested parties. This was done in response to concerns that had been raised by stakeholders about the practicality of the term interested parties. The licence holder now only requires to provide notification in respect of connected persons.

*Anti-social behaviour reports*

8.30 It is no longer necessary for the chief constable to provide an anti-social behaviour report in respect of every application. Instead, a report will only be required if the Licensing Board requests one (which they may do following public objections or representations concerning a premises) or if the Chief constable chooses to provide one.

8.31 It became clear during the implementation of the 2005 Act, that the 2005 Act procedure was unnecessarily onerous and bureaucratic. Using regulatory powers, Scottish Ministers made transitional modifications that reduced the requirement for the Chief constable to provide a report on antisocial behaviour and the Criminal Justice and Licensing (Scotland) Act 2010 amended the 2005 Act to established a similar situation after transition. This ensured unnecessary costs are not entailed for the production of reports which are not required.

8.32 The anti-social behaviour report should detail all cases of anti-social behaviour identified, by the police, as having taken place on, or in the vicinity of the premises within one year of the date of the request as well as all complaints or other representations made to the police concerning anti-social behaviour on, or in the vicinity of the premises within one year of the date of the request. The Chief constable is required to provide the report within 21 days of receipt of the request.

8.33 If a Licensing Board requests an anti-social behaviour report from the Chief constable then it must suspend consideration of the licence application until it receives the report. On receipt of the report, the Licensing Board must provide the applicant with a copy of the report and then resume consideration of the application and determine it in accordance with section 23 of the 2005 Act.

8.34 On receipt of a notice of objection or representations in relation to a premises licence application, unless the Board considers them to be frivolous or vexatious, it is required to send a copy to the applicant and to consider the information contained therein when determining the licence application.

8.35 It is pleasing to see that many Licensing Boards provide helpful information (on the licensing pages of their respective local authority websites) for those who wish to object to a premises licence application or make representations in favour or against the license application. For example City of Glasgow Council has a page

(Alcohol Licences) on its website which signposts people to a range of information about the alcohol licensing system. One such link is to a page entitled "I'd like guidance on making an objection or representations" where information on the following can be found:

- when can I make an objection?
- what information should an objection or representation against an application contain?
- what information should a representation in support of an application contain?
- what is the deadline for submitting an objection or representation?
- how do I submit my objection or a representation?
- what happens if I submit an objection or representation?

*Determination of premises licence application*

8.36 Section 23 of the 2005 Act sets out the procedures a Licensing Board must follow when determining a premises licence application. The Criminal Justice and Licensing (Scotland) Act 2010, the Police and Fire Reform (Scotland) Act 2012 and the Air Weapons and Licensing (Scotland) Act 2015 ("the 2015 Act") have all amended this section.

8.37 Section 23(5) lists the grounds for refusal of a premises licence application. The key amendment (and majority of changes) to this provision since the 2005 Act was implemented, relate to the insertion of a new ground for refusal for a premises licence application by the 2015 Act. When a Licensing Board is determining an application and the Board considers that having regard to the licensing objectives, the applicant is not a fit and proper person to be a holder of a premises licence, then this is a ground for refusal. Where the Board refuses a licence on the fit and proper person ground, or where granting a licence would be inconsistent with one or more of the licensing objectives, the Board must state the licensing objective that the ground relates to.

8.38 In relation to the determination of a premises licence applications, the 2015 Act amends section 23 to clarify that any conviction notice supplied by the chief constable and any antisocial behaviour report by the chief constable supplied to the Board, is relevant to the specific consideration of the new fit and proper test as well as to consideration of the existing ground for refusal that the granting of the application would be inconsistent with one or more of the licensing objectives.

*Fit and proper person test*

8.39 The 2005 Act as implemented did not contain a "fit and proper person test" but rather focussed on the use of relevant offences and foreign offences to assess the suitability of new applicants and existing licence holders, as well as providing the ability for people to object based on matters connected to the licensing objectives.

8.40 Subsequent to the implementation of the 2005 Act, a range of stakeholders expressed the view that limiting consideration to relevant offences was unduly constraining to Licensing Boards who may have no choice but to grant licences to applicants that they consider to be a risk to the public.

8.41 This 2015 Act amendment provides greater scope to present information to Boards, and also provides Boards with greater powers to tackle crime, particularly serious organised crime, by allowing the consideration of a wider range of information including police intelligence and any associations with those deemed to be unsuitable.

*Applicant's duty to notify Licensing Board of convictions*

8.42 The 2005 Act places a duty on anyone applying for a premises licence to notify, no later than one month after the date of the conviction, the Licensing Board of any convictions obtained whilst their application is pending. A person who, without reasonable excuse, fails to do so commits an offence. A person found guilty of such an offence is liable on summary conviction to a fine not exceeding level 2 (£500) on the standard scale.

8.43 The Licensing Board is required to suspend consideration of the application and give notice of the conviction to the Chief constable.

8.44 Within 21 days of the receipt of a notice from a Licensing Board the Chief constable must respond to the Licensing Board either with:

- (a) a notice stating that the Chief constable is unable to confirm the existence of the conviction or that the conviction does not relate to a relevant or foreign offence, or
- (b) a notice confirming the existence of the conviction and that it relates to a relevant or foreign offence.

If the Chief constable proposes to give a notice under subsection (b) above and considers that having regard to the conviction specified in the notice it is necessary for any of the licensing objectives that the application be refused then the Chief constable may include a recommendation to that effect.

8.45 On receipt of this notice from the Chief constable, the Licensing Board must resume their consideration of the licence application and determine it in line with section 23 of the 2005 Act.

*Further application after refusal of premises licence application*

8.46 Under the 2005 Act, where a Licensing Board has refused an application for a premises licence, a subsequent licence in respect of the same premises cannot be made within a year of that refusal. However the 2005 Act permits Licensing Boards, at the time of the initial refusal, to dispense with the one year limit, or where the limit has not been dispensed with, nonetheless to consider granting a re-application within the one year period where there has been a material change of circumstances.

*Issue of licence and summary*

8.47 Section 26(1) of the 2005 Act requires Licensing Boards, where they grant an application for a premises licence, to issue the applicant with a licence and a summary of the licence. Section 26(2) sets out the minimum information which must be contained in the licence (including: the name and address of (i) the holder of the licence, and (ii) the premises manager in respect of the premises to which the licence relates, and the date on which the licence takes effect). The Premises



Licence (Scotland) Regulations 2007 (SSI 2007 No. 452) as amended prescribe the form and content of the premises licence, the summary premises licence and the Disabled Access and Facilities Statement.

*Notification of change of name or address*

8.48 Section 48 of the 2005 Act makes provision for the notification of certain changes to be made to the Licensing Board by the premises licence holder. The Criminal Justice and Licensing (Scotland) Act 2010, the Police and Fire Reform (Scotland) Act 2012 and the Air Weapons and Licensing (Scotland) Act 2015 have made some textual changes to section 48 as enacted.

8.49 Section 48 places a duty on the holder of a premises licence to notify the relevant Licensing Board of any change in:

- the licence 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**

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# ***THE ABERDEENSHIRE LICENSING BOARD***

**REPORT TO LICENSING BOARD – 20<sup>th</sup> December 2023**

**LICENSING (SCOTLAND) ACT 2005**

**APPLICATIONS FOR OCCASIONAL LICENCE – REPEATED APPLICATIONS  
POLICY**

**HEARING**

## **1 Executive Summary/Recommendations**

- 1.1. This report relates to repeated applications for occasional licences for day-to-day trading which, in terms of the Board's Policy in respect of repeated applications for occasional licences, are being brought to the Board for consideration.

The Licensing Standards Officer has highlighted the policy in representations made to these applications. In line with the Policy therefore, the Clerk has declined to deal with these applications and is asking the Board to determine them in accordance with the Legal Test and the terms of the Board's Policy.

A history of applications for the premises is included in the report for background information.

### **Recommendations**

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

- (c) **If minded to grant the applications, to grant subject to the local conditions listed at Section 3.22, the specific condition referred to at Section 3.23 and any other conditions the Board may determine to be required in respect of the applications.**

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

- 2.1. The undernoted applications have not been considered by the Board previously.

## **3. Discussion**

- 3.1. In terms of Section 58(1) of the 2005 Act, A Licensing Board may, on application of a premises Licence Holder, personal Licence Holder or voluntary organisation, made in relation to any premises (other than licensed premises) in the Board's area, issue to the applicant an occasional licence authorising the sale of alcohol on the premises.

### **Application(s)**

- 3.2. The following applications are the most recent applications to be lodged by Oliver James Payne, a premises licence holder, for Dunecht Whisky, Unit 4, Woodburn Road, Blackburn Industrial Estate, Aberdeenshire, AB21 0RX.
- (a) LAOCC/02476/23: 25<sup>th</sup> January – 7<sup>th</sup> February 2024 – 10.00am – 10.00pm
  - (b) LAOCC/02477/23: 8<sup>th</sup> – 21<sup>st</sup> February 2024 – 10.00am – 10.00pm
  - (c) LAOCC/02478: 22<sup>nd</sup> February – 6<sup>th</sup> March 2024 – 10.00am – 10.00pm
  - (d) LAOCC/02479/23: 7<sup>th</sup> - 20<sup>th</sup> March 2024– 10.00am – 10.00pm
  - (e) LAOCC/02480/23: 21<sup>st</sup> March – 3<sup>rd</sup> April 2024 – 10.00am – 10.00pm

- 3.3. Copies of the application forms are attached as **Appendix 1** to this Report and referred to for their terms.

### **Consultations**

- 3.1. Police Scotland and the Licensing Standards Officer were consulted on the applications.
- 3.2. Police Scotland advised that they were happy with the terms of the application by emails dated 14<sup>th</sup> November 2023, each response being in identical terms, subject to the following conditions:
1. An age verification system to be in place at the point of sale and delivery of alcohol. (local condition 42)
- 3.3 The Licensing Standards Officer lodged a representation by email dated 14<sup>th</sup> November 2023 in respect of the most recent five applications.
- 3.4 A copy of the representation is attached as **Appendix 2** to this report and referred to for its terms.

### **Publicity**

- 3.5 The applications were advertised on the Board's website for the statutory period of 7 days.
- 3.6 No objections/representations were received as a result.
- 3.7 Copies of representations made were issued to the Applicant on 30<sup>th</sup> November 2023.

### **Policy Hours**

- 3.8 The applications comply with the Board's Policy in respect of the hours applied for.

### **Repeated Applications Policy**

- 3.9 Supplementary Policy Statement 4 sets out the Board's Policy in respect of Operating Hours, as well as Occasional Extensions and Occasional Licences.

The Policy is attached as **Appendix 3** to this report and is referred to for its terms. This continues the policy included in the Board's previous Statement of Licensing Policy.

- 3.10 Section 4.35 provides that the Board considers 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.
- 3.11 Additionally, the Board regularly grants occasional licences to permit stall holders at events and markets to provide an off sale facility.
- 3.12 Section 4.36 provides that 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.
- 3.13 Section 4.45 provides that 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.

- 3.14 Officers are asking the Board to consider these applications in terms of Section 4.45 of the Board's Policy. In support of the officer's decision to do this, the history of applications for the premises is set out below.

#### History

1. LAPREM/05118/20 – Application for Grant of Premises Licence for Dunecht Garage, The Terrace, Dunecht, Westhill, AB32 7AX by a different

applicant on behalf of Dunecht Whisky Ltd was lodged on 3<sup>rd</sup> November 2021. Following difficulties obtaining the required Section 50 certificates for the premises, the applicant withdrew the application on 16<sup>th</sup> March 2022.

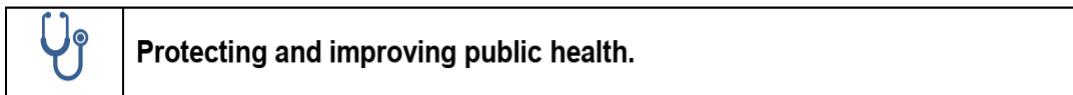
2. The following Occasional Licence Applications have been lodged to date, for a different address, by a different individual but who uses the same email address as Dunecht Whisky Limited, all to trade between the hours of 10.00am – 10.00pm:

<u>Ref No</u>	<u>From - To</u>	<u>Issue Date</u>
LAOCC/02021/23	26/10/23 to 08/11/23	11/10/23
LAOCC/02471/23	16/11 to 29/11/2023	15/11/23
LAOCC/02472/23	30/11 to 13/12/2023	16/11/23
LAOCC/02473/23	14/12 to 27/12/2023	30/11/23
LAOCC/02474/23	28/12 to 10/01/2024	30/11/23
LAOCC/02475/23	11/01 to 24/01/2024	30/11/23
LAOCC/02476/23	25/01 to 07/02/2024	LSO rep
LAOCC/02477/23	08/02 to 21/02/2024	LSO rep
LAOCC/02478/23	22/02 to 06/03/2024	LSO rep
LAOCC/02479/23	07/03 to 20/03/2024	LSO rep
LAOCC/02480/23	21/03 to 03/04/2024	LSO rep

- 3.15 The above demonstrates a pattern of occasionals for regular trading.
- 3.16 The Board’s policy provides that such Occasional Licences **may** be granted where there is sufficient evidence that there is movement towards an application for a premises licence or a major variation of premises licence being progressed **OR** under adequate explanation as to why a premises licence or a major variation of a premises licence is not being applied for. This will be considered on a case-by-case basis. The Board expects such premises to be operating under a Premises Licence and Occasional Licences should not be used as an alternative.
- 3.17 Section 4.46 of the Board’s policy places an onus on the applicant to explain their position to the Board:

“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:-



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.”

### **Implications**

- 3.18 If the Board determines that an occasional licence should be granted, the licence will take effect for the duration of the event.
- 3.19 If the Board refuses an occasional licence, then no alcohol can be sold during the event.

### **Legal Test**

- 3.20 The Legal Test is as set out in **Appendix 4** to this report.
- 3.21 If granted, mandatory conditions listed in the 2005 Act will attach to the occasional licence.
- 3.22 If the Board is minded to grant the applications, the following local conditions should apply to the licence:
- Conditions 1,3,4,8,16, 42 and 43.

**Appendix 5** contains the list of available local conditions

3.23 The Board may also attach conditions which are specific to the premises to be licensed, where required. If minded to grant, the following specific conditions should apply to the licence:

- None.

#### **Procedure**

3.24 Each application should be considered on its own merits.

3.25 The basis of this report are the applications, representations and the submissions from the parties made at the hearing. If the Board is not satisfied that there is sufficient information to make a decision, the matter should be deferred to allow further information to be obtained.

3.26 All parties have been invited to attend the hearing by email dated 30<sup>th</sup> November 2023. Copies of this report, the legal test and the Board's Guidance on Procedures for hearings were included with the letter. Parties will be given the opportunity to participate in the meeting by whichever of the following means the person prefers: (a) telephone, or (b) written representations, including by means of an electronic communication [e-mail]. Any written submissions lodged with the Clerk will be circulated to all parties and to Members in advance of the hearing and will be taken to form part of this report.

3.27 The Board should follow the procedure outlined at **Appendix 6** of this report.

3.28 Members' options in disposing of the application are: -

- (a) To grant the application(s);
- (b) Refuse the application(s);
- (c) Grant subject to varied hours and/or additional conditions; or

- (d) Determine that further evidence is required in which case the applications should be referred to the next available Board Meeting in order further information can be obtained in the interim.

Where more than one application is being considered, the Board should make a separate decision in respect of each application under consideration.

3.28 When coming to a decision the Board must consider the evidence provided and the contents of the legal test. Supplementary advice and information can be made available by officers, if required.

#### 4 Priorities, Implications and Risk

4.1 The Board must determine this matter on its own merits in accordance with the legal 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 being considered against the terms of the Board's Repeated Applications 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 those part of the IIA that 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 has authority to determine these applications as per the provisions of Section 4.45 of Supplementary Policy Statement 4 of the Board's previous and current Statement of Licensing Policy.

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

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

**Date:** 30<sup>th</sup> November 2023

**IDOX File Reference:** LAOCC/02476/23; LAOCC/02477/23; LAOCC/02478/23; LAOCC/02479/23; LAOCC/02480/23

### **List of Appendices**

- Appendix 1** – Applications
- Appendix 2** – Representations from LSO
- Appendix 3** – Supplementary Policy 4
- Appendix 4** - Local Conditions
- Appendix 5** – Legal Test
- Appendix 6** – Procedure

## **APPENDIX 1**

### **COPY APPLICATION FORMS AND RELATED PAPERWORK**

First application is copied in full

Applications 2 – 5 page showing dates required copied only as all applications are in identical terms

**Licensing (Scotland) Act 2005**  
**The Occasional Licence (Scotland) Regulations 2007**  
**Application for an Occasional Licence**

Before completing this form please read the guidance notes at the end of the form.

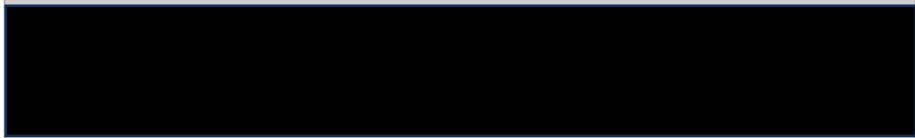
If you are completing this form by hand, please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written or typed in black ink. Use additional sheets, if necessary.

You may wish to keep a copy of the completed form for your records.

To:	
<b>The Depute Clerk Aberdeenshire Licensing Board Aberdeenshire Council Legal &amp; Governance Viewmount Arduthie Road Stonehaven AB39 2DQ</b>	
<b>1. LICENCE DETAILS (see note 1)</b>	
Premises licence number (if applicable)	N/A
Personal Licence number (if applicable)	AB-PER [REDACTED]
Name of voluntary organisation (if applicable)	N/A

<b>2. PERSONAL DETAILS.</b>			
TITLE (delete as appropriate): Mr			
Surname	PAYNE		
Forenames	OLIVER JAMES		
DATE OF BIRTH	Day	Month	Year
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

ADDRESS WHERE ORDINARILY RESIDENT TO BE USED FOR  
CORRESPONDENCE PURPOSES



Post town: [REDACTED]

Post code: [REDACTED]

TELEPHONE NUMBERS

Daytime

Evening

Mobile



FAX NUMBER

N/A

E-mail address (if you would prefer us to correspond with you by e-mail)



3. THE PREMISES

Description of Premises: Premises are a lock fast storage and dispatch facility situated in the heart of Blackburn Industrial Estate for a specialist on line whisky and other alcoholic drinks sales operation with no public access or display area

Description of activities to be carried on in the premises

Lockfast and Secure Storage and Dispatch of Alcohol, and back office for staff orders will be taken online or via on line auction - challenge 25 will obtain at each stage of the operation including on delivery

Full postal address of premises which this application refers to

Unit 4, Woodburn Road, Blackburn Industrial Estate, Aberdeenshire, AB21 0RX

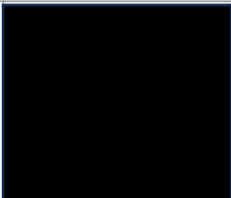
4. DURATION OF LICENCE

From: Thursday 25-1-2024



To: Wednesday 7-2-2024

5. Is alcohol to be sold on & off the premises <b>YES/NO*</b> - provide relevant details as to hours requested when alcohol will be sold on/off the premises *delete as	
Times for sale of alcohol for consumption on premises N/A	Times for sale of alcohol for consumption off premises 1000-2200
Statement of the times at which any activities other than the sale of alcohol will be carried on in the premises Loading and unloading of goods and office work potentially 0700-2300 daily	
6. CHILDREN (see note 2) This section must be completed where alcohol is for sale for consumption on the premises.	
Are children or young persons permitted entry? <b>YES/NO</b> (if answered yes the remainder of this section must be completed)	
Age of children or young persons permitted entry N/A	Times at which children or young persons permitted entry N/A
Parts of premises to which children or young persons permitted entry N/A	

7. CHECKLIST	
I have – Please tick yes	
• Made or enclosed payment of the fee for the application	£10.00

<b>8. SIGNATURE AND DECLARATION BY APPLICANT (see note 3)</b>			
<b>DECLARATION</b>			
<b>IT IS AN OFFENCE TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION</b>			
(Criminal Law (Consolidation)(Scotland) Act 1995 Section 44(2)(b))			
The contents of this Application are true to the best of my knowledge and belief <b>and the appropriate persons have read the attached privacy notice.</b>			
Signature		Date	06-11-2023

AGENT: Janet Hood: Janet Hood Training and Consulting Limited

 **PLEASE RESPOND TO ME BY EMAIL**  


#### NOTES

##### 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.**

**1. Section 56 of the Licensing (Scotland) Act 2005 provides that only:-**

- The holder of a premises licence;
- The holder of a personal licence; or
- A representative of any voluntary organization

is eligible to apply for an occasional licence

**2. Where alcohol is to be sold for consumption on the premises, the Act requires that a clear statement be made as to whether children or young persons are to be allowed entry and, if they are, a statement of the terms on which they are allowed entry**

**3. Data Protection Act 1998**

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

**APPENDIX 1**

**SUPPLEMENTARY INFORMATION: THESE APPLICATIONS ARE NOT FOR EVENTS**

<p><b>1. <u>Event</u></b></p> <p>(a) Please detail the type of event (e.g. birthday party, anniversary celebration, ceilidh, etc).</p> <p>(b) What entertainment, if any, will be provided? (e.g. live music, recorded music etc).</p>	<p><b><u>THESE APPLICATIONS ARE NOT FOR EVENTS</u></b></p> <p>(a)</p> <p>(b)</p>
<p><b>2. <u>Attendance</u></b></p> <p>(a) Approximately how many people are expected to attend?</p> <p>(b) How is this figure obtained? (e.g. previous events, ticket sales, capacity of venue)</p> <p>(c) In the main, what age group will form the majority of those attending? Tick one box.</p> <p>(d) How is access gained to the event? (e.g. ticket purchased in advance, ticket purchased at the door, private invitation)</p>	<p>Under 18</p> <p>18 - 30</p> <p>30 - 50</p> <p>Over 50</p> <p><b><u>THESE APPLICATIONS ARE NOT FOR EVENTS</u></b></p> <p><b><u>STAFF ONLY NO PUBLIC ACCESS</u></b></p>

<p><b>3. <u>Stewarding</u></b></p> <p>Please note it is an offence under the Private Security Industry Act 2001 to <u>employ</u> unlicensed door stewards. Unpaid volunteers performing this function are not covered by the Act, however. More information can be found at <a href="http://www.the-sia.org.uk/home">http://www.the-sia.org.uk/home</a></p> <p>(a) Please state the number, if any, of stewards to be employed at the event.</p> <p>(b) Of that number, please state how many will be SIA registered stewards and how many will be volunteers.</p>	<p><b><u>THESE APPLICATIONS ARE NOT FOR EVENTS</u></b></p> <p>(a)</p> <p>(b)</p>
<p><b>4. <u>Layout Plans</u></b></p> <p>Please indicate if -</p> <p>(a) there is a plan attached to a Public Entertainment Licence issued for the premises; or</p> <p>(b) the premises is a registered club which has been issued with a premises licence; or</p> <p>(c) attach a detailed layout plan of the venue with the application</p>	<p><b><u>THESE APPLICATIONS ARE NOT FOR EVENTS A LAYOUT PLAN IS INCLUDED IN APPLICATION</u></b></p> <p>(a) YES</p> <p>(b) YES/NO</p> <p>(c) Plan attached YES/NO</p>
<p><b>5. <u>Applications Lodged by Voluntary Organisations or Registered Clubs Only</u></b></p> <p>Please list the dates of previous occasional Licences granted by the Board between 1<sup>st</sup> January and 31<sup>st</sup> December</p>	<p>N/A</p>



<p>6. Will alternatives to glass receptacles be provided?</p>	<p>YES/NO/ N/A</p>
<p>7. Where the event is for more than 100 persons, or where the event is relating to a Voluntary Organisation where more than four occasional licences per year are applied for, please give details here of the person trained to personal licence holder standard</p>	<p><b><u>THESE APPLICATIONS ARE NOT FOR EVENTS</u></b></p> <p>Please attach a copy of your training certificate to this application</p>

<b>LICENSING OBJECTIVES</b>	
All holders of occasional licences must demonstrate how they will promote the 5 Licensing Objectives. Please provide practical examples of what you plan to do to comply with each objective.	
<b>8. How will you prevent Crime and Disorder at the event?</b>	<b><u>THESE APPLICATIONS ARE NOT FOR EVENTS PLEASE SEE SEPARATE 5 OBJECTIVE RISK ASSESSMENT</u></b>
<b>9. How will you secure Public Safety at the event?</b>	<b><u>THESE APPLICATIONS ARE NOT FOR EVENTS PLEASE SEE SEPARATE 5 OBJECTIVE RISK ASSESSMENT</u></b>
<b>10. How will you prevent Public Nuisance at the event?</b>	<b><u>THESE APPLICATIONS ARE NOT FOR EVENTS PLEASE SEE SEPARATE 5 OBJECTIVE RISK ASSESSMENT</u></b>

## DISABLED ACCESS AND FACILITIES STATEMENT

### Question 1

#### Disabled access and facilities

1(a)	Is there disabled access to the premises	NO
1(b)	Do you have facilities for those with a disability	NO
1(c)	Do you have any other provisions available to aid the use of the premises by disabled people	NO
<i>*Delete as appropriate</i>		

If you have answered Yes to any of the questions above please complete, as appropriate, the following sections.

### Question 2

#### Disabled access to, from and within the premises

Please provide clear and detailed description of how accessible the premises are for disabled people. e.g. ramps, accessible floors, signage.

N/A

### Question 3

#### Facilities available

Please describe in detail the facilities provided for disabled people. e.g. disabled toilets, lifts, accessible tables.

N/A

### Question 4

#### Other provisions

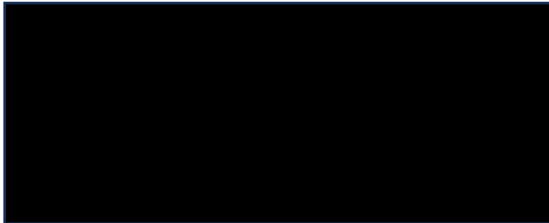
Please provide details of any other provisions made to aid the use of the premises by disabled people. e.g. assistance dogs welcome, large print menus.

N/A

**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 disabled access and facilities statement are true to the best of my knowledge and belief.



Date: 21-9-2023

Capacity ..... AGENT

Janet Hood

Janet Hood Training and Consulting Limited

SC534109



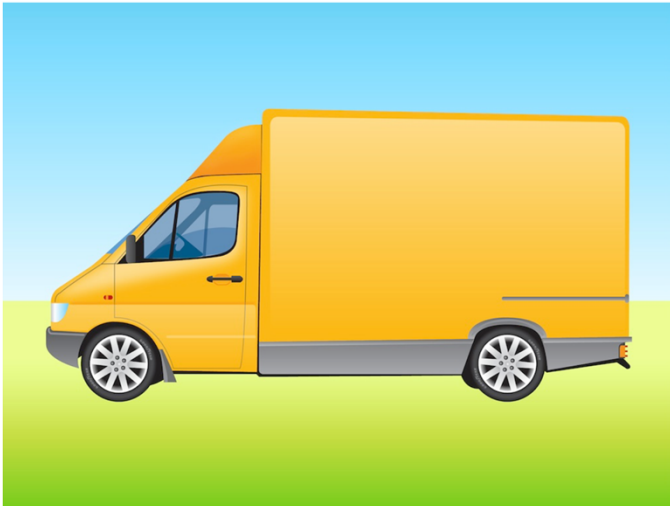
**\* Data Protection Act 1998**

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

1 Note for Delivery Personnel

Premises Licence Holders, Premises Managers and Staff

Distribution Point



Delivery drivers

carrying alcohol

**must be over 18**



they need to comply with the law or face a

**£5000.00 fine and/or 3 months in jail.**

2 Note for Delivery Personnel

Premises Licence Holders, Premises Managers and Staff

DELIVERY DRIVERS MUST NOT  
DELIVER ALCOHOL TO PEOPLE WHO  
ARE OR WHO APPEAR TO BE DRUNK



### 3 Note for Delivery Personnel

#### Premises Licence Holders, Premises Managers and Staff

If delivery drivers consider the person who is going to accept the delivery at domestic premises is under 25 they must operate

# Challenge 25

to check that the persons accepting the alcohol is over 18

Delivery drivers **MUST** ask to see approved age identification

#### DELIVERY DRIVER'S MUST

1. LOOK AT THE CARD & LOOK AT THE PERSON OFFERING THE CARD
2. CONFIRM THE PHOTOGRAPH ON THE CARD LOOKS LIKE THE PERSON OFFERING THE CARD
3. CHECK THE DATE OF BIRTH MAKES THE PERSON OVER THE AGE OF 18

**ONLY IF THEY ARE SURE THE PERSON IS OVER THE AGE OF 18 & SOBER CAN THEY DELIVER THE ALCOHOL**

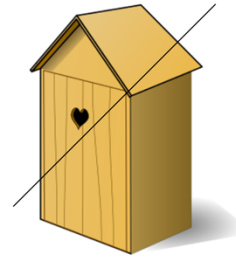
**4 Note for Delivery Personnel**

**Premises Licence Holders, Premises Managers and Staff**

**DELIVERY DRIVERS CANNOT LEAVE THE ALCOHOL ANYWHERE  
EXCEPT THE ADDRESS ON THE INVOICE**

**They must deliver the alcohol to a person aged over 18**

**They must not leave alcohol in a garage or  
shed**



**IF THEY ARE NOT SURE ABOUT ANY OF THE ABOVE THEY NEED  
TO TAKE THE ALCOHOL BACK TO BASE**

**DELIVERIES CANNOT BE MADE BETWEEN MIDNIGHT AND 6 A.M.**





5 Note for Delivery Personnel

Premises Licence Holders, Premises Managers and Staff  
APPROVED AGE IDENTIFICATION DOCUMENTS ARE



EU PHOTO DRIVER'S LICENCE



BIOMETRIC IMMIGRATION  
CARD



YOUNG SCOT CARD



PASSPORT



EU ID CARD



MILITARY ID CARD

THESE CARDS MUST BE CURRENT AND NOT OUT OF DATE

**6 Note for Delivery Personnel**

**Premises Licence Holders, Premises Managers and Staff**

Must have Invoice on paper or on mobile device

Invoice MUST contain certain information about the person who ordered the alcohol

Recipient:

Name - Mrs Janet Hood

Address - Clarence House, Paterson Street, Edzell, AB45 6YP

Items dispatched:

Alcohol Ordered - 12 bottles 75 cl Krooge Champagne - £1200.00

3 bottles 1litre Glen Mornengie - £240.00

6 bottles 75 cl Doefast £60.00

Dispatch address - Veryodd Cellar, 3 Smoith Street, Edinburk

Copy invoice has to be kept in a day book on premises from which alcohol is delivered - it is recommended Delivery Company also keeps a copy if the invoice.

**DELIVERY FIRMS MUST ENSURE THE  
PREMISES FROM WHICH THE ALCOHOL IS  
DISPATCHED HAS A PREMISES LICENCE  
PERMITTING OFF SALES - check before  
accepting the delivery**

7 Note for Delivery Personnel

Premises Licence Holders, Premises Managers and Staff

**Note for Premises Licence Holders**

**Mangers and Staff**

**Record keeping**

**In order to deliver or permit delivery of alcohol you must have**

1. **a day book kept on the premises from which the alcohol is despatched, and**
2. **The delivery drivers must have a delivery book or invoice with them**

**Information which must be recorded in day book and invoice**

**(a) the quantity, description and price of the alcohol, and**

**(b) the name and address of the person to whom it is to be delivered.**

**(c) the quantity, description and price of the alcohol**

8 Note for Delivery Personnel

Premises Licence Holders, Premises Managers and Staff

**(d) must show the invoice or day book to the police or LSO on request**

**This notice has been prepared for you with the five licensing objectives in mind**

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

1. WEB SITE / PHONE TRAINING / PACKAGE LABEL

1.1. Ensure that you have no sales or deliveries to under 18's clearly stated on web site

1.2. Ensure orders taken by credit / debit card

1.3. Ensure state that challenge 25 will take place at point of delivery

1.4. Ensure state on web site that charge will be made in event alcohol will be returned to base.

2. Orders by phone

2.1 Ensure phone orders taken by credit /debit card/ BACs and Bank Transfers

2.2. Ensure state to customer and on receipt that orders of alcohol will not be delivered to under 18s;

**9 Note for Delivery Personnel**

**Premises Licence Holders, Premises Managers and Staff**

2.3 Advise that challenge 25 will take place and alcohol will be returned to base should challenge 25 proffered proofs not be accepted by delivery driver

2.4. Ensure state to customer and print on on receipt that charge will be made in event alcohol will be returned to base.

2.5 Clearly state on package -Alcohol will not be delivered to persons appearing to be under the age of 25 without successful challenge 25 proving they are over the age of 18

Eg.

**THIS PACKAGE CONTAINS ALCOHOL  
CHALLENGE 25!**

**NO DELIVERY TO PERSONS UNDER THE AGE OF 18**

5 objective compliance

Page 1 of 2

This is the 5 objective risk assessment for OLIVER JAMES PAYNE

**Preventing Crime and Disorder**

Risk High/Medium/Low	Action	Inform/Remind/Update	Date
Low	Premises operator specialises in high end specialist whisky and has Challenge 25 information on web site		
	challenge 25 will obtain to prevent underaged deliveries		

**Preventing Public Nuisance**

Risk High/Medium/Low	Action	Inform/Remind/Update	Date
Low	Premises operator specialises in high end specialist whisky and has Challenge 25 information on web site premises are for distribution only so will not attract trouble makers		

**Securing Public Safety**

Risk High/Medium/Low	Action	Inform/Remind/Update	Date
Low	PREMISES ARE PROPERLY MANAGED TO ENSURE PUBLIC SAFETY of OPERATOR NO ACCESS BY PUBLIC		
	DELIVERY DRIVER TRAINING FOR ALL DELIVERIES WHERE POSSIBLE		
	ALL PACKAGES MARKED ALCOHOL NO DELIVERY TO UNDER 18S		

5 objective compliance

Page 2 of 2

**Protecting Children and Young Persons from Harm**

<b>Risk High/Medium/Low</b>	<b>Action</b>	<b>Inform/Remind/Update</b>	<b>Date</b>
<b>Low</b>	DELIVERY DRIVER TRAINING FOR ALL DELIVERIES BY DISTILLERY PERSONNEL		
	CHALLENGE 25 AT ALL POINTS INCLUDING ON LINE, PHONE AND DELIVERIES		

**Protecting and Improving Public Health**

<b>Risk High/Medium/Low</b>	<b>Action</b>	<b>Inform/Remind/Update</b>	<b>Date</b>
<b>Low</b>	CHALLENGE 25 AT ALL POINTS INCLUDING ON LINE, PHONE AND DELIVERIES		

ADDRESS WHERE ORDINARILY RESIDENT TO BE USED FOR CORRESPONDENCE PURPOSES

[REDACTED]

[REDACTED]

Post town: [REDACTED] Post code: [REDACTED]

TELEPHONE NUMBERS

Daytime	[REDACTED]
Evening	[REDACTED]
Mobile	[REDACTED]

FAX NUMBER N/A

E-mail address (if you would prefer us to correspond with you by e-mail)  
[REDACTED]

3. THE PREMISES

Description of Premises: Premises are a lock fast storage and dispatch facility situated in the heart of Blackburn Industrial Estate for a specialist on line whisky and other alcoholic drinks sales operation with no public access or display area

Description of activities to be carried on in the premises  
Lockfast and Secure Storage and Dispatch of Alcohol, and back office for staff orders will be taken online or via on line auction - challenge 25 will obtain at each stage of the operation including on delivery

Full postal address of premises which this application refers to  
Unit 4, Woodburn Road, Blackburn Industrial Estate, Aberdeenshire, AB21 0RX

4. DURATION OF LICENCE

From: Thursday 8-2-2024  
To: Wednesday 21-2-2024



ADDRESS WHERE ORDINARILY RESIDENT TO BE USED FOR CORRESPONDENCE PURPOSES

[REDACTED]

[REDACTED]

Post town: [REDACTED] Post code: [REDACTED]

TELEPHONE NUMBERS

Daytime	[REDACTED]
Evening	[REDACTED]
Mobile	[REDACTED]

FAX NUMBER	N/A
------------	-----

E-mail address (if you would prefer us to correspond with you by e-mail)  
[REDACTED]

3. THE PREMISES

Description of Premises: Premises are a lock fast storage and dispatch facility situated in the heart of Blackburn Industrial Estate for a specialist on line whisky and other alcoholic drinks sales operation with no public access or display area

Description of activities to be carried on in the premises  
Lockfast and Secure Storage and Dispatch of Alcohol, and back office for staff orders will be taken online or via on line auction - challenge 25 will obtain at each stage of the operation including on delivery

Full postal address of premises which this application refers to  
Unit 4, Woodburn Road, Blackburn Industrial Estate, Aberdeenshire, AB21 0RX

4. DURATION OF LICENCE

From: Thursday 22-2-2024  
To: Wednesday 6-3-2024

ADDRESS WHERE ORDINARILY RESIDENT TO BE USED FOR CORRESPONDENCE PURPOSES

[REDACTED]

[REDACTED]

Post town: [REDACTED] Post code: [REDACTED]

TELEPHONE NUMBERS

Daytime	[REDACTED]
Evening	[REDACTED]
Mobile	[REDACTED]

FAX NUMBER	N/A
------------	-----

E-mail address (if you would prefer us to correspond with you by e-mail)  
[REDACTED]

3. THE PREMISES

Description of Premises: Premises are a lock fast storage and dispatch facility situated in the heart of Blackburn Industrial Estate for a specialist on line whisky and other alcoholic drinks sales operation with no public access or display area

Description of activities to be carried on in the premises  
Lockfast and Secure Storage and Dispatch of Alcohol, and back office for staff orders will be taken online or via on line auction - challenge 25 will obtain at each stage of the operation including on delivery

Full postal address of premises which this application refers to  
Unit 4, Woodburn Road, Blackburn Industrial Estate, Aberdeenshire, AB21 0RX

4. DURATION OF LICENCE

From: Thursday 7-3-2024  
To: Wednesday 20 -3-2024

ADDRESS WHERE ORDINARILY RESIDENT TO BE USED FOR  
CORRESPONDENCE PURPOSES

[REDACTED]

Post town: [REDACTED]

Post code: [REDACTED]

TELEPHONE NUMBERS

Daytime

Evening

Mobile

[REDACTED]

FAX NUMBER

N/A

E-mail address (if you would prefer us to correspond with you by e-mail)

[REDACTED]

3. THE PREMISES

Description of Premises: Premises are a lock fast storage and dispatch facility situated in the heart of Blackburn Industrial Estate for a specialist on line whisky and other alcoholic drinks sales operation with no public access or display area

Description of activities to be carried on in the premises

Lockfast and Secure Storage and Dispatch of Alcohol, and back office for staff orders will be taken online or via on line auction - challenge 25 will obtain at each stage of the operation including on delivery

Full postal address of premises which this application refers to

Unit 4, Woodburn Road, Blackburn Industrial Estate, Aberdeenshire, AB21 0RX

4. DURATION OF LICENCE

From: Thursday 21-3-2024

To: Wednesday 3-4-2024

## **APPENDIX 2**

**COPY REPRESENTATIONS**  
**Licensing Standards Officer**

Our Ref: LG  
Ask for: Lisa Godini  
Direct Dial: 01467 530971  
Email: [lisa.godini@aberdeenshire.gov.uk](mailto:lisa.godini@aberdeenshire.gov.uk)

14 November 2023

Depute Clerk to the Aberdeenshire Licensing Board

Dear Sir/Madam

**Licensing (Scotland) Act 2005**  
**Section 56 – Application for Occasional Licence**  
**Premises: Unit 4, Woodburn Road, Blackburn Industrial Estate,**  
**Aberdeenshire AB21 0RX**  
**Per: Oliver James Payne per Janet Hood Training and Consulting Limited**

Infrastructure Services  
Environmental Health  
Gordon House  
Blackhall Road  
Inverurie  
Aberdeenshire  
AB51 3WA  
[www.aberdeenshire.gov.uk](http://www.aberdeenshire.gov.uk)

Under Section 57 (3) of the Licensing (Scotland) Act 2005 I wish to make the following representation:

On 6 November 2023 the applicant applied for 10 occasional licences:

LAOCC/02471/23 16/11/2023 – 29/11/2023  
LAOCC/02472/23 30/11/2023 – 13/12/2023  
LAOCC/02473/23 14/12/2023 – 27/12/2023  
LAOCC/02474/23 28/12/2023 – 10/01/2024  
LAOCC/02475/23 11/01/2023 – 24/01/2024

LAOCC/02476/23 25/01/2024 – 07/02/2024  
LAOCC/02477/23 08/02/2024 – 21/02/2024  
LAOCC/02478/23 22/02/2024 – 06/03/2024  
LAOCC/02479/23 07/03/2024 – 20/03/2024  
LAOCC/02480/23 21/03/2024 – 03/04/2024

These applications are the latest in a series of occasional licence applications which date back to 26 October 2023 (LAOCC/02021/23 26/10/2023 – 08/11/2023 – please note a break in applications from 8 November to 16 November 2023 due to an admin error by the applicant's agent). I therefore believe that the last 5 occasional licence applications detailed above are inconsistent with the Aberdeenshire Licensing Board Policy Statement 2023 – 2028:

**The Aberdeenshire Licensing Board Statement of Licensing Policy 2023-2028**

**Supplementary Policy 4: Operating Hours**

**Repeated Occasional Licence Applications**

***4.45 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 or a major variation of a premises licence being progressed or under adequate explanation as to why a premises licence or major variation of a premises licence is not being applied for. This will be considered on a***

*case-by-case basis. The Board expects such premises to be operating under a premises licence and occasional licences should not be used as an alternative.*

*4.46 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 licence 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 Licence and, in these circumstances, the Board will require an applicant to explain why an application for a Premises Licence is not being made.*

If the Licensing Board are minded granting the licence then I would recommend that the following conditions be applied to the event:

1. The Licence Holder or Responsible Person must be present at the event and must ensure all staff, volunteers and stewards comply with the requirements of the Licensing (Scotland) Act 2005. This includes awareness of the policies and procedures relating to the event and the contents of Appendix 1 to the Licensing Board’s current Policy Statement.

3. The Licence Holder must ensure that all staff employed in the sale or supply of alcohol have received staff training to the standard provided for in Paragraph 6 of Schedule 3 of the Act 2005 Act.

Evidence of this must be available for inspection by Police Scotland and the LSOs on request. Training must be delivered by a person who holds a personal licence or who is an accredited trainer only.

4. Alcohol shall only be displayed and sold in accordance with the layout plan submitted with the application for a licence and consulted on.

8. The Licence Holder must ensure that any general authorisation for the sale of alcohol, as required by Schedule 4 of the Licensing (Scotland) Act 2005 required within the area covered by the occasional licence is –

- (i) In writing,
- (ii) Available for inspection by Police Scotland and Licensing Standards Officers on request,
- (iii) Brought to the attention of and signed by all parties and
- (iv) Enforced by Personal Licence Holder.

42. The Licence Holder shall ensure that, in respect of non-trade sales:

- (a) 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.
- (b) Delivery drivers and click and collect staff are trained to the same level as staff who sell or supply alcohol within licensed premises.
- (c) That the customers signs of receipt of delivery of alcohol.
- (d) Delivery drivers and click and collect staff keep refusal registers.
- (e) That orders are not left in nominated places.

43. 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 –

- (a) A daybook kept on the premises from which the alcohol is dispatched, and
- (b) A delivery book or invoice carried by the person delivering the alcohol.

Information referred to above must include –

- (i) The quantity, description, and price of the alcohol, and
- (ii) The name and address of the person to whom it is to be delivered to.

Yours faithfully



Lisa Godini  
Licensing Standards Officer

**APPENDIX 3**

**SUPPLEMENTARY POLICY STATEMENT 4**



## Supplementary Policy 4: Operating Hours

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### 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 Licensing (Scotland) Act 2005 (“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 should 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 There are mandatory conditions that apply to premises licences and occasional licences granted by the Board. These are set out in Schedules 3 and 5 to the 2005 Act. The Board may also attach local 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 **Statutory Guidance**, 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:

<b>Nightclubs etc.</b>	<b>Sunday to Thursday</b>	<b>2.00 a.m.</b>
	<b>Friday and Saturday</b>	<b>3.00 a.m.</b>
<b>Other On-Sales Premises</b>		<b>1.00 a.m.</b>

- 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 wishes 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.

<b>Premises Licences</b>	<b>Applicants should refer to Appendix 2 – Local Conditions 12 to 17.</b>
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<b>Festive Hours</b>
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- 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:-

<b>Friday and Saturday preceding the 25<sup>th</sup> of December.</b>
<b>24<sup>th</sup> to 26<sup>th</sup> of December inclusive.</b>
<b>Friday and Saturday preceding the 31<sup>st</sup> of December.</b>
<b>1<sup>st</sup> of January.</b>

- 4.16 Such premises may also open on the **31<sup>st</sup> of December until 3.00 a.m.**

<b>Premises Licences</b>	<b>Applicants should refer to Appendix 2 Local Conditions 38 to 42.</b>
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<b>Occasional Extensions</b>
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- 4.17 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.

Whether an event meets the criteria set out at (a) and (b) above will be a matter for the Board to determine on a case-by-case basis.

<b>Extended hours have effect for the period specified in the application or other such period as the Board consider appropriate, but must not exceed the period of one month.</b>
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- 4.18 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.

- 4.19 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.
- 4.20 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 and will align with the five licensing objectives.
- 4.21 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

- 4.22 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.
- 4.23 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 Website](#)<sup>100</sup>.
- 4.24 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.
- 4.25 For further detailed information on Occasional Extensions, please see the [Board's Guidance](#)<sup>101</sup>.

**Occasional Licences**

- 4.26 It is possible to make an application for an occasional licence authorising the sale of alcohol on premises which are not licensed premises.
- 4.27 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

<sup>100</sup> <https://www.aberdeenshire.gov.uk/licensing/>  
<sup>101</sup> <https://www.aberdeenshire.gov.uk/licensing/occasionalextensions.asp>

events that are aimed primarily at children or young persons, such as but not limited to, school sports days or children's parties.

4.28 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)

4.29 An occasional licence can last up to a **maximum of 14 days**.

4.30 The holders of a premises licence or a personal licence may make unlimited applications.

4.31 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.

4.32 The combined duration of all occasional licences in any 12-month period **must not exceed 56 days**.

<b>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.</b>
--

4.33 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.

4.34 To allow time to consult the Police and the LSO and for objections/comments to 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 provision of funeral teas or in exceptional circumstances.

4.35 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.

- 4.36 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.
- 4.37 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 personal licence holder to be in charge of the bar at the event as recommended by the Licensing Standards Officers or Police Scotland. All staff training must be delivered by a personal licence holder.
- 4.38 In all other circumstances, where a voluntary organisation applies for numerous occasional licences in any calendar year, the Board expects there to be a personal licence holder to be in charge of the bar at the event as recommended by the Licensing Standards Officers or Police Scotland. All staff training must be delivered by a personal licence holder.
- 4.39 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).
- 4.40 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

- 4.41 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 and align with the five licensing objectives.

The Board considers the commencement of the sale of alcohol shall not be earlier than **10.00 a.m.** (On-Sales or Off-Sales).

For the terminal hour beyond which alcohol must not be sold on the premises, the Board considers **1.00 a.m. for On-Sales** or **10.00 p.m. for Off-Sales** 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

- 4.42 The Board is aware of the mandatory conditions which are set out both in Schedule

3 to the 2005 Act and in Regulations. In addition, the Board will consider on an individual basis whether it is necessary or expedient to impose local 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 2005 Act.

- 4.43 The decision whether to impose a condition will be made on an objective basis, any representations made, recommendations made by Police Scotland and the LSO, and any other relevant information available to the Board when considering the application. The Board will seek to avoid the imposition of disproportionate conditions.
- 4.44 The Board has agreed a pool of local conditions that may be attached to occasional licences granted by the Board. These are as set out at **Appendix 3** to the main Policy Statement.

<b>Occasional Licences</b>	<b>Applicants should refer to Appendix 3 - Local Conditions 1 to 43.</b>
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<b>Repeated Occasional Licence Applications</b>
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- 4.45 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 or a major variation of a premises licence being progressed or under adequate explanation as to why a Premises Licence or a major variation of a premises licence is not being applied for. This will be considered on a case-by-case basis. The Board expects such premises to be operating under a Premises Licence and Occasional Licences should not be used as an alternative.

- 4.46 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:-

	<b>Securing public safety.</b>
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**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**

- 4.47 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.
- 4.48 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. The Board has a flexible view on this, and such circumstances will not ordinarily be considered a breach of the operating plan. The Board will consider circumstances on a case-by-case basis.
- 4.49 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, the Board has a flexible view on this, and this will not ordinarily be treated as breach of the operating plan. The Board will consider circumstances on a case-by-case basis.
- 4.50 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.
- 4.51 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**

- 4.52 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 and Winter Time**



- 4.53 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.
- 4.54 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 1.00 a.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.
- 4.55 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

- 4.56 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.

<b>Premises Licences</b>	<b>Applicants should refer to Appendix 2 - Local Condition 37.</b>
<b>Occasional Licences</b>	<b>Applicants should refer to Appendix 3 - Local Condition 27.</b>

- 4.57 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.






## APPENDIX 4

### LOCAL CONDITIONS

## Local Conditions – Occasional Licences

### The Aberdeenshire Licensing Board

#### Local Conditions - Occasional Licences

Licensing 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

General Management - All Occasional Licences		
Number	Condition	Licensing Objectives
1	The Licence Holder or a Responsible Person <b>must</b> be present at the event and <b>must</b> ensure that all staff, volunteers and stewards comply with the requirements of the Licensing (Scotland) Act 2005. This includes awareness of policies and procedures relating to the event and the contents of Appendix 1 to the Licensing Board's current Policy Statement.	PCD, SPS, PPN
2(a)  OR	Where the Licence Holder is not in attendance at the event, the Licence Holder <b>must</b> ensure there is 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 2005 Act. Evidence of this must be available for inspection by Police Scotland and the LSOs on request.	PCD, SPS, PPN
2(b)	The Licence Holder <b>shall</b> ensure there is a person in charge of the bar and on duty at the event for the duration of the event who has a personal licence under the 2005 Act. The Full personal Licence (including Annexes A, B and C) <b>must</b> be available for inspection by Policy Scotland and the LSOs on request.	PCD, SPS, PPN
3	The Licence Holder <b>must</b> ensure that all staff employed in the sale or supply of alcohol have received staff training to the standard provided for in Paragraph 3 of Schedule 3 to the 2005 Act. Evidence of this <b>must</b> be available for inspection by Police Scotland and the LSOs on request. Training <b>must</b> be delivered by a person who holds a personal licence or who is an accredited trainer only.	PCD, SPS, PPN
4	Alcohol <b>shall</b> only be displayed and sold in	SPS, PPN, PIPH,

	accordance with the layout plan submitted with the application for a licence and consulted on.	PCYPFH
5	All refreshments <b>shall</b> be decanted into safe alternatives to glass at the point of sale.	SPS
6	Bar Staff <b>must</b> be able to identify and refuse service of alcohol to intoxicated/drunken persons.	PCD, PIPH
7	The Licensed area must be delineated, and signs erected to say that alcohol is not to be removed from the licensed area.	PCD, SPS, PPN
8	The Licence Holder <b>must</b> ensure that any general authorisation for the sale of alcohol, as required by Schedule 4 to the Licensing (Scotland) Act 2005, required within the area covered by the Occasional Licence is – (i) in writing, (ii) available for inspection by Police Scotland and Licensing Standards Officers on request, (iii) brought to the attention of and signed by all parties and (iv) enforced by a Personal Licence Holder.	PCD, SPS, PPN, PIPH. PCYPFH

#### Byelaws Prohibiting the Consumption of Alcohol in Designated Places

<b>Number</b>	<b>Condition</b>	<b>Licensing Objectives</b>
9	The Licence Holder <b>must</b> take care to clearly mark on the plans for the event the boundary of the venue to be included in the occasional licence.	PCD, PPN, PIPH
10	The Licence Holder <b>shall</b> take reasonable steps to inform customers of the existence and effect of the Byelaw.  The Licence holder <b>must</b> display visible signage to this effect, at exit points from the licensed area, the minimum size of which will be A4.	PCD, PPN, PIPH

#### Children and Young Persons

<b>Number</b>	<b>Condition</b>	<b>Licensing Objectives</b>
11	The Licence Holder <b>shall ensure</b> that Children (0 – 15 years) are accompanied by a responsible person over the age of 18.	SPS, PPN, PCYPFH
12	The Licence Holder <b>shall ensure</b> that Young Persons (16 & 17 years) are accompanied by a responsible person over the age of 18.	SPS, PPN, PCYPFH
13	The Licence Holder <b>must</b> employ a system to identify and distinguish between those attending the event who are under or over 18 years of age from the six approved forms of ID. The Licence Holder shall consider the use of wrist bands to distinguish those under and over 18 years, identifying different	PCD, SPS, PCYPFH

	age demographics.	
14	The Licence Holder shall make alternative provisions for those under 18 to purchase non-alcoholic refreshments. This should include the provision of free water as set out in the mandatory conditions attaching to occasional licences.	PIPH, PCD, PCYPFH
15	<b>No</b> under 18s are permitted in the main bar area. The Licence holder <b>must</b> display visible signage to this effect, the minimum size of which will be A4.	PCD, PCYPFH

### Vulnerability - All Occasional Licences

<u>Number</u>	<u>Condition</u>	<u>Licensing Objectives</u>
	The Licence Holder <b>must</b> have in place a Duty of Care policy to ensure a standard approach is taken when any patron appears to be displaying signs of excessive intoxication or distress.	
16	The Licence Holder <b>must</b> ensure that all staff, volunteers and stewards have additional training in identifying signs of excessive intoxication and an enhanced awareness of vulnerability through intoxication.  The Licence Holder <b>shall</b> ensure that staff training records are made accessible for inspection by Police Scotland and LSOs on request.	PCD, SPS, PPN, PIPH, PCYPFH

### Noise

<u>Number</u>	<u>Condition</u>	<u>Licensing Objectives</u>
17	Noise from amplified and non-amplified music, singing and speech sourced from licensed premises <b>shall not</b> be audible in adjoining properties after 11.00 p.m.	PPN

### Off Sales Stalls in Markets or at Events

<u>Number</u>	<u>Condition</u>	<u>Licensing Objectives</u>
18(a) or	Tastings of alcohol are permitted in a quantity commensurate with a reasonable sample of product on offer. All samples <b>must</b> be served in safe alternatives to glass.	PCD, SPS
18(b)	Tastings of alcohol are permitted in a quantity commensurate with a reasonable sample of product on offer.	PCD, SPS

19	The Licence Holder <b>must</b> display a notice in a prominent position at the point of sale indicating that alcohol purchased <b>must not</b> be consumed within the venue.	PCD, SPS
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### Occasional Licences - Events

<b>Number</b>	<b>Condition</b>	<b>Licensing Objectives</b>
20	No tickets for the event are to be sold within any structure erected on the site. All tickets are to be sold outside at the entrance to the site where the sobriety of the patrons <b>must</b> be established before they are permitted entry to the event.	SPS
21(a) or	Entry to the event must be ticket only, purchased prior to the day of the event.	SPS
21(b)	Entry to the event must be by ticket only purchased by XXX hours on the day of the event.	SPS
22	The Licence Holder <b>must</b> provide an appropriate counting method to ascertain the number of attendees within the event at any particular time.	SPS
23	The main bar <b>must</b> be situated in a suitable place separate from the dance floor at the event OR <b>must</b> be partitioned off from the dance floor.	PCD, SPS
24	The Licence Holder <b>shall ensure</b> that alcohol is only consumed within a designated bar area.	PCD, SPS, PPN, PCYPFH
25	The Licence Holder shall ensure that no glass, cans or other containers are taken into the licensed areas of the event by attendees. The Licence Holder must provide suitable receptacles for these items at the entrance to the licensed area.	PCD, SPS
26	The Licence Holder <b>shall ensure</b> that there is no re-entry to the event if a person is removed and <b>shall ensure</b> any wrist band worn by that person is removed on ejection as appropriate.	PCD, SPS, PPN
27	The Licence Holder <b>must</b> ensure there is a close down period between day time and evening events being held in the licensed area, where the licensed area <b>must</b> be cleared of all patrons.	PPN, SPS
28	The Licence Holder <b>must</b> ensure that a zero drugs policy is in place and that all staff, volunteers and stewards are aware of this Policy.	SPS, PCYPFH, PIPH
29	The Licence Holder <b>must</b> ensure that an evacuation procedure, policy and briefings are in place and ensure that all staff, volunteers and stewards are aware of this policy.	SPS
30	The Licence Holder <b>must</b> ensure that there is a procedure in place to conduct toilet checks and ensure that all staff, volunteers and stewards are	SPS, PPN, PCYPFH

	aware of this policy and that the necessary checks are undertaken.	
31	The Licence Holder <b>must</b> ensure that a dispersal policy is in place, that all staff, volunteers and stewards are briefed and aware of this Policy and assist with a swift, safe and quiet dispersal of patrons at the end of the event.	SPS PCD, PPN

### Adult Entertainment

<u>Number</u>	<u>Condition</u>	<u>Licensing Objectives</u>
32	Children and young persons <b>are not permitted</b> to attend any event involving adult entertainment.	PCYPFH

### Catering and Additional Activities

<u>Number</u>	<u>Condition</u>	<u>Licensing Objectives</u>
33	The Licence Holder <b>shall ensure</b> that any additional activities, such as catering, <b>must</b> cease trading at least 30 minutes prior to the terminal hour stated on the occasional licence.	PCD, PPN, SPS

### Stewards, Staff and Volunteers

<u>Number</u>	<u>Condition</u>	<u>Licensing Objectives</u>
34	<p>The Licence Holder <b>must</b> ensure that sufficient numbers of Staff and Volunteers are on duty to ensure a safe and responsibly run event. Such persons <b>must</b> be easily identifiable as such to persons present, display the appropriate identification, and should be made aware of their duties, policies and practices, by the Licence Holder. They <b>must</b> be responsible, capable, aware of their duties and not drink alcoholic liquor for the duration of their active employment. Their duties are to:</p> <p>(a) Confirm that persons who seek access to the premises have paid for admission or have appropriate passes/invitations;</p> <p>(b) Supervise entrance doors/access points at all times to ensure that no fire or other exits are blocked.</p> <p>(c) Be aware of fire safety precautions and procedures and all other policies and practices appropriate to the event.</p>	PCD, SPS, PPN, PIPH, PCYPFH

	<ul style="list-style-type: none"> <li>(d) Provide assistance to patrons, including customer care, directions to facilities and health and safety.</li> <li>(e) Remain on the premises until the end of the permitted hours and all patrons have vacated the premises.</li> <li>(f) Be aware of the provisions of the Licensing (Scotland) Act 2005 which impact on the running of the event.</li> <li>(g) An adequate number of staff, volunteers or stewards shall have knowledge of first aid procedure</li> </ul>	
35	<p>The Licence Holder <b>must</b> ensure that sufficient numbers of Security Industry Authority licensed stewards must be present to address the identified needs/risks of the event. They shall be responsible for controlling the licensed area of the event during licensed hours and until attendees have dispersed from the area at the end of the event. Such persons <b>must</b> be easily identifiable as such to persons present, display the appropriate identification, and should be made aware of their duties, policies and practices, by the Licence Holder. They <b>must</b> be responsible, capable, aware of their duties and not drink alcoholic liquor for the duration of their active employment. SIA stewards <b>must</b>:</p> <ul style="list-style-type: none"> <li>(a) 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;</li> <li>(b) Supervise entrance doors/access points at all times to ensure that no fire or other exits are blocked;</li> <li>(c) Identify and refuse entry to drunken persons.</li> <li>(d) Identify and refuse entry to any persons banned through pubwatch or by any other means;</li> <li>(e) Be aware of the fire safety precautions and procedures and all other policies and practices;</li> <li>(f) Be aware of the drug prevention policy;</li> </ul>	PCD, SPS, PPN, PIPH, PCYPFH



	<p>(g) Provide assistance to patrons, including customer care, directions to facilities and health and safety;</p> <p>(h) Ensure that no patron removes glasses, or open or closed vessels from the premises when exiting for any reason;</p> <p>(i) Remain on the premises until the end of permitted hours and all patrons have vacated the premises, including patrolling the vicinity outside the premises to assist dispersal from the premises after the premises close;</p> <p>(j) Be aware of the provisions of the Licensing (Scotland) Act 2005 which impact on the running of the event.</p> <p>(k) An adequate number of stewards shall have knowledge of first aid procedure</p> <p>(l) All SIA Stewards must wear radios to allow for clear communication with one another and the reporting of any incidents with the Head Steward and, in respect of the licence, the responsible persons on duty.</p> <p>(m) Stewards shall report all criminal and relevant matters to Police Scotland</p>	
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<b>Beer Gardens, Street Cafes and Outside Drinking Areas</b>		
<b><u>Number</u></b>	<b><u>Condition</u></b>	<b><u>Licensing Objectives</u></b>
36	Beer Gardens and outside drinking areas <b>must</b> not be used for activities linked to the sale or consumption of alcohol after 10.00pm. These areas may be used after 10.00pm for the purposes of smoking only.	PCD, SPS, PPN, PIPH, PCYPFH
37	The Licence Holder <b>must</b> take reasonable steps to ensure that litter and, where used, glass and bottles are removed from street cafes, beer gardens and outside drinking areas on a regular basis.	SPS, PPN, PIPH, PCYPFH
38	The Licence Holder <b>shall</b> consider the use of safe alternatives to glass containers and bottles in street cafes, beer gardens and outside drinking areas.	PCD, SPS, PPN, PIPH, PCYPFH

39	<p>The Licence Holder <b>shall</b> ensure that: -</p> <p>(a) No amplified music or noise emitted from the use of microphones, speakers or other forms of music entertainment shall be played within the area;</p> <p>(b) The area is delineated by a physical barrier;</p> <p>(c) Signage is displayed indicating that alcohol is not to be removed from the area.</p>	PCD, SPS, PPN, PIPH, PCYPFH
40	Children and Young Persons may be present in the street café, beer garden or the outside drinking area for the purpose of consumption of food.	PCYPFH

**Street Cafes and Licensed Pavement Areas forming part of a Market or Licensed Event**

<b>Number</b>	<b>Condition</b>	<b>Licensing Objectives</b>
41	<p>The Licence Holder <b>shall</b> ensure that there is a Street Café consent in place and <b>shall</b> 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>	PCD, SPS, PPN, PIPH, PCYPFH

**Alcohol Deliveries, Click and Collect and Internet Sales forming part of a Market or Licensed Event**

<b>Number</b>	<b>Condition</b>	<b>Licensing Objectives</b>
42	<p>The Licence Holder <b>shall</b> ensure that, in respect of non-trade sales:</p> <p>(a) There is an age verification policy for delivery</p>	SPS, PIPH, PCYPFH

	<p>drivers and at click and collect locations where the recipient of the alcohol is believed to be under the age of 25.;</p> <p>(b) Delivery drivers and click and collect staff are trained to the same level as staff who sell or supply alcohol within licensed premises.</p> <p>(c) That the customer signs on receipt of delivery of alcohol.</p> <p>(d) Delivery drivers and click and collect staff keep refusal registers.</p> <p>(e) That orders are not left in nominated places.</p>	
43	<p>The Licence Holder <b>shall</b> ensure compliance with Section 119 of the 2005 Act which requires the following in relation to delivery of alcohol from vehicles –</p> <p>(a) A daybook kept on the premises from which the alcohol is dispatched, and</p> <p>(b) A delivery book or invoice carried by the person delivering the alcohol.</p> <p>Information referred to above <b>must</b> include –</p> <p>(i) The quantity, description, and price of the alcohol, and</p> <p>(ii) The name and address of the person to whom it is to be delivered to.</p>	SPS, PIPH, 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.**

## APPENDIX 5 – LEGAL TEST

### Licensing (Scotland) Act 2005 Part 4 & Sections 56-61 and Schedule 4 Application for an Occasional Licence

#### LEGAL TEST

The legal test is set out in Section 59 of the Act.

- (1) An occasional licence application received by a Licensing Board is to be determined in accordance with this section
- (2) If the Board has not received any –
  - (a) ...<sup>1</sup>
  - (b) report from a Licensing Standards Officer under Section 57(3), or
  - (c) notice of objection or representation under Section 58(1),Relating to an application, the Board **MUST GRANT** the application unless the application must be refused under Section 56(6A)<sup>2</sup>, 64(2)<sup>3</sup> or 65(3)<sup>4</sup>.
- (3) In any other case, 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.
- (4) The Board **MAY** hold a hearing for the purposes of determining any application which is to be determined in accordance with subsection (3).
- (5) Where the Board does not hold a hearing, the Board **MUST** ensure that, before determining the application, the applicant is given an opportunity to comment on any such notice or report as is referred to in subsection (2).
- (6) The grounds for refusal are –
  - (a) that the premises to which the application relates are excluded premises
  - (b) that the application **must** be refused under section 56(6A), 64(2) or 65(3),
  - (c) that the Licensing Board considers the granting of the application would 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 premises to which the application relates,
    - (ii) the location, character and condition of the premises, and
    - (iii) the persons likely to frequent the premises

<sup>1</sup> Repealed by the Criminal Justice and Licensing (Scotland) Act 2010

<sup>2</sup> Granting the application would result in the occasional licence limit being exceeded

<sup>3</sup> Granting the application would result in 24 hour opening

<sup>4</sup> Granting the application would exceed the maximum off sale core hours of 10am – 10pm

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

- (7) ...<sup>5</sup>
- (8) In determining any application which is to be determined in accordance with subsection (3), the Board **MUST** take into account any report from a Licensing Standards Officer under section 57(3).

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

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

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

- Appendices 1 and 2 to the Main Policy Statement
  - Supplementary Policy 4 – Operating Hours
  - Supplementary Policy 6 – Licence Types and Board Procedures
  - Supplementary Policy 7 - private members clubs
1. A Licensing Board MAY, on the application of any of the persons mentioned in paragraph 2. below, made in relation to any premises (other than licensed premises) within the Board's area, issue to the applicant a licence (referred to as an "occasional licence") authorising the sale of alcohol on the premises.
  2. Those persons are –
    - (a) the holder of a premises licence,
    - (b) the holder of a personal licence, and
    - (c) a representative of any voluntary organisation.
  3. The Act and the Occasional Licence (Scotland) Regulations 2007 prescribe the format of the application for an occasional licence and the format of the licence itself.
  4. **An occasional Licence has effect for such period of NOT MORE THAN 14 days** as the Licensing Board may determine.
  5. A Licensing Board MAY issue an occasional licence in respect of any one voluntary organisation in any period of 12 months –

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<sup>5</sup> Repealed by the Criminal Justice and Licensing (Scotland) Act 2010

- (a) **not more than 4** occasional licences each having effect for a period of **4 days or more**, and
- (b) **not more than 12** occasional licences each having effect for a period of **less than 4 days**,

Provided that, in any period of 12 months, the total number of days on which occasional licences issued in respect of the organisation have effect **does not exceed 56**.

### **Private Members Clubs and Occasional Licences**

- 6. The Licensing (Clubs)(Scotland) Regulations 2007 provide that despite the fact that a premises licence is in effect in respect of premises used wholly or mainly for the purposes of a club which falls within the description of “licensed premises” it does not prevent an occasional licence being granted in respect of the premises.
- 7. The provisions set out for voluntary organisations at paragraph 5. above, also apply to Private Members Club in relation to occasional licences.
- 8. For any period during which an occasional licence has effect in respect of those premises, the conditions of any premises licence issued in respect of the premises are NOT to have effect.

### **Notification of Applications**

- 9. The Board **MUST** give notice of the application to the Chief Constable and any Licensing Standards Officer for the area. 21 days are allowed for responses.
- 10. The Board can waive the period of 21 days to such shorter period of not less than 24 hours as the Board may determine (This is normally done for Funeral Teas)
- 11. Applications for occasional licences **MUST** be advertised on the Board’s website. Members of the public have 7 days<sup>6</sup> in which to lodge a representation or objection (unless the circumstances in paragraph 10 above apply in which case no advert is required).
- 12. A Licensing Standards Officer may submit to the Board a report setting out the Officer’s comments on the application.
- 13. Any person may be notice to the Licensing Board –
  - (a) object to the application on any ground relevant to one of the grounds of refusal, or
  - (b) make representations to the Board concerning the application, including in particular, representations

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<sup>6</sup> Paragraph 18 The Licensing (Procedure)(Scotland) Regulations 2007

- (i) In support of the application, or
- (ii) As to conditions which the person considers should be imposed.

14. Where the Board receives notice of an objection or representation the Board MUST

- (a) give a copy of the notice to the applicant, and
- (b) have regard to the objection or representation in determining the application.

### Determination

15. The Board's current Scheme of Delegation make the following provisions for determination of applications for occasional licences:-

2.3	Occasional Licence or Extended Hours ("Fast Track")	S.57(4), S,69(4) and Schedule 1, Paragraph 10(1)	Determining whether an application for an occasional licence or occasional extension requires to be dealt with quickly. <b>Clerk in consultation with the Convenor</b>
2.4	Occasional Licence (Objection/Contrary to Policy)	S.59, and Schedule1, Paragraph 10(1)	Determining whether or not the Licensing Board will hold a hearing to determine an application for an occasional licence where an objection, representation or a notice recommending refusal from the Chief Constable or Licensing Standards Officer or where the application is contrary to the terms of the Board's Policy <b>Clerk in consultation with the Convenor</b>
2.5	Occasional Licence (Objection)	S.59 and Schedule 1, Paragraph 10(1).	Where a decision has been taken by the Convenor and Clerk not to hold a hearing in terms of Section 59(4) of the Act, the determination of the application following an opportunity for the applicant to comment on the representation in terms of Section 59(5) <b>Clerk in consultation with the Convenor</b>
2.6	Occasional Licence or Extended Hours (Lodged Late or Contrary to Policy)	S.59, S.70 and Schedule 1, Paragraph 10(1).	Determining whether to accept an application for an occasional licence or occasional extension that has been lodged late in terms of Board's Policy. <b>Clerk in consultation with the Convenor</b>
3.9	Occasional Licence (No Objection)	S.59 and Schedule 1, Paragraph 10(1).	Determining an application for an occasional licence – where no objections or representations have been received, nor a notice

			recommending refusal from the Chief Constable or any report from the Licensing Standards Officer recommending refusal including late applications which the Convenor has approved in terms of 2.5 above. <b>Delegated to the Clerk</b>
3.10	Occasional Licence or Extended Hours  (Funeral Teas)	Schedule 1, Paragraph 10(1).	Determining an application for an occasional Licence or occasional extension that has been lodged in respect of a funeral tea. <b>Delegated to the Clerk</b>
3.11	Occasional Licence Conditions	S.60 and Schedule 1, Paragraph 10(1).	To impose conditions under S60 in respect of an occasional licence as necessary or expedient for the purpose of any licensing objective. <b>Delegated to the Clerk</b>

Each application must be determined on its own merits.

### Conditions of Licence

16. There are mandatory conditions which must attach to every occasional licence granted. These are set out in Schedule 4 of the 2005 Act.
17. The Boards also have a pool of local licence conditions that may attach to an occasional licence. Only those that are appropriate to the event being licensed will be attached.

### SCOTTISH GOVERNMENT GUIDANCE

18. Chapter 9 of the Scottish Government's Statutory Guidance to Licensing Authorities relates to Occasional Licences. The Board should note that in terms of Section 142(4) of the Act, a Board deciding not to follow this guidance must give Ministers notice of that decision together with a statement of the reasons for it.



## EXTRACT FROM SCOTTISH GOVERNMENT GUIDANCE RELATING TO OCCASIONAL LICENCES

### 9. OCCASIONAL LICENCES

#### Introduction

9.1 This Chapter provides guidance on occasional licences which are licences which authorise the sale of alcohol. Occasional licences can be granted by Licensing Boards on application from a premises licence holder, a personal licence holder and a representative of any voluntary organisation. For example, for a premises licence holder this would be to authorise the sale of alcohol in the course of catering for an event taking place out with their licensed premises. Voluntary organisations may also apply for an occasional licence authorising the sale of alcohol at an event connected with the organisation's activities.

9.2 An occasional licence may not exceed a period of 14 days. The Licensing (Fees) (Scotland) Regulations 2007 (SSI 2007/553) provides that the fee payable in respect of an occasional licence application is £10. Occasional licences are distinct from premises licences (see Chapter 8, for more information on a premises licence) and where an occasional licence has effect in relation to a premises, a premises licence is not necessary. Licensing Boards will wish to note that the Air Weapons and Licensing (Scotland) Act (section 75) amended the 2005 Act such that those in possession of an occasional licence issued under section 56 of the 2005 Act will no longer be exempt from public entertainment licensing requirements (set out in the Civic Government (Scotland) Act 1982).

#### Procedure

##### *Notification of application*

9.3 Licensing Boards are required to consider applications for occasional licences in line with the provisions set out at Part 4 of the 2005 Act and the Licensing (Procedure) (Scotland) Regulations 2007 (SSI 2007/453). The regulations cover, amongst other matters, procedures and timescales in connection with the processing of applications for occasional licences.

9.4 The legislation requires that prior to determining an occasional licence application a Licensing Board must within 7 days of receiving it give notice of it, together with a copy of the application to the chief constable and the Licensing Standards Officer. On the day of notification, or as soon as reasonably practical thereafter, to these parties, a Licensing Board must publish details of the application on its website for a continuous period of 7 days. Inverclyde Licensing Board is an example of one Licensing Board which has a dedicated page on its website where interested parties can find information about occasional licence applications and objection forms can also be downloaded.

9.5 The Licensing Standards Officer may, within 21 days of receipt of notice of an application, prepare and submit a report setting out their comments on the application, which may include recommendations for additional conditions to be attached by the Licensing Board.

9.6 The Criminal Justice and Licensing (Scotland) Act 2010 amended the 2005 Act to enable the fast tracking of some occasional licences where there is very

limited notice of the need for such a licence e.g. a funeral. This amendment reduces the length of time a Licensing Board is required to wait for comments on an occasional licence application from the Licensing Standards Officer from 21 days to a period of not less than 24 hours. This applies where the Licensing Board is satisfied that the application *requires* to be dealt with quickly and the shortened time period is not being requested in order to pressurise the Licensing Board into granting a licence.

*Objections and representations*

9.7 Section 58 of the 2005 Act allows any person (including Police Scotland) to make objections and representations to Licensing Boards in connection with any application made to the Licensing Board for an occasional licence under section 56 of the 2005 Act. For example, Police Scotland may wish to raise objections due to concerns about the scale, location or timing of the event. Any notice of objection or representation must be made to the Licensing Board within the 7 day period the occasional licence application has been published on the Licensing Board website.

9.8 Any person, by giving notice to the Licensing Board, may object to an occasional licence application on any ground relevant to one of the grounds for refusal or make representations to the Licensing Board in support of the occasional licence application, or as to conditions which the persons considers should be imposed.

9.9 Licensing Boards are also required by section 58 to give the occasional licence applicant notice of any objections or representations and to take account of them in determining the application. Section 58 also permits Licensing Boards to reject any frivolous or vexatious objection or representation and sets out how a Licensing Board may recover from the person who gave the notice any expenses incurred by it in considering the notice.

9.10 Licensing Boards may wish to highlight to event organisers – perhaps through information on their websites - that due to the possibility of police intervention and/or public representations, that event organisers should not rely on giving the minimum amount of notice. Event organisers will wish to be aware of the importance of early engagement with for example local police licensing officers to discuss proposals for their event.

*Determination of occasional licence application*

9.11 The Criminal Justice and Licensing (Scotland) Act 2010 amended the 2005 Act in relation to the delegation of the functions of Licensing Boards to extend the ability to delegate approval of occasional licences applications to the Clerk of the Licensing Board or a member of support staff where no objections or representations are lodged.

9.12 Where no report from a Licensing Standards Officer, or notification of objection or representation under the relevant provisions of the 2005 Act have been received by a Licensing Board, then section 59 of the 2005 Act provides that an occasional licence application *must* be granted *unless* the application requires to be refused under:

- section 56(6A) of the 2005 Act – where the occasional licence application would result in the occasional licence limit being exceeded then the Licensing Board must refuse the application. For example, the occasional licence limit for voluntary organisations is set out at section 56(6) of the 2005 Act.
- section 64(2) of the 2005 Act - a Licensing Board must refuse any occasional licence application seeking a “24 hour licence” unless it is satisfied that there are exceptional circumstances which justify allowing the sale of alcohol on the premises during such a period.
- Section 65(3) of the 2005 Act – a Licensing Board must refuse an occasional licence application where the off sale hours proposed in the application are such that alcohol would be sold for consumption outside before 10am and/or after 10pm.

9.13 In any other case, for example where a representation has been received, section 59(3) of the 2005 Act provides that the Licensing Board must consider whether any of the grounds for refusal applies and:

- if none of them applies then the application *must* be granted; or
- if any of them applies, the application *must* be refused.

The Licensing Board may hold a hearing for the purposes of determining any application under section 59(3) of the 2005 Act. Where the Licensing Board does not hold a hearing for that purpose, it must ensure that, before determining the application, the applicant is given an opportunity to comment on any notice of objection, representation or the Licensing Standards Officer’s report.

9.14 The grounds for refusal are:

- that the premises to which the application relates are excluded premises
- that the application must be refused under section 56(6A), 64(2) or 65(3) of the Act;
- that the Licensing Board considers the granting of the application would be inconsistent with one or more of the licensing objectives;
- that, having regard to:
  - the nature of the activities proposed to be carried on in the premises to which the application relates;
  - the location, character and condition of the premises; and
  - the persons likely to frequent the premises;

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

9.15 In determining any application the Licensing Board must take into account any report from a Licensing Standards Officer under section 57(3) of the Act.

9.16 Whether the Licensing Board grants or refuses an occasional licence, they must give notice of the grant or refusal to the applicant, chief constable, any Licensing Standards Officer for the area and any person who may have given any notice of objection or representation in respect of the application. Any person who receives such notice may request, from the Clerk of the Licensing Board, a statement of reasons to be given to them by the Licensing Board.

#### *Conditions and occasional licences*

9.17 Schedule 4 to the 2005 Act establishes the national mandatory licence conditions for occasional licences issued under this statute, ensuring national consistency on those issues provided for. Licensing Boards may also impose other conditions – in addition to the mandatory conditions - as they consider necessary or expedient for the purposes of any of the licensing objectives. In particular, those are conditions requiring anything to be done, or prohibiting or restricting the doing of anything, in connection with either:

- the sale of alcohol on the premises in respect of which an occasional licence has effect; or
- any other activity carried on in such premises

9.18 For example, Clackmannanshire Licensing Board's statement of licensing policy 2018 comments that:

- "In the event that an applicant seeks a licence for an eighteenth birthday party, the Board if minded to grant the application will impose additional conditions regulating entry and the sale of alcohol to reduce the risk of harm caused to young persons in attendance through consumption of excess alcohol. It will generally be recommended that the Board impose a condition requiring the employment of SIA licensed stewards for these types of events. Applicants should have regard to these considerations when applying for occasional licences for such events and should ensure that the organisers are aware of the Board's likely requirements."

9.19 South Ayrshire Licensing Board is one example of a Licensing Board's statement of licensing policy which sets out, at Appendix 4, thirteen conditions which may be attached to an occasional licence. For example, condition 2 is that no under eighteens to be allowed in the main Bar area. The licensing objectives being promoted here are "preventing crime and disorder" and "protecting children from harm".

9.20 A Licensing Board may not impose a condition which:

- is inconsistent with any mandatory or prescribed condition;

- would have the effect of making any such condition more onerous or more restrictive; or
- relates to a matter (such as planning, building control or food hygiene) which is regulated under another enactment.

#### **Repeated occasional licence applications**

9.21 The occasional licensing system is intended to provide flexibility in the system regulating the sale of alcohol that otherwise would result in more onerous requirements falling on those wishing to, on a temporary basis, sell alcohol. Occasional licences are not intended as a substitute for premises licences.

9.22 With this in mind, Licensing Boards will wish to consider utilising appropriate processes which are capable of identifying instances where it appears there is an attempt to operate premises under a series of consecutive occasional licences, rather than obtaining an appropriate premises licence. If such circumstances are identified, Licensing Boards may wish to consider it good practice to ask the applicant to explain why an application for a premises licence is not being made.

9.23 It is for the Licensing Board to determine what the process for this would be. For example one Licensing Board – South Lanarkshire Licensing Division Number 1 (Clydesdale area) – has set out in its statement of licensing policy 2018 the approach it will take:

- “Repeated applications for an Occasional Licences for the same unlicensed premises and which are:-
  - Not for detailed specific events; and/or
  - For activities that have been occurring (either in identical or largely similar terms) on the premises regularly for period of at least three months;

will not generally be considered to be suitable for the grant of an Occasional Licence and will not be granted by the Board under delegated authority but will require a hearing before the Board. The Board expects such premises to be operating under a premises licence.”

9.24 A Licensing Board may also look to the duration of occasional licences for a single premises over a 12 month period and suggest a policy whereby the Licensing Board becomes directly involved in the consideration of further occasional licences at that premises. For example, one Licensing Board – Perth & Kinross – has commented in its statement of licensing policy 2018 that:

- “The Board considers it reasonable for occasional licences covering up to 30 days (including into the following mornings) to be granted in any one calendar year for a single premise. Where more than 30 days are sought, the Board expects a premises licence application to be submitted. Failure to do so may result in all further occasional licence applications being submitted to the Board for consideration rather than being dealt with under delegated powers. This does not apply to places such as village halls where different organisations use the same premise”.

### Extension of licensed hours

9.25 The licensed hours for occasional licences require to be set out in the application for the licence and incorporated into the licence if granted. Section 67 of the 2005 Act provides Licensing Boards with a power to grant general extensions to licensed hours in connection with special events of local or national significance. However, licensed premises are not obliged to remain open for the period of any such extension. Section 68 of the 2005 Act which makes provision for extended hours applications does not apply to occasional licences.

### Members' clubs

9.26 By virtue of section 56(1) of the 2005 Act, the usual position is that an occasional licence may not be issued in respect of a premises which is already licensed. However, there is an exception to this in respect of a club falling within the description of regulation 2 of the Licensing (Clubs) (Scotland) Regulations 2007 (SSI 2007/76). The fact a premises licence is in effect in respect of such a club does not prevent an occasional licence being issued in respect of the club. This means, for example, that a members club which under its premises licence is normally only allowed to supply alcohol to its members and their guests, may during the period covered by the occasional licence admit members of the public and sell alcohol to them.

9.27 When an occasional licence has effect in terms of the premises, the conditions of the premises licence temporarily do not apply (see regulation 3(3) of SSI 2007/76) and the conditions of the occasional licence apply instead. This means that sales of alcohol are permitted on the club premises to persons who are not members or accompanied by a member. Such occasional licences could for example be used for community events. When the occasional licence ceases to have effect then the conditions attached to the premises licence once more come into effect.

9.28 Licensing Boards are restricted in the number of occasional licences they can issue in respect of a members' club. Regulation 3(2) of SSI 2007/76 provides that:

- a Licensing Board may issue in respect of those *premises* in any period of 12 months—
  - (a) not more than 4 occasional licenses each having effect for a period of 4 days or more, and
  - (b) not more than 12 occasional licences each having effect for a period of less than 4 days,provided that, in any period of 12 months, the total number of days on which occasional licences issued in respect of the premises have effect does not exceed 56.

### Voluntary organisations

9.29 An application for an occasional licence can also be made by a representative of a voluntary organisation. Paragraph 5 of schedule 4 (*occasional licences: mandatory conditions*) to the 2005 Act applies only to occasional licences

issued to voluntary organisations and ensures that alcohol may only be sold at events run in connection with the organisations' activities.

9.30 Licensing Boards are restricted in the number of occasional licences they can issue in respect of voluntary organisations. Section 56(6) of the 2005 Act provides that:

- a Licensing Board may issue in respect of that *organisation* in any period of 12 months—
  - (a) not more than 4 occasional licenses each having effect for a period of 4 days or more, and
  - (b) not more than 12 occasional licences each having effect for a period of less than 4 days,

provided that, in any period of 12 months, the total number of days on which occasional licences issued in respect of the organisation have effect does not exceed 56.

9.31 Many voluntary organisations will not have commercial backgrounds or ready access to legal advice. They will include, for example, individuals acting on behalf of charities, community and voluntary groups, schools, churches and hospitals all of which may stage public events at which the sale of alcohol may take place. It is critical that Licensing Boards ensure that local publicity about the system of occasional licences is clear and Licensing Boards should strive to keep the arrangements as manageable and user-friendly as possible for these groups.

## Appendix 6 – Procedure

### 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 7

**Written Submissions – where lodged**

# ***THE ABERDEENSHIRE LICENSING BOARD***

**REPORT TO LICENSING BOARD – 20<sup>th</sup> December 2023**

**LICENSING (SCOTLAND) ACT 2005**

**APPLICATIONS FOR OCCASIONAL LICENCE – REPEATED APPLICATIONS  
POLICY**

**HEARING**

## **1 Executive Summary/Recommendations**

- 1.1. This report relates to repeated applications for occasional licences for day-to-day trading which, in terms of the Board's Policy in respect of repeated applications for occasional licences, are being brought to the Board for consideration.

The Licensing Standards Officer has highlighted the policy in representations made to these applications. In line with the Policy therefore, the Clerk has declined to deal with these applications and is asking the Board to determine them in accordance with the Legal Test and the terms of the Board's Policy.

A history of applications for the premises is included in the report for background information.

### **Recommendations**

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

- (c) **If minded to grant the applications, to grant subject to the local conditions listed at Section 3.22, the specific condition referred to at Section 3.23 and any other conditions the Board may determine to be required in respect of the applications.**

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

- 2.1. The undernoted applications have not been considered by the Board previously.

## **3. Discussion**

- 3.1. In terms of Section 58(1) of the 2005 Act, A Licensing Board may, on application of a premises Licence Holder, personal Licence Holder or voluntary organisation, made in relation to any premises (other than licensed premises) in the Board's area, issue to the applicant an occasional licence authorising the sale of alcohol on the premises.

### **Application(s)**

- 3.2. The following applications are the most recent applications to be lodged by Thomas Addy, a personal licence holder, for Tor Workshop, Unit 3 Braemar Mews, Mar Road, Braemar, AB35 5YL.

- (a) LAOCC/02502/23: 26<sup>th</sup> December 2023 – 8<sup>th</sup> January 2024 – 10.00am – 5.00pm
- (b) LAOCC/02535/23: 9<sup>th</sup> – 21<sup>st</sup> February 2024 – 10.00am – 5.00pm
- (c) LAOCC/02679/23: 23<sup>rd</sup> February – 5<sup>th</sup> March 2024 – 10.00am – 5.00pm

- 3.3. Copies of the application forms are attached as **Appendix 1** to this Report and referred to for their terms.

### **Consultations**

- 3.1. Police Scotland and the Licensing Standards Officer were consulted on the applications.
- 3.2. Police Scotland advised that they were happy with the terms of the application by emails dated 29<sup>th</sup> November 2023, each response being in identical terms, subject to the following conditions:
  1. All persons engaged in the sale or supply of alcohol must have received staff training to the standard provided for the Licensing (Scotland) Act 2005 Schedule 3 paragraph 6 and evidence of such training must be made available for inspection by Police and Licensing Standards Officers.(Local Condition 3)
  2. "Challenge 25" is carried out at point of sale of alcohol. (mandatory Condition 9)
- 3.3 The Licensing Standards Officer lodged a representation by email dated 30<sup>th</sup> November 2023 in respect of the applications.
- 3.4 A copy of the representation is attached as **Appendix 2** to this report and referred to for its terms.

### **Publicity**

- 3.5 The applications were advertised on the Board's website for the statutory period of 7 days.
- 3.6 No objections/representations were received as a result.
- 3.7 Copies of representations made were issued to the Applicant on 30<sup>th</sup> November 2023.

### **Policy Hours**

- 3.8 The applications comply with the Board's Policy in respect of the hours applied for.

### **Repeated Applications Policy**

- 3.9 Supplementary Policy Statement 4 sets out the Board's Policy in respect of Operating Hours, as well as Occasional Extensions and Occasional Licences. The Policy is attached as **Appendix 3** to this report and is referred to for its terms. This continues the policy included in the Board's previous Statement of Licensing Policy.
- 3.10 Section 4.35 provides that the Board considers 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.
- 3.11 Additionally, the Board regularly grants occasional licences to permit stall holders at events and markets to provide an off sale facility.
- 3.12 Section 4.36 provides that 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.
- 3.13 Section 4.45 provides that 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.

- 3.14 Officers are asking the Board to consider these applications in terms of Section 4.45 of the Board's Policy. In support of the officer's decision to do this, the history of applications for the premises is set out below.

#### History

1. LAPREM/00240/21– Application for Grant of Premises Licence for TOR Workshop, Unit 3, The Mews, Mar Road, Ballater by Tor Contracting Ltd per Thomas Addy was lodged on 22<sup>nd</sup> March 2022. On 22<sup>nd</sup> April 2022, a detailed examination letter was issued asking for revised Section 50 certificates, corrected drawings and several other issues were identified. Reminders were issued on 1<sup>st</sup> July, 27<sup>th</sup> July, 24<sup>th</sup> August and 21<sup>st</sup> September 2022 with no response. Attempts to call the applicant were made in October 2022 and further reminders were issued in November 2022 and January to March 2023. On 2<sup>nd</sup> May 2023 a deadline was given to the applicant for responses. The application was closed on the basis it could not competently be processed and the applicant advised on 16<sup>th</sup> August 2023.
  
2. The following Occasional Licence Applications have been lodged to date, all to trade between the hours of 10.00am – 5 .00pm:

<u>Ref No</u>	<u>From - To</u>	<u>Issue Date</u>
LAOCC/01216/22	07/07 to 21/07/2022	06/07/22
LAOCC/01217/22	22/07 to 05/08/2022	15/07/22
LAOCC/01164/22	09/08 to 22/08/2022	28/07/22
LAOCC/01167/22	23/08 to 05/09/2022	05/08/22
LAOCC/01168/22	06/09 to 19/09/2022	22/08/22
LAOCC/01169/22	20/09 to 03/10/2022	31/08/22
LAOCC/01170/22	04/10 to 17/10/2022	16/09/22
LAOCC/01935/22	18/10 to 31/10/2022	30/09/22
LAOCC/02122/22	01/11 to 14/11/2022	12/10/22
LAOCC/02121/22	15/11 to 28/11/2022	01/11/22
LAOCC/02120/22	29/11 to 12/12/2022	14/10/22
LAOCC/02400/22	13/12 to 26/12/2022	17/11/22
LAOCC/02538/22	27/12 to 09/01/2023	23/11/22
LAOCC/02539/22	10/01 to 23/01/2023	22/12/22
LAOCC/02796/22	24/01 to 06/02/2023	12/01/23
LAOCC/02925/22	07/02 to 20/02/2023	12/01/23
LAOCC/03083/22	21/02 to 06/03/2023	26/01/23
LAOCC/03300/22	07/03 to 20/03/2023	20/02/23
LAOCC/03505/22	21/03 to 03/04/2023	07/03/23
LAOCC/03640/22	04/04 to 17/04/2023	23/03/23
LAOCC/03842/22	18/04 to 01/05/2023	20/03/23
LAOCC/03956/22	02/05 to 15/05/2023	31/03/23
LAOCC/04170/22	16/05 to 29/05/2023	25/04/23
LAOCC/00117/23	30/05 to 12/06/2023	10/05/23
LAOCC/00283/23	13/06 to 26/06/2023	18/05/23



<u>Ref No</u>	<u>From - To</u>	<u>Issue Date</u>
LAOCC/00387/23	27/06 to 10/07/2023	25/05/23
LAOCC/00559/23	11/07 to 24/07/2023	28/06/23
LAOCC/00692/23	25/07 to 07/08/2023	15/06/23
LAOCC/00895/23	08/08 to 21/08/2023	06/07/23
LAOCC/01049/23	22/08 to 04/09/2023	02/08/23
LAOCC/01180/23	05/09 to 18/09/2023	22/08/23
LAOCC/01436/23	03/10 to 16/10/2023	30/08/23
LAOCC/01437/23	19/09 to 02/10/2023	29/08/23
LAOCC/01438/23	17/10 to 30/10/2023	26/09/23
LAOCC/01812/23	31/10 to 13/11/2023	11/10/23
LAOCC/01940/23	14/11 to 27/11/2023	24/10/23
LAOCC/02144/23	28/11 to 11/12/2023	16/11/23
LAOCC/02265/23	12/12 to 25/12/2023	27/11/23
LAOCC/02502/23	26/12 to 08/01/2024	LSO rep
LAOCC/02535/23	09/01 to 22/01/2024	LSO rep
LAOCC/02679/23	23/01 to 05/02/2024	LSO rep

- 3.15 The above demonstrates a pattern of occasionals for regular trading.
- 3.16 The Board’s policy provides that such Occasional Licences **may** be granted where there is sufficient evidence that there is movement towards an application for a premises licence or a major variation of premises licence being progressed **OR** under adequate explanation as to why a premises licence or a major variation of a premises licence is not being applied for. This will be considered on a case-by-case basis. The Board expects such premises to be operating under a Premises Licence and Occasional Licences should not be used as an alternative.
- 3.17 Section 4.46 of the Board’s policy places an onus on the applicant to explain their position to the Board:

“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:-

	<b>Securing public safety.</b>
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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.”

### Implications

- 3.18 If the Board determines that an occasional licence should be granted, the licence will take effect for the duration of the event.
- 3.19 If the Board refuses an occasional licence, then no alcohol can be sold during the event.

### Legal Test

- 3.20 The Legal Test is as set out in **Appendix 4** to this report.
- 3.21 If granted, mandatory conditions listed in the 2005 Act will attach to the occasional licence.
- 3.22 If the Board is minded to grant the applications, the following local conditions should apply to the licence:
- Conditions 1,3,4,8,18(b), 19,

**Appendix 5** contains the list of available local conditions

- 3.23 The Board may also attach conditions which are specific to the premises to be licensed, where required. If minded to grant, the following specific conditions should apply to the licence:

- None.

### **Procedure**

- 3.24 Each application should be considered on its own merits.
- 3.25 The basis of this report are the applications, representations and the submissions from the parties made at the hearing. If the Board is not satisfied that there is sufficient information to make a decision, the matter should be deferred to allow further information to be obtained.
- 3.26 All parties have been invited to attend the hearing by email dated 30<sup>th</sup> November 2023. Copies of this report, the legal test and the Board's Guidance on Procedures for hearings were included with the letter. Parties will be given the opportunity to participate in the meeting by whichever of the following means the person prefers: (a) telephone, or (b) written representations, including by means of an electronic communication [e-mail]. Any written submissions lodged with the Clerk will be circulated to all parties and to Members in advance of the hearing and will be taken to form part of this report.
- 3.27 The Board should follow the procedure outlined at **Appendix 6** of this report.
- 3.28 Members' options in disposing of the application are: -
- (a) To grant the application(s);
  - (b) Refuse the application(s);
  - (c) Grant subject to varied hours and/or additional conditions; or
  - (d) Determine that further evidence is required in which case the applications should be referred to the next available Board Meeting in order further information can be obtained in the interim.

Where more than one application is being considered, the Board should make a separate decision in respect of each application under consideration.

3.28 When coming to a decision the Board must consider the evidence provided and the contents of the legal test. Supplementary advice and information can be made available by officers, if required.

#### 4 Priorities, Implications and Risk

4.1 The Board must determine this matter on its own merits in accordance with the legal 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 being considered against the terms of the Board's Repeated Applications 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 those part of the IIA that 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 has authority to determine these applications as per the provisions of Section 4.45 of Supplementary Policy Statement 4 of the Board's previous and current Statement of Licensing Policy.

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

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

**Date:** 30<sup>th</sup> November 2023

**IDOX File Reference:** LAOCC/02502/23; LAOCC/02535/23; LAOCC/02679/23;

## **List of Appendices**

**Appendix 1 – Applications**

**Appendix 2 – Representations from LSO**

**Appendix 3 – Supplementary Policy 4**

**Appendix 4 - Local Conditions**

**Appendix 5 – Legal Test**

**Appendix 6 – Procedure**

## **APPENDIX 1**

### **COPY APPLICATION FORMS AND RELATED PAPERWORK**

**Occasional Licence Application LAOCC/02502/23**

Question	Response
Date Application Received	08/11/2023
Date licence is required for	26/12/2023
Date licence is to end	08/01/2024
Premises licence number	
Personal Licence number	AB-PER [REDACTED]
Name of voluntary organisation	TOR WORKSHOP
Enter the dates of previous occasional Licences granted by the Board between 1st January and 31st December (optional)	14-27/11/2023
Forenames	THOMAS
Surname	ADDY
Date of birth	[REDACTED]
Address	[REDACTED]
Town	[REDACTED]
Postcode	[REDACTED]
Email address	[REDACTED]
Telephone number	[REDACTED]
Mobile number	[REDACTED]
Description of Premises	Provisional Premises
Description of activities to be carried on in the premises	Sale of Alcohol
Full postal address of premises	TOR WORKSHOP UNIT 3 BRAEMAR MEWS, MAR ROAD, BRAEMAR, ABERDEENSHIRE, AB35 5YL
Is alcohol to be sold off the premises?	No
Is alcohol to be sold on the premises?	Yes
Time alcohol will be on sale for consumption on the premises from	10:00
Time alcohol will be on sale for consumption on the premises to	17:00
State the times at which any other activities, other than alcohol sales, will be carried out on the premises	09.00-17.00 OFFICE FOR CONSTRUCTION COMPANY
Will children be permitted entry?	Yes
What age of children will be permitted entry?	ANY
What time will children be permitted entry from?	10:00
What time will children be permitted entry to?	17:00
Which areas of the premises will children be permitted access to?	PUBLIC
Will young persons be permitted entry?	Yes

**Occasional Licence Application LAOCC/02535/23**

Question	Response
Date Application Received	13/11/2023
Date licence is required for	09/01/2024
Date licence is to end	22/01/2024
Premises licence number	
Personal Licence number	AB-PER [REDACTED]
Name of voluntary organisation	TOR WORKSHOP
Enter the dates of previous occasional Licences granted by the Board between 1st January and 31st December (optional)	14-27/11/2023
Forenames	THOMAS
Surname	ADDY
Date of birth	[REDACTED]
Address	[REDACTED]
Town	[REDACTED]
Postcode	[REDACTED]
Email address	[REDACTED]
Telephone number	[REDACTED]
Mobile number	[REDACTED]
Description of Premises	Provisional Premises
Description of activities to be carried on in the premises	Sale of Alcohol
Full postal address of premises	UNIT 3, BRAEMAR MEWS MAR ROAD, BAREMAR, ABERDEENSHIRE, AB355YL
Is alcohol to be sold off the premises?	No
Is alcohol to be sold on the premises?	Yes
Time alcohol will be on sale for consumption on the premises from	10:00
Time alcohol will be on sale for consumption on the premises to	17:00
State the times at which any other activities, other than alcohol sales, will be carried out on the premises	09.00-17.00 OFFICE FOR CONSTRUCTION COMPANY
Will children be permitted entry?	Yes
What age of children will be permitted entry?	ANY
What time will children be permitted entry from?	10:00
What time will children be permitted entry to?	17:00
Which areas of the premises will children be permitted access to?	PUBLIC
Will young persons be permitted entry?	Yes



**Occasional Licence Application LAOCC/02679/23**

Question	Response
Date Application Received	27/11/2023
Date licence is required for	23/01/2024
Date licence is to end	05/02/2024
Premises licence number	
Personal Licence number	AB-PER [REDACTED]
Name of voluntary organisation	TOR WORKSHOP
Enter the dates of previous occasional Licences granted by the Board between 1st January and 31st December (optional)	28/11/2023-1/12/2023
Forenames	THOMAS
Surname	ADDY
Date of birth	[REDACTED]
Address	[REDACTED]
Town	[REDACTED]
Postcode	[REDACTED]
Email address	[REDACTED]
Telephone number	[REDACTED]
Mobile number	[REDACTED]
Description of Premises	Provisional Premises
Description of activities to be carried on in the premises	Sale of Alcohol
Full postal address of premises	TOR WORKSHOP, UNIT 3 BRAEMAR MEWS MAR ROAD, BRAEMAR, ABERDEENSHIRE AB355YL
Is alcohol to be sold off the premises?	No
Is alcohol to be sold on the premises?	Yes
Time alcohol will be on sale for consumption on the premises from	10:00
Time alcohol will be on sale for consumption on the premises to	17:00
State the times at which any other activities, other than alcohol sales, will be carried out on the premises	09.00-17.00 OFFICE FOR CONSTRUCTION COMPANY
Will children be permitted entry?	Yes
What age of children will be permitted entry?	ANY
What time will children be permitted entry from?	10:00
What time will children be permitted entry to?	17:00
Which areas of the premises will children be permitted access to?	PUBLIC
Will young persons be permitted entry?	Yes

## **APPENDIX 2**

**COPY REPRESENTATIONS**  
**Licensing Standards Officer**

Our Ref: KS  
Ask for: Keith Simpson  
Direct Dial: 01467 534821  
Email: keith.simpson@aberdeenshire.gov.uk

Infrastructure Services  
**Environmental Health**  
Gordon House  
Blackhall Road  
Inverurie  
Aberdeenshire  
AB51 3WA  
www.aberdeenshire.gov.uk

30 November 2023

Depute Clerk to the Aberdeenshire Licensing Board

Dear Sir/Madam

**Licensing (Scotland) Act 2005**  
**Section 56 – Application for Occasional Licence**  
**Premises: TOR Workshop, Unit 3, Braemar Mews, Mar Road, Braemar**  
**Per: Mr Thomas Addy**

Under Section 57 (3) of the Licensing (Scotland) Act 2005 I wish to make the following representation:

On 22.03.2022 a premises licence application was received from the above-named person for TOR Workshop, Unit 3, Braemar Mews, Braemar. The application was processed in the normal manner with the applicant being asked to provide more information to enable it to proceed. On 11.08.2023 the application was closed due to a lack of response from the applicant.

On 08.11.2023 the applicant applied for the following occasional licence:

LAOCC/02502/23 26/12/2023 – 08.01/12/2024

On 13.11.2023 the applicant applied for the following occasional licence:

LAOCC/02535/23 09/01/2024 – 22/01/2024

On 27.11.2023 the applicant applied for the following occasional licence:

LAOCC/02679/34 23/01/2024 – 05/02/2024

These applications are the latest in a series of occasional licence applications which date back to 09 August 2022. I therefore believe that the occasional licence applications are inconsistent with the Aberdeenshire Licensing Board Policy Statement 2023 – 2028:

**The Aberdeenshire Licensing Board Statement of Licensing Policy 2023-2028**  
**Supplementary Policy 4: Operating Hours**  
**Repeated Occasional Licence Applications**

*4.45 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 or a major variation of a premises licence being progressed or under adequate explanation as to why a premises licence or major variation of a premises licence is not being applied for. This will be considered on a case-by-case basis. The Board expects such premises to be operating under a premises licence and occasional licences should not be used as an alternative.*

If the Licensing Board are minded granting the licence, then I would recommend that the following conditions be applied:

1. The Licence Holder or Responsible Person must be present at the event and must ensure all staff, volunteers and stewards comply with the requirements of the Licensing (Scotland) Act 2005. This includes awareness of the policies and procedures relating to the event and the contents of Appendix 1 to the Licensing Board's current Policy Statement.
  
3. The Licence Holder must ensure that all staff employed in the sale or supply of alcohol have received staff training to the standard provided for in Paragraph 6 of Schedule 3 of the Act 2005 Act. Evidence of this must be available for inspection by Police Scotland and the LSOs on request. Training must be delivered by a person who holds a personal licence or who is an accredited trainer only.
  
4. Alcohol shall only be displayed and sold in accordance with the layout plan submitted with the application for a licence and consulted on.
  
8. The Licence Holder must ensure that any general authorisation for the sale of alcohol, as required by Schedule 4 of the Licensing (Scotland) Act 2005 required within the area covered by the occasional licence is –
  - (i) In writing,
  - (ii) Available for inspection by Police Scotland and Licensing Standards Officers on request,
  - (iii) Brought to the attention of and signed by all parties and
  - (iv) Enforced by Personal Licence Holder.
  
- 18(b). Tastings of alcohol are permitted in a quantity commensurate with a reasonable sample of product on offer.
  
19. The Licence Holder must display a notice in a prominent position at the point of sale indicating that alcohol purchased must not be consumed within the venue

Yours faithfully

Keith Simpson  
Senior Licensing Standards Officer

**APPENDIX 3**

**SUPPLEMENTARY POLICY STATEMENT 4**

## Supplementary Policy 4: Operating Hours

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### 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 Licensing (Scotland) Act 2005 (“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 should 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 There are mandatory conditions that apply to premises licences and occasional licences granted by the Board. These are set out in Schedules 3 and 5 to the 2005 Act. The Board may also attach local 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 **Statutory Guidance**, 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:

<b>Nightclubs etc.</b>	<b>Sunday to Thursday</b>	<b>2.00 a.m.</b>
	<b>Friday and Saturday</b>	<b>3.00 a.m.</b>
<b>Other On-Sales Premises</b>		<b>1.00 a.m.</b>

- 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 wishes 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.

<b>Premises Licences</b>	<b>Applicants should refer to Appendix 2 – Local Conditions 12 to 17.</b>
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#### 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:-

<b>Friday and Saturday preceding the 25<sup>th</sup> of December.</b>
<b>24<sup>th</sup> to 26<sup>th</sup> of December inclusive.</b>
<b>Friday and Saturday preceding the 31<sup>st</sup> of December.</b>
<b>1<sup>st</sup> of January.</b>

- 4.16 Such premises may also open on the **31<sup>st</sup> of December until 3.00 a.m.**

<b>Premises Licences</b>	<b>Applicants should refer to Appendix 2 Local Conditions 38 to 42.</b>
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#### Occasional Extensions

- 4.17 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.

Whether an event meets the criteria set out at (a) and (b) above will be a matter for the Board to determine on a case-by-case basis.

<b>Extended hours have effect for the period specified in the application or other such period as the Board consider appropriate, but must not exceed the period of one month.</b>
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- 4.18 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.

- 4.19 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.
- 4.20 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 and will align with the five licensing objectives.
- 4.21 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

- 4.22 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.
- 4.23 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 Website](#)<sup>100</sup>.
- 4.24 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.
- 4.25 For further detailed information on Occasional Extensions, please see the [Board's Guidance](#)<sup>101</sup>.

**Occasional Licences**

- 4.26 It is possible to make an application for an occasional licence authorising the sale of alcohol on premises which are not licensed premises.
- 4.27 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

<sup>100</sup> <https://www.aberdeenshire.gov.uk/licensing/>  
<sup>101</sup> <https://www.aberdeenshire.gov.uk/licensing/occasionalextensions.asp>

events that are aimed primarily at children or young persons, such as but not limited to, school sports days or children's parties.

4.28 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)

4.29 An occasional licence can last up to a **maximum of 14 days**.

4.30 The holders of a premises licence or a personal licence may make unlimited applications.

4.31 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.

4.32 The combined duration of all occasional licences in any 12-month period **must not exceed 56 days**.

<b>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.</b>
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4.33 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.

4.34 To allow time to consult the Police and the LSO and for objections/comments to 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 provision of funeral teas or in exceptional circumstances.

4.35 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.

- 4.36 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.
- 4.37 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 personal licence holder to be in charge of the bar at the event as recommended by the Licensing Standards Officers or Police Scotland. All staff training must be delivered by a personal licence holder.
- 4.38 In all other circumstances, where a voluntary organisation applies for numerous occasional licences in any calendar year, the Board expects there to be a personal licence holder to be in charge of the bar at the event as recommended by the Licensing Standards Officers or Police Scotland. All staff training must be delivered by a personal licence holder.
- 4.39 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).
- 4.40 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

- 4.41 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 and align with the five licensing objectives.

The Board considers the commencement of the sale of alcohol shall not be earlier than **10.00 a.m.** (On-Sales or Off-Sales).

For the terminal hour beyond which alcohol must not be sold on the premises, the Board considers **1.00 a.m. for On-Sales** or **10.00 p.m. for Off-Sales** 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

- 4.42 The Board is aware of the mandatory conditions which are set out both in Schedule

3 to the 2005 Act and in Regulations. In addition, the Board will consider on an individual basis whether it is necessary or expedient to impose local 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 2005 Act.

- 4.43 The decision whether to impose a condition will be made on an objective basis, any representations made, recommendations made by Police Scotland and the LSO, and any other relevant information available to the Board when considering the application. The Board will seek to avoid the imposition of disproportionate conditions.
- 4.44 The Board has agreed a pool of local conditions that may be attached to occasional licences granted by the Board. These are as set out at **Appendix 3** to the main Policy Statement.

<b>Occasional Licences</b>	<b>Applicants should refer to Appendix 3 - Local Conditions 1 to 43.</b>
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<b>Repeated Occasional Licence Applications</b>
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- 4.45 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 or a major variation of a premises licence being progressed or under adequate explanation as to why a Premises Licence or a major variation of a premises licence is not being applied for. This will be considered on a case-by-case basis. The Board expects such premises to be operating under a Premises Licence and Occasional Licences should not be used as an alternative.

- 4.46 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:-

	<b>Securing public safety.</b>
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**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**

- 4.47 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.
- 4.48 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. The Board has a flexible view on this, and such circumstances will not ordinarily be considered a breach of the operating plan. The Board will consider circumstances on a case-by-case basis.
- 4.49 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, the Board has a flexible view on this, and this will not ordinarily be treated as breach of the operating plan. The Board will consider circumstances on a case-by-case basis.
- 4.50 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.
- 4.51 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**

- 4.52 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 and Winter Time**

- 4.53 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.
- 4.54 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 1.00 a.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.
- 4.55 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**

- 4.56 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.

<b>Premises Licences</b>	<b>Applicants should refer to Appendix 2 - Local Condition 37.</b>
<b>Occasional Licences</b>	<b>Applicants should refer to Appendix 3 - Local Condition 27.</b>

- 4.57 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.






**APPENDIX 4**

**LOCAL CONDITIONS**

## Local Conditions – Occasional Licences

### The Aberdeenshire Licensing Board

#### Local Conditions - Occasional Licences

Licensing 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

General Management - All Occasional Licences		
Number	Condition	Licensing Objectives
1	The Licence Holder or a Responsible Person <b>must</b> be present at the event and <b>must</b> ensure that all staff, volunteers and stewards comply with the requirements of the Licensing (Scotland) Act 2005. This includes awareness of policies and procedures relating to the event and the contents of Appendix 1 to the Licensing Board's current Policy Statement.	PCD, SPS, PPN
2(a)  OR	Where the Licence Holder is not in attendance at the event, the Licence Holder <b>must</b> ensure there is 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 2005 Act. Evidence of this must be available for inspection by Police Scotland and the LSOs on request.	PCD, SPS, PPN
2(b)	The Licence Holder <b>shall</b> ensure there is a person in charge of the bar and on duty at the event for the duration of the event who has a personal licence under the 2005 Act. The Full personal Licence (including Annexes A, B and C) <b>must</b> be available for inspection by Policy Scotland and the LSOs on request.	PCD, SPS, PPN
3	The Licence Holder <b>must</b> ensure that all staff employed in the sale or supply of alcohol have received staff training to the standard provided for in Paragraph 3 of Schedule 3 to the 2005 Act. Evidence of this <b>must</b> be available for inspection by Police Scotland and the LSOs on request. Training <b>must</b> be delivered by a person who holds a personal licence or who is an accredited trainer only.	PCD, SPS, PPN
4	Alcohol <b>shall</b> only be displayed and sold in	SPS, PPN, PIPH,



	accordance with the layout plan submitted with the application for a licence and consulted on.	PCYPFH
5	All refreshments <b>shall</b> be decanted into safe alternatives to glass at the point of sale.	SPS
6	Bar Staff <b>must</b> be able to identify and refuse service of alcohol to intoxicated/drunken persons.	PCD, PIPH
7	The Licensed area must be delineated, and signs erected to say that alcohol is not to be removed from the licensed area.	PCD, SPS, PPN
8	The Licence Holder <b>must</b> ensure that any general authorisation for the sale of alcohol, as required by Schedule 4 to the Licensing (Scotland) Act 2005, required within the area covered by the Occasional Licence is – (i) in writing, (ii) available for inspection by Police Scotland and Licensing Standards Officers on request, (iii) brought to the attention of and signed by all parties and (iv) enforced by a Personal Licence Holder.	PCD, SPS, PPN, PIPH. PCYPFH

#### Byelaws Prohibiting the Consumption of Alcohol in Designated Places

<b>Number</b>	<b>Condition</b>	<b>Licensing Objectives</b>
9	The Licence Holder <b>must</b> take care to clearly mark on the plans for the event the boundary of the venue to be included in the occasional licence.	PCD, PPN, PIPH
10	The Licence Holder <b>shall</b> take reasonable steps to inform customers of the existence and effect of the Byelaw.  The Licence holder <b>must</b> display visible signage to this effect, at exit points from the licensed area, the minimum size of which will be A4.	PCD, PPN, PIPH

#### Children and Young Persons

<b>Number</b>	<b>Condition</b>	<b>Licensing Objectives</b>
11	The Licence Holder <b>shall ensure</b> that Children (0 – 15 years) are accompanied by a responsible person over the age of 18.	SPS, PPN, PCYPFH
12	The Licence Holder <b>shall ensure</b> that Young Persons (16 & 17 years) are accompanied by a responsible person over the age of 18.	SPS, PPN, PCYPFH
13	The Licence Holder <b>must</b> employ a system to identify and distinguish between those attending the event who are under or over 18 years of age from the six approved forms of ID. The Licence Holder shall consider the use of wrist bands to distinguish those under and over 18 years, identifying different	PCD, SPS, PCYPFH

	age demographics.	
14	The Licence Holder shall make alternative provisions for those under 18 to purchase non-alcoholic refreshments. This should include the provision of free water as set out in the mandatory conditions attaching to occasional licences.	PIPH, PCD, PCYPFH
15	<b>No</b> under 18s are permitted in the main bar area. The Licence holder <b>must</b> display visible signage to this effect, the minimum size of which will be A4.	PCD, PCYPFH

### Vulnerability - All Occasional Licences

<u>Number</u>	<u>Condition</u>	<u>Licensing Objectives</u>
	The Licence Holder <b>must</b> have in place a Duty of Care policy to ensure a standard approach is taken when any patron appears to be displaying signs of excessive intoxication or distress.	
16	The Licence Holder <b>must</b> ensure that all staff, volunteers and stewards have additional training in identifying signs of excessive intoxication and an enhanced awareness of vulnerability through intoxication.  The Licence Holder <b>shall</b> ensure that staff training records are made accessible for inspection by Police Scotland and LSOs on request.	PCD, SPS, PPN, PIPH, PCYPFH

### Noise

<u>Number</u>	<u>Condition</u>	<u>Licensing Objectives</u>
17	Noise from amplified and non-amplified music, singing and speech sourced from licensed premises <b>shall not</b> be audible in adjoining properties after 11.00 p.m.	PPN

### Off Sales Stalls in Markets or at Events

<u>Number</u>	<u>Condition</u>	<u>Licensing Objectives</u>
18(a) or	Tastings of alcohol are permitted in a quantity commensurate with a reasonable sample of product on offer. All samples <b>must</b> be served in safe alternatives to glass.	PCD, SPS
18(b)	Tastings of alcohol are permitted in a quantity commensurate with a reasonable sample of product on offer.	PCD, SPS

19	The Licence Holder <b>must</b> display a notice in a prominent position at the point of sale indicating that alcohol purchased <b>must not</b> be consumed within the venue.	PCD, SPS
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### Occasional Licences - Events

<b>Number</b>	<b>Condition</b>	<b>Licensing Objectives</b>
20	No tickets for the event are to be sold within any structure erected on the site. All tickets are to be sold outside at the entrance to the site where the sobriety of the patrons <b>must</b> be established before they are permitted entry to the event.	SPS
21(a) or	Entry to the event must be ticket only, purchased prior to the day of the event.	SPS
21(b)	Entry to the event must be by ticket only purchased by XXX hours on the day of the event.	SPS
22	The Licence Holder <b>must</b> provide an appropriate counting method to ascertain the number of attendees within the event at any particular time.	SPS
23	The main bar <b>must</b> be situated in a suitable place separate from the dance floor at the event OR <b>must</b> be partitioned off from the dance floor.	PCD, SPS
24	The Licence Holder <b>shall ensure</b> that alcohol is only consumed within a designated bar area.	PCD, SPS, PPN, PCYPFH
25	The Licence Holder shall ensure that no glass, cans or other containers are taken into the licensed areas of the event by attendees. The Licence Holder must provide suitable receptacles for these items at the entrance to the licensed area.	PCD, SPS
26	The Licence Holder <b>shall ensure</b> that there is no re-entry to the event if a person is removed and <b>shall ensure</b> any wrist band worn by that person is removed on ejection as appropriate.	PCD, SPS, PPN
27	The Licence Holder <b>must</b> ensure there is a close down period between day time and evening events being held in the licensed area, where the licensed area <b>must</b> be cleared of all patrons.	PPN, SPS
28	The Licence Holder <b>must</b> ensure that a zero drugs policy is in place and that all staff, volunteers and stewards are aware of this Policy.	SPS, PCYPFH, PIPH
29	The Licence Holder <b>must</b> ensure that an evacuation procedure, policy and briefings are in place and ensure that all staff, volunteers and stewards are aware of this policy.	SPS
30	The Licence Holder <b>must</b> ensure that there is a procedure in place to conduct toilet checks and ensure that all staff, volunteers and stewards are	SPS, PPN, PCYPFH

	aware of this policy and that the necessary checks are undertaken.	
31	The Licence Holder <b>must</b> ensure that a dispersal policy is in place, that all staff, volunteers and stewards are briefed and aware of this Policy and assist with a swift, safe and quiet dispersal of patrons at the end of the event.	SPS PCD, PPN

### Adult Entertainment

<u>Number</u>	<u>Condition</u>	<u>Licensing Objectives</u>
32	Children and young persons <b>are not permitted</b> to attend any event involving adult entertainment.	PCYPFH

### Catering and Additional Activities

<u>Number</u>	<u>Condition</u>	<u>Licensing Objectives</u>
33	The Licence Holder <b>shall ensure</b> that any additional activities, such as catering, <b>must</b> cease trading at least 30 minutes prior to the terminal hour stated on the occasional licence.	PCD, PPN, SPS

### Stewards, Staff and Volunteers

<u>Number</u>	<u>Condition</u>	<u>Licensing Objectives</u>
34	<p>The Licence Holder <b>must</b> ensure that sufficient numbers of Staff and Volunteers are on duty to ensure a safe and responsibly run event. Such persons <b>must</b> be easily identifiable as such to persons present, display the appropriate identification, and should be made aware of their duties, policies and practices, by the Licence Holder. They <b>must</b> be responsible, capable, aware of their duties and not drink alcoholic liquor for the duration of their active employment. Their duties are to:</p> <ul style="list-style-type: none"> <li>(a) Confirm that persons who seek access to the premises have paid for admission or have appropriate passes/invitations;</li> <li>(b) Supervise entrance doors/access points at all times to ensure that no fire or other exits are blocked.</li> <li>(c) Be aware of fire safety precautions and procedures and all other policies and practices appropriate to the event.</li> </ul>	PCD, SPS, PPN, PIPH, PCYPFH

	<ul style="list-style-type: none"> <li>(d) Provide assistance to patrons, including customer care, directions to facilities and health and safety.</li> <li>(e) Remain on the premises until the end of the permitted hours and all patrons have vacated the premises.</li> <li>(f) Be aware of the provisions of the Licensing (Scotland) Act 2005 which impact on the running of the event.</li> <li>(g) An adequate number of staff, volunteers or stewards shall have knowledge of first aid procedure</li> </ul>	
35	<p>The Licence Holder <b>must</b> ensure that sufficient numbers of Security Industry Authority licensed stewards must be present to address the identified needs/risks of the event. They shall be responsible for controlling the licensed area of the event during licensed hours and until attendees have dispersed from the area at the end of the event. Such persons <b>must</b> be easily identifiable as such to persons present, display the appropriate identification, and should be made aware of their duties, policies and practices, by the Licence Holder. They <b>must</b> be responsible, capable, aware of their duties and not drink alcoholic liquor for the duration of their active employment. SIA stewards <b>must</b>:</p> <ul style="list-style-type: none"> <li>(a) 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;</li> <li>(b) Supervise entrance doors/access points at all times to ensure that no fire or other exits are blocked;</li> <li>(c) Identify and refuse entry to drunken persons.</li> <li>(d) Identify and refuse entry to any persons banned through pubwatch or by any other means;</li> <li>(e) Be aware of the fire safety precautions and procedures and all other policies and practices;</li> <li>(f) Be aware of the drug prevention policy;</li> </ul>	PCD, SPS, PPN, PIPH, PCYPFH

	<p>(g) Provide assistance to patrons, including customer care, directions to facilities and health and safety;</p> <p>(h) Ensure that no patron removes glasses, or open or closed vessels from the premises when exiting for any reason;</p> <p>(i) Remain on the premises until the end of permitted hours and all patrons have vacated the premises, including patrolling the vicinity outside the premises to assist dispersal from the premises after the premises close;</p> <p>(j) Be aware of the provisions of the Licensing (Scotland) Act 2005 which impact on the running of the event.</p> <p>(k) An adequate number of stewards shall have knowledge of first aid procedure</p> <p>(l) All SIA Stewards must wear radios to allow for clear communication with one another and the reporting of any incidents with the Head Steward and, in respect of the licence, the responsible persons on duty.</p> <p>(m) Stewards shall report all criminal and relevant matters to Police Scotland</p>	
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<b>Beer Gardens, Street Cafes and Outside Drinking Areas</b>		
<b><u>Number</u></b>	<b><u>Condition</u></b>	<b><u>Licensing Objectives</u></b>
36	Beer Gardens and outside drinking areas <b>must</b> not be used for activities linked to the sale or consumption of alcohol after 10.00pm. These areas may be used after 10.00pm for the purposes of smoking only.	PCD, SPS, PPN, PIPH, PCYPFH
37	The Licence Holder <b>must</b> take reasonable steps to ensure that litter and, where used, glass and bottles are removed from street cafes, beer gardens and outside drinking areas on a regular basis.	SPS, PPN, PIPH, PCYPFH
38	The Licence Holder <b>shall</b> consider the use of safe alternatives to glass containers and bottles in street cafes, beer gardens and outside drinking areas.	PCD, SPS, PPN, PIPH, PCYPFH

39	<p>The Licence Holder <b>shall</b> ensure that: -</p> <p>(a) No amplified music or noise emitted from the use of microphones, speakers or other forms of music entertainment shall be played within the area;</p> <p>(b) The area is delineated by a physical barrier;</p> <p>(c) Signage is displayed indicating that alcohol is not to be removed from the area.</p>	PCD, SPS, PPN, PIPH, PCYPFH
40	Children and Young Persons may be present in the street café, beer garden or the outside drinking area for the purpose of consumption of food.	PCYPFH

**Street Cafes and Licensed Pavement Areas forming part of a Market or Licensed Event**

<b>Number</b>	<b>Condition</b>	<b>Licensing Objectives</b>
41	<p>The Licence Holder <b>shall</b> ensure that there is a Street Café consent in place and <b>shall</b> 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>	PCD, SPS, PPN, PIPH, PCYPFH

**Alcohol Deliveries, Click and Collect and Internet Sales forming part of a Market or Licensed Event**

<b>Number</b>	<b>Condition</b>	<b>Licensing Objectives</b>
42	<p>The Licence Holder <b>shall</b> ensure that, in respect of non-trade sales:</p> <p>(a) There is an age verification policy for delivery</p>	SPS, PIPH, PCYPFH

	<p>drivers and at click and collect locations where the recipient of the alcohol is believed to be under the age of 25.;</p> <p>(b) Delivery drivers and click and collect staff are trained to the same level as staff who sell or supply alcohol within licensed premises.</p> <p>(c) That the customer signs on receipt of delivery of alcohol.</p> <p>(d) Delivery drivers and click and collect staff keep refusal registers.</p> <p>(e) That orders are not left in nominated places.</p>	
43	<p>The Licence Holder <b>shall</b> ensure compliance with Section 119 of the 2005 Act which requires the following in relation to delivery of alcohol from vehicles –</p> <p>(a) A daybook kept on the premises from which the alcohol is dispatched, and</p> <p>(b) A delivery book or invoice carried by the person delivering the alcohol.</p> <p>Information referred to above <b>must</b> include –</p> <p>(i) The quantity, description, and price of the alcohol, and</p> <p>(ii) The name and address of the person to whom it is to be delivered to.</p>	SPS, PIPH, 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.**



## APPENDIX 5 – LEGAL TEST

### Licensing (Scotland) Act 2005 Part 4 & Sections 56-61 and Schedule 4 Application for an Occasional Licence

#### LEGAL TEST

The legal test is set out in Section 59 of the Act.

- (1) An occasional licence application received by a Licensing Board is to be determined in accordance with this section
- (2) If the Board has not received any –
  - (a) ...<sup>1</sup>
  - (b) report from a Licensing Standards Officer under Section 57(3), or
  - (c) notice of objection or representation under Section 58(1),Relating to an application, the Board **MUST GRANT** the application unless the application must be refused under Section 56(6A)<sup>2</sup>, 64(2)<sup>3</sup> or 65(3)<sup>4</sup>.
- (3) In any other case, 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.
- (4) The Board **MAY** hold a hearing for the purposes of determining any application which is to be determined in accordance with subsection (3).
- (5) Where the Board does not hold a hearing, the Board **MUST** ensure that, before determining the application, the applicant is given an opportunity to comment on any such notice or report as is referred to in subsection (2).
- (6) The grounds for refusal are –
  - (a) that the premises to which the application relates are excluded premises
  - (b) that the application **must** be refused under section 56(6A), 64(2) or 65(3),
  - (c) that the Licensing Board considers the granting of the application would 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 premises to which the application relates,
    - (ii) the location, character and condition of the premises, and
    - (iii) the persons likely to frequent the premises

<sup>1</sup> Repealed by the Criminal Justice and Licensing (Scotland) Act 2010

<sup>2</sup> Granting the application would result in the occasional licence limit being exceeded

<sup>3</sup> Granting the application would result in 24 hour opening

<sup>4</sup> Granting the application would exceed the maximum off sale core hours of 10am – 10pm

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

- (7) ...<sup>5</sup>
- (8) In determining any application which is to be determined in accordance with subsection (3), the Board **MUST** take into account any report from a Licensing Standards Officer under section 57(3).

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

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

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

- Appendices 1 and 2 to the Main Policy Statement
  - Supplementary Policy 4 – Operating Hours
  - Supplementary Policy 6 – Licence Types and Board Procedures
  - Supplementary Policy 7 - private members clubs
1. A Licensing Board MAY, on the application of any of the persons mentioned in paragraph 2. below, made in relation to any premises (other than licensed premises) within the Board's area, issue to the applicant a licence (referred to as an "occasional licence") authorising the sale of alcohol on the premises.
  2. Those persons are –
    - (a) the holder of a premises licence,
    - (b) the holder of a personal licence, and
    - (c) a representative of any voluntary organisation.
  3. The Act and the Occasional Licence (Scotland) Regulations 2007 prescribe the format of the application for an occasional licence and the format of the licence itself.
  4. **An occasional Licence has effect for such period of NOT MORE THAN 14 days** as the Licensing Board may determine.
  5. A Licensing Board MAY issue an occasional licence in respect of any one voluntary organisation in any period of 12 months –

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<sup>5</sup> Repealed by the Criminal Justice and Licensing (Scotland) Act 2010

- (a) **not more than 4** occasional licences each having effect for a period of **4 days or more**, and
- (b) **not more than 12** occasional licences each having effect for a period of **less than 4 days**,

Provided that, in any period of 12 months, the total number of days on which occasional licences issued in respect of the organisation have effect **does not exceed 56**.

### **Private Members Clubs and Occasional Licences**

- 6. The Licensing (Clubs)(Scotland) Regulations 2007 provide that despite the fact that a premises licence is in effect in respect of premises used wholly or mainly for the purposes of a club which falls within the description of “licensed premises” it does not prevent an occasional licence being granted in respect of the premises.
- 7. The provisions set out for voluntary organisations at paragraph 5. above, also apply to Private Members Club in relation to occasional licences.
- 8. For any period during which an occasional licence has effect in respect of those premises, the conditions of any premises licence issued in respect of the premises are NOT to have effect.

### **Notification of Applications**

- 9. The Board **MUST** give notice of the application to the Chief Constable and any Licensing Standards Officer for the area. 21 days are allowed for responses.
- 10. The Board can waive the period of 21 days to such shorter period of not less than 24 hours as the Board may determine (This is normally done for Funeral Teas)
- 11. Applications for occasional licences **MUST** be advertised on the Board’s website. Members of the public have 7 days<sup>6</sup> in which to lodge a representation or objection (unless the circumstances in paragraph 10 above apply in which case no advert is required).
- 12. A Licensing Standards Officer may submit to the Board a report setting out the Officer’s comments on the application.
- 13. Any person may be notice to the Licensing Board –
  - (a) object to the application on any ground relevant to one of the grounds of refusal, or
  - (b) make representations to the Board concerning the application, including in particular, representations

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<sup>6</sup> Paragraph 18 The Licensing (Procedure)(Scotland) Regulations 2007

- (i) In support of the application, or
- (ii) As to conditions which the person considers should be imposed.

14. Where the Board receives notice of an objection or representation the Board MUST

- (a) give a copy of the notice to the applicant, and
- (b) have regard to the objection or representation in determining the application.

### Determination

15. The Board's current Scheme of Delegation make the following provisions for determination of applications for occasional licences:-

2.3	Occasional Licence or Extended Hours (“Fast Track”)	S.57(4), S,69(4) and Schedule 1, Paragraph 10(1)	Determining whether an application for an occasional licence or occasional extension requires to be dealt with quickly. <b>Clerk in consultation with the Convenor</b>
2.4	Occasional Licence (Objection/Contrary to Policy)	S.59, and Schedule1, Paragraph 10(1)	Determining whether or not the Licensing Board will hold a hearing to determine an application for an occasional licence where an objection, representation or a notice recommending refusal from the Chief Constable or Licensing Standards Officer or where the application is contrary to the terms of the Board's Policy <b>Clerk in consultation with the Convenor</b>
2.5	Occasional Licence (Objection)	S.59 and Schedule 1, Paragraph 10(1).	Where a decision has been taken by the Convenor and Clerk not to hold a hearing in terms of Section 59(4) of the Act, the determination of the application following an opportunity for the applicant to comment on the representation in terms of Section 59(5) <b>Clerk in consultation with the Convenor</b>
2.6	Occasional Licence or Extended Hours (Lodged Late or Contrary to Policy)	S.59, S.70 and Schedule 1, Paragraph 10(1).	Determining whether to accept an application for an occasional licence or occasional extension that has been lodged late in terms of Board's Policy. <b>Clerk in consultation with the Convenor</b>
3.9	Occasional Licence (No Objection)	S.59 and Schedule 1, Paragraph 10(1).	Determining an application for an occasional licence – where no objections or representations have been received, nor a notice

			recommending refusal from the Chief Constable or any report from the Licensing Standards Officer recommending refusal including late applications which the Convenor has approved in terms of 2.5 above. <b>Delegated to the Clerk</b>
3.10	Occasional Licence or Extended Hours  (Funeral Teas)	Schedule 1, Paragraph 10(1).	Determining an application for an occasional Licence or occasional extension that has been lodged in respect of a funeral tea. <b>Delegated to the Clerk</b>
3.11	Occasional Licence Conditions	S.60 and Schedule 1, Paragraph 10(1).	To impose conditions under S60 in respect of an occasional licence as necessary or expedient for the purpose of any licensing objective. <b>Delegated to the Clerk</b>

Each application must be determined on its own merits.

### Conditions of Licence

16. There are mandatory conditions which must attach to every occasional licence granted. These are set out in Schedule 4 of the 2005 Act.
17. The Boards also have a pool of local licence conditions that may attach to an occasional licence. Only those that are appropriate to the event being licensed will be attached.

### SCOTTISH GOVERNMENT GUIDANCE

18. Chapter 9 of the Scottish Government's Statutory Guidance to Licensing Authorities relates to Occasional Licences. The Board should note that in terms of Section 142(4) of the Act, a Board deciding not to follow this guidance must give Ministers notice of that decision together with a statement of the reasons for it.

## EXTRACT FROM SCOTTISH GOVERNMENT GUIDANCE RELATING TO OCCASIONAL LICENCES

### 9. OCCASIONAL LICENCES

#### Introduction

9.1 This Chapter provides guidance on occasional licences which are licences which authorise the sale of alcohol. Occasional licences can be granted by Licensing Boards on application from a premises licence holder, a personal licence holder and a representative of any voluntary organisation. For example, for a premises licence holder this would be to authorise the sale of alcohol in the course of catering for an event taking place out with their licensed premises. Voluntary organisations may also apply for an occasional licence authorising the sale of alcohol at an event connected with the organisation's activities.

9.2 An occasional licence may not exceed a period of 14 days. The Licensing (Fees) (Scotland) Regulations 2007 (SSI 2007/553) provides that the fee payable in respect of an occasional licence application is £10. Occasional licences are distinct from premises licences (see Chapter 8, for more information on a premises licence) and where an occasional licence has effect in relation to a premises, a premises licence is not necessary. Licensing Boards will wish to note that the Air Weapons and Licensing (Scotland) Act (section 75) amended the 2005 Act such that those in possession of an occasional licence issued under section 56 of the 2005 Act will no longer be exempt from public entertainment licensing requirements (set out in the Civic Government (Scotland) Act 1982).

#### Procedure

##### *Notification of application*

9.3 Licensing Boards are required to consider applications for occasional licences in line with the provisions set out at Part 4 of the 2005 Act and the Licensing (Procedure) (Scotland) Regulations 2007 (SSI 2007/453). The regulations cover, amongst other matters, procedures and timescales in connection with the processing of applications for occasional licences.

9.4 The legislation requires that prior to determining an occasional licence application a Licensing Board must within 7 days of receiving it give notice of it, together with a copy of the application to the chief constable and the Licensing Standards Officer. On the day of notification, or as soon as reasonably practical thereafter, to these parties, a Licensing Board must publish details of the application on its website for a continuous period of 7 days. Inverclyde Licensing Board is an example of one Licensing Board which has a dedicated page on its website where interested parties can find information about occasional licence applications and objection forms can also be downloaded.

9.5 The Licensing Standards Officer may, within 21 days of receipt of notice of an application, prepare and submit a report setting out their comments on the application, which may include recommendations for additional conditions to be attached by the Licensing Board.

9.6 The Criminal Justice and Licensing (Scotland) Act 2010 amended the 2005 Act to enable the fast tracking of some occasional licences where there is very

limited notice of the need for such a licence e.g. a funeral. This amendment reduces the length of time a Licensing Board is required to wait for comments on an occasional licence application from the Licensing Standards Officer from 21 days to a period of not less than 24 hours. This applies where the Licensing Board is satisfied that the application *requires* to be dealt with quickly and the shortened time period is not being requested in order to pressurise the Licensing Board into granting a licence.

*Objections and representations*

9.7 Section 58 of the 2005 Act allows any person (including Police Scotland) to make objections and representations to Licensing Boards in connection with any application made to the Licensing Board for an occasional licence under section 56 of the 2005 Act. For example, Police Scotland may wish to raise objections due to concerns about the scale, location or timing of the event. Any notice of objection or representation must be made to the Licensing Board within the 7 day period the occasional licence application has been published on the Licensing Board website.

9.8 Any person, by giving notice to the Licensing Board, may object to an occasional licence application on any ground relevant to one of the grounds for refusal or make representations to the Licensing Board in support of the occasional licence application, or as to conditions which the persons considers should be imposed.

9.9 Licensing Boards are also required by section 58 to give the occasional licence applicant notice of any objections or representations and to take account of them in determining the application. Section 58 also permits Licensing Boards to reject any frivolous or vexatious objection or representation and sets out how a Licensing Board may recover from the person who gave the notice any expenses incurred by it in considering the notice.

9.10 Licensing Boards may wish to highlight to event organisers – perhaps through information on their websites - that due to the possibility of police intervention and/or public representations, that event organisers should not rely on giving the minimum amount of notice. Event organisers will wish to be aware of the importance of early engagement with for example local police licensing officers to discuss proposals for their event.

*Determination of occasional licence application*

9.11 The Criminal Justice and Licensing (Scotland) Act 2010 amended the 2005 Act in relation to the delegation of the functions of Licensing Boards to extend the ability to delegate approval of occasional licences applications to the Clerk of the Licensing Board or a member of support staff where no objections or representations are lodged.

9.12 Where no report from a Licensing Standards Officer, or notification of objection or representation under the relevant provisions of the 2005 Act have been received by a Licensing Board, then section 59 of the 2005 Act provides that an occasional licence application *must* be granted *unless* the application requires to be refused under:

- section 56(6A) of the 2005 Act – where the occasional licence application would result in the occasional licence limit being exceeded then the Licensing Board must refuse the application. For example, the occasional licence limit for voluntary organisations is set out at section 56(6) of the 2005 Act.
- section 64(2) of the 2005 Act - a Licensing Board must refuse any occasional licence application seeking a “24 hour licence” unless it is satisfied that there are exceptional circumstances which justify allowing the sale of alcohol on the premises during such a period.
- Section 65(3) of the 2005 Act – a Licensing Board must refuse an occasional licence application where the off sale hours proposed in the application are such that alcohol would be sold for consumption outside before 10am and/or after 10pm.

9.13 In any other case, for example where a representation has been received, section 59(3) of the 2005 Act provides that the Licensing Board must consider whether any of the grounds for refusal applies and:

- if none of them applies then the application *must* be granted; or
- if any of them applies, the application *must* be refused.

The Licensing Board may hold a hearing for the purposes of determining any application under section 59(3) of the 2005 Act. Where the Licensing Board does not hold a hearing for that purpose, it must ensure that, before determining the application, the applicant is given an opportunity to comment on any notice of objection, representation or the Licensing Standards Officer’s report.

9.14 The grounds for refusal are:

- that the premises to which the application relates are excluded premises
- that the application must be refused under section 56(6A), 64(2) or 65(3) of the Act;
- that the Licensing Board considers the granting of the application would be inconsistent with one or more of the licensing objectives;
- that, having regard to:
  - the nature of the activities proposed to be carried on in the premises to which the application relates;
  - the location, character and condition of the premises; and
  - the persons likely to frequent the premises;

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



9.15 In determining any application the Licensing Board must take into account any report from a Licensing Standards Officer under section 57(3) of the Act.

9.16 Whether the Licensing Board grants or refuses an occasional licence, they must give notice of the grant or refusal to the applicant, chief constable, any Licensing Standards Officer for the area and any person who may have given any notice of objection or representation in respect of the application. Any person who receives such notice may request, from the Clerk of the Licensing Board, a statement of reasons to be given to them by the Licensing Board.

*Conditions and occasional licences*

9.17 Schedule 4 to the 2005 Act establishes the national mandatory licence conditions for occasional licences issued under this statute, ensuring national consistency on those issues provided for. Licensing Boards may also impose other conditions – in addition to the mandatory conditions - as they consider necessary or expedient for the purposes of any of the licensing objectives. In particular, those are conditions requiring anything to be done, or prohibiting or restricting the doing of anything, in connection with either:

- the sale of alcohol on the premises in respect of which an occasional licence has effect; or
- any other activity carried on in such premises

9.18 For example, Clackmannanshire Licensing Board's statement of licensing policy 2018 comments that:

- "In the event that an applicant seeks a licence for an eighteenth birthday party, the Board if minded to grant the application will impose additional conditions regulating entry and the sale of alcohol to reduce the risk of harm caused to young persons in attendance through consumption of excess alcohol. It will generally be recommended that the Board impose a condition requiring the employment of SIA licensed stewards for these types of events. Applicants should have regard to these considerations when applying for occasional licences for such events and should ensure that the organisers are aware of the Board's likely requirements."

9.19 South Ayrshire Licensing Board is one example of a Licensing Board's statement of licensing policy which sets out, at Appendix 4, thirteen conditions which may be attached to an occasional licence. For example, condition 2 is that no under eighteens to be allowed in the main Bar area. The licensing objectives being promoted here are "preventing crime and disorder" and "protecting children from harm".

9.20 A Licensing Board may not impose a condition which:

- is inconsistent with any mandatory or prescribed condition;

- would have the effect of making any such condition more onerous or more restrictive; or
- relates to a matter (such as planning, building control or food hygiene) which is regulated under another enactment.

#### **Repeated occasional licence applications**

9.21 The occasional licensing system is intended to provide flexibility in the system regulating the sale of alcohol that otherwise would result in more onerous requirements falling on those wishing to, on a temporary basis, sell alcohol. Occasional licences are not intended as a substitute for premises licences.

9.22 With this in mind, Licensing Boards will wish to consider utilising appropriate processes which are capable of identifying instances where it appears there is an attempt to operate premises under a series of consecutive occasional licences, rather than obtaining an appropriate premises licence. If such circumstances are identified, Licensing Boards may wish to consider it good practice to ask the applicant to explain why an application for a premises licence is not being made.

9.23 It is for the Licensing Board to determine what the process for this would be. For example one Licensing Board – South Lanarkshire Licensing Division Number 1 (Clydesdale area) – has set out in its statement of licensing policy 2018 the approach it will take:

- “Repeated applications for an Occasional Licences for the same unlicensed premises and which are:-
  - Not for detailed specific events; and/or
  - For activities that have been occurring (either in identical or largely similar terms) on the premises regularly for period of at least three months;

will not generally be considered to be suitable for the grant of an Occasional Licence and will not be granted by the Board under delegated authority but will require a hearing before the Board. The Board expects such premises to be operating under a premises licence.”

9.24 A Licensing Board may also look to the duration of occasional licences for a single premises over a 12 month period and suggest a policy whereby the Licensing Board becomes directly involved in the consideration of further occasional licences at that premises. For example, one Licensing Board – Perth & Kinross – has commented in its statement of licensing policy 2018 that:

- “The Board considers it reasonable for occasional licences covering up to 30 days (including into the following mornings) to be granted in any one calendar year for a single premise. Where more than 30 days are sought, the Board expects a premises licence application to be submitted. Failure to do so may result in all further occasional licence applications being submitted to the Board for consideration rather than being dealt with under delegated powers. This does not apply to places such as village halls where different organisations use the same premise”.

### Extension of licensed hours

9.25 The licensed hours for occasional licences require to be set out in the application for the licence and incorporated into the licence if granted. Section 67 of the 2005 Act provides Licensing Boards with a power to grant general extensions to licensed hours in connection with special events of local or national significance. However, licensed premises are not obliged to remain open for the period of any such extension. Section 68 of the 2005 Act which makes provision for extended hours applications does not apply to occasional licences.

### Members' clubs

9.26 By virtue of section 56(1) of the 2005 Act, the usual position is that an occasional licence may not be issued in respect of a premises which is already licenced. However, there is an exception to this in respect of a club falling within the description of regulation 2 of the Licensing (Clubs) (Scotland) Regulations 2007 (SSI 2007/76). The fact a premises licence is in effect in respect of such a club does not prevent an occasional licence being issued in respect of the club. This means, for example, that a members club which under its premises licence is normally only allowed to supply alcohol to its members and their guests, may during the period covered by the occasional licence admit members of the public and sell alcohol to them.

9.27 When an occasional licence has effect in terms of the premises, the conditions of the premises licence temporarily do not apply (see regulation 3(3) of SSI 2007/76) and the conditions of the occasional licence apply instead. This means that sales of alcohol are permitted on the club premises to persons who are not members or accompanied by a member. Such occasional licences could for example be used for community events. When the occasional licence ceases to have effect then the conditions attached to the premises licence once more come into effect.

9.28 Licensing Boards are restricted in the number of occasional licences they can issue in respect of a members' club. Regulation 3(2) of SSI 2007/76 provides that:

- a Licensing Board may issue in respect of those *premises* in any period of 12 months—
  - (a) not more than 4 occasional licenses each having effect for a period of 4 days or more, and
  - (b) not more than 12 occasional licences each having effect for a period of less than 4 days,provided that, in any period of 12 months, the total number of days on which occasional licences issued in respect of the premises have effect does not exceed 56.

### Voluntary organisations

9.29 An application for an occasional licence can also be made by a representative of a voluntary organisation. Paragraph 5 of schedule 4 (*occasional licences: mandatory conditions*) to the 2005 Act applies only to occasional licences

issued to voluntary organisations and ensures that alcohol may only be sold at events run in connection with the organisations' activities.

9.30 Licensing Boards are restricted in the number of occasional licences they can issue in respect of voluntary organisations. Section 56(6) of the 2005 Act provides that:

- a Licensing Board may issue in respect of that *organisation* in any period of 12 months—
  - (a) not more than 4 occasional licenses each having effect for a period of 4 days or more, and
  - (b) not more than 12 occasional licences each having effect for a period of less than 4 days,

provided that, in any period of 12 months, the total number of days on which occasional licences issued in respect of the organisation have effect does not exceed 56.

9.31 Many voluntary organisations will not have commercial backgrounds or ready access to legal advice. They will include, for example, individuals acting on behalf of charities, community and voluntary groups, schools, churches and hospitals all of which may stage public events at which the sale of alcohol may take place. It is critical that Licensing Boards ensure that local publicity about the system of occasional licences is clear and Licensing Boards should strive to keep the arrangements as manageable and user-friendly as possible for these groups.

## Appendix 6 – Procedure

### 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 7**

### **Written Submissions – where lodged**



# **THE ABERDEENSHIRE LICENSING BOARD**

**REPORT TO LICENSING BOARD HEARING – 20<sup>th</sup> December 2023**

**LICENSING (SCOTLAND) ACT 2005**

**Sections 36 - 40**

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

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

1.1. This report relates to a request for a review of a premises licence in terms of Section 36(1) of the Licensing (Scotland) Act 2005 (“the 2005 Act”) which is a matter which can only be determined by the Licensing Board.

The request follows repeated attempts to seek payment of the annual fee relating to the premises licence concerned and evidence from the Licensing Standards Officer that the named designated premises manager on the premises licence is not in charge of the premises on a day-to-day basis.

### **Recommendation**

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; and**

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

**the Board should consider the request for review of the Licence as attached at Appendix 1 to this Report and consider -**

(i) **If any of the grounds for review have been established; AND**

(ii) **Where any of the grounds for review have been established what steps require to be taken under Section 39(2) of the Act.**

(c) **Determines whether the Board requires to hold any hearing in terms of Section 84 of the Act in respect of any personal licence holder working at the premises where appropriate to do so.**

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

2.1. Sarah Ward, Licensing Standards Officer lodged an application for review of a premises licence by letter dated 29<sup>th</sup> November 2023. The application seeks the review of the premises licence for Durn House, Durn Road, Portsoy Licence Number AB-N-P309. A copy of the review application is attached as **Appendix 1** to this Report and referred to for its terms.

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

- i. Failure to pay Annual fee per Schedule 3 paragraph 10 of the Licensing (Scotland) Act 2005;
- ii. Failure to comply with Section 14 (2) (a) (i) of the Act, Compliance notice served 24<sup>th</sup> October 2023;
- iii. History of Non-Compliance
- iv. The Named Designated Premises Manager on the licence is not generally working within the premises on a day-to-day basis.

2.3. Durn House, Durn Road, Portsoy, AB45 2XT is the subject of premises licence No AB-N-P309. The premises licence holder is Durn House Limited, 71-75 Shelton Street, London, SC2H 9JQ. The Company has been the premises licence holder since 8<sup>th</sup> February 2023. The Designated Premises Manager named on the licence is Matthew Gillic. His Personal Licence Number is 20/00134/PERLIC issued by Moray Licensing Board.

2.4. A copy of the premises licence is attached as **Appendix 2** to this Report.

2.5. A copy of the review application was forwarded to the Licence Holder on 2<sup>nd</sup> December 2023.

2.6. This matter has not been considered by the Board previously.

### 3. Discussion

- 3.1. It is recommended that the Board proceeds to consider the application for review of the premises licence and:
- (a) Considers if any of the grounds of review have been established; and
  - (b) If so established, what steps, if any, require to be taken as per Recommendation 1.2.(b)(ii), (iii) of this Report.
- 3.2. Payment of the annual fee is a mandatory condition of a premises licence. Where an LSO believes that a condition of licence has been breached, he/she may service a notice on the Licence Holder under Section 14(2) of the 2005 Act requiring such action to be taken to remedy the breach as may be specified in the notice.
- 3.3. If the Licence Holder fails to take the action specified in the Section 14(2) notice, the LSO may make an application for review of the licence on the grounds that one of the conditions of the licence has been breached. The Board MUST hold a hearing to determine the review application.
- 3.4. The LSO's letter of 29<sup>th</sup> November 2023 advises that a ground of review of the premises licence is that one of the conditions of the premises licence has been breached, namely that the Licence Holder has failed to pay the annual fee of £280.00. This ought to have been paid by 1<sup>st</sup> October 2023. The request for review letter narrates the steps that have been taken to try to ensure that the annual fee is paid. The final step was the issue of a Compliance Notice under Section 14(2) of the 2005 Act on 24<sup>th</sup> October 2023 which gave the Licence Holder a further 7 days to make payment, failing which an application for review of the licence would be brought before the Board. A copy of the Compliance Notice is included in the Application for Review which forms **Appendix 1** to this Report. The Compliance Notice was sent by recorded delivery mail and has not been responded to.

### Consultations

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

### **Legal Test**

- 3.7. The Legal Test forms **Appendix 3** to this Report.

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

- 3.8. If the Board is not satisfied that a ground of review is established then no action can be taken.
- 3.9. Where the Board is satisfied that a ground of review is established under Section 39(1) of the 2005 Act (whether or not on the basis of any circumstances alleged in the premises licence review proposal/application considered at the hearing) the Board may take any of the following steps as the Board considers necessary or appropriate for the purposes of any of the licensing objectives:-
- (a) **Issue a Written Warning.** Where a written warning is given, the licence holder can continue to trade under the terms of his premises licence as currently granted;
  - (b) **Vary the terms of the Licence:** Where a variation of the licence is made, the licence holder can continue to trade under the terms of the varied premises licence
  - (c) **Suspend the licence for such period as the Board sees fit.** Where the Board suspends the licence, the licence holder cannot trade for the duration of the suspension.
  - (d) **Revoke the Licence.** Where the Board revokes the licence, there is no longer a premises licence that can be traded.

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

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

### **Procedure**

3.12. The review of premises licence should be considered on its own merits.

3.13. The Licence Holder, Chief Constable, and the Licensing Standards Officer have been invited to attend the Hearing by letter dated 2<sup>nd</sup> December 2023. Notices included a copy of this report, the Legal Test and the Board's Guidance on procedures for Hearings.

3.14. The Designated Premises Manager has also been invited to attend the Hearing as the outcome of the Hearing may affect his personal licence.

3.15. Members should follow the procedure outlined at **Appendix 4** to this Report.

3.16. 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 5** to this Report, if submitted.

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

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

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

**Table 1 Risks and Implications**

<b>Subject</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>
Financial		X	
Staffing		X	
Equalities and Fairer Scotland Duty		X	
Children and Young Peoples’ 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 application for review has not identified any issues that would fall within the remit of the IIA and the Board must determine this matter in line with the legal test.
- 4.4 There are no staffing and financial implications.
- 4.5 There are no Risks identified in respect of this matter in terms of the Corporate and Directorate Risk Registers as the Licensing Board is considering the application as the Licensing Authority in a quasi-judicial role and must determine each application on its own merits in accordance with the legal tests set out in the relevant legislation.
- 4.6 The Town Centre Principle does not apply in respect of this matter as the Board is considering the applications as Licensing Authority in a quasi-judicial role and must determine the applications on their own merits in accordance with the legal tests set out in the relevant legislation

## **5 Governance**

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

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

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

**Date: 2<sup>nd</sup> December 2023**

**File Reference: LAPREM/00212/22**

### **Appendices**

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

**Appendix 2 – Copy Premises Licence**

**Appendix 3– Legal Test**

**Appendix 4 – Procedure**

**Appendix 5 – Written Submissions**

**APPENDIX 1**

**Copy Application For Review of Premises Licence**





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

Our Ref: SMW / LAPREM/00212/22  
Ask for: Sarah Ward  
Direct Dial: [REDACTED]  
Email: [REDACTED]

Date: 29<sup>th</sup> November 2023

The Depute Clerk to the Aberdeenshire Licensing Board

Dear Sir/Madam

**REVIEW OF PREMISES LICENCE IN TERMS OF SECTION 36(4) LICENSING (SCOTLAND) ACT 2005**

**DURN HOUSE, DURN ROAD, PORTSOY – AB-N-P309**

On 28 November 2023, I carried out a premises visit following contraventions provided in the Letter of Notice dated 8 November 2023 and spoke with Andrew Fraser and Jo (no further details). It was again explained that failure to pay the Licenced Premises Annual Fees remained unresolved and the Premises Licence Holder, Durn House Ltd, has failed comply with the Section 14 requirement, payment of annual fee.

I am applying to Aberdeenshire Licensing Board for a review of the premises licence in terms of Section 36(4)(b) of the Licensing (Scotland) Act 2005.

The grounds for this being -

Issue of a notice under Section 14(2)(a) by recorded delivery to the Premises Licence Holder's personal address and to the Premises address;  
by email noted on the licensing database as [REDACTED] to [REDACTED] as noted on website, to the Premises Licence Holder [REDACTED] and to the Premises Manager [REDACTED]

The Premises Licence Holder has still failed to take the action by payment of said Annual Fee.

**1. Grounds for review**

Breach in Schedule 3 (10) Payment of Annual Fees.

## 2. Background to premises

On 2 May 2017, Premises Licence Granted Highland Hideaways Limited, with sole Director Matthew Gillic, until March 2020 (resigned) and Sandra Scrudis as sole Director appointed.

Substituted Designated Premises Manager Variations lodged February 2018, July 2019, and February 2020, latterly to Matthew Gillic.

Whilst chasing Annual Fee 2022, and due to returned recorded Notice, I identified changes to connected persons and change in licence holder's address. The Annual Fee was paid following a visit and a discussion with staff on duty in respect of the requirements under Section 48 of the Act the licensing board had not received Notification - this was communicated by email (30/11/2022) in terms of the duty to Notify changes by the licence holder and a response email from Sandra Scrudis confirming she wanted some time to discuss how they wish to proceed with things in a more general way, following the passing of her husband, the day before.

On 12 January 2023, further email to the premises confirming Companies House Highland Hideaways Limited, status reflected Liquidation, and that no Transfer had been received. The board agreed to accept a late transfer, under Section 135, given the circumstances.

On 8 February 2023, Granted Premises Licence Transfer to Durn House Ltd, with Sandra Scrudis as sole Director and Matthew Gillic as Premises Manager.

## 3. Previous premises licence review application

I can confirm no previous premises licence review in respect of Durn House Ltd, although the licence holder and connected persons whilst trading under the previous Limited company have failed to comply and pay annual fees in a timeously manner, which has resulted in Officer time, following up and issuing emails, non-compliant letters and Section 14 Notices as follows -

- In 2017, Annual Fee paid on 06.10.2017 following Non-compliance Letter.
- In 2018, Annual Fee paid on 29.10.2018 following issue of Section 14 Notice.
- In 2019, Annual Fee paid on 23.10.2019 following issue of Section 14 Notice.
- In 2020, Annual Fee paid on 21.10.2020 following Non-compliance Letter.
- In 2021, Annual Fee paid on 25.10.2021 following Non-compliance Letter.
- In 2022, Annual Fee paid on 16.11.2022 following issue of Section 14 Notice.

#### 4. History of noncompliance

No inspection has been carried out since the transfer of premises licence, to Durn House Ltd.

In respect of the non-payment of Annual Fees 2023: (documents attached)

- On 28 August 2023 the Annual Fee Reminder was sent by email from the licensing team to all Licenced Premises in Aberdeenshire.
- On 17 October, a generic email (to email addresses on record) to all premises still outstanding reminding them of outstanding fees and to get in touch if any issues or if payment made so we could update our records.
- On 24 October, a Non-Compliance Letter by email (to email addresses on record), in respect of the breach to conditions in Schedule 3(10) of the Licensing (Scotland) Act 2005.
- On 7 November, I called Durn House premises and spoke with Andrew Fraser, Guest Service Manager there, confirmed that the emails from Licensing had been received and he apologised for non-payment. He stated that he would call Sandra Scrudis and call me back and that “she’d sort it out”. No return call has been received.
- On 9 November, I issued a Section 14 Notice which was sent by recorded delivery to the Premises Licence Holder’s address and a copy was sent to the premises.
- (Note -tracking reflects signed for by Joshua on the 11 November 2023).
- On 16 November, I sent a further email (to all email addresses on record) with a copy of all correspondence, including copy of Section 14 Notices.
- On 28 November, during the visit in respect of outstanding Annual Fees, both Andrew Fraser, and Jo (no further details), Supervisor confirmed all email addresses as noted above were correct.
- Andrew and Jo both confirmed that Matthew Gillic, Premises Manager, has been absent due to health issues and is not on the premises as a day-to-day manager. Matthew will appear with supplies from the Cash and Carry, leaving the staff to run the premises from day to day.
- Staff reported unpaid wages and the paying of wages in instalments, in addition to frequent visits and phone calls regarding unpaid Invoices. They also confirmed that staff are left to run the premises themselves along with Chloe Cowie, Operations Manager (approximately 2 months employed). She was on Annual Leave at the time of my visit.

In respect of the Premises Manager – Matthew Gillic, absence from day-to-day duties:

On 12 January 2023 I received an email from Sandra Scrudis stating

*“In view of recent events we have decided to re-structure the business. And as a result we wish to transfer the licence to Durn House Ltd. nothing else will change and Matthew will continue as premises manager on a part-time basis supported by Vivienne Long until we can get a personal licence in place for Candice White who is the General Manager and will take over as premises manager in due course. Unfortunately, Matthew has been diagnosed with a serious illness and will need to step down once we have things in place. “*

Further to this, on 28 November 2023, Andrew Fraser and Jo (NFD) confirmed that Vivienne Long left sometime during the summer this year (July / August 2023?), and that no one else on the premises holds a personal licence that they were aware of. I confirmed that I would check the data base for Chloe Cowie however, if she didn't have a personal licence then a substitution of premises manager application would not be possible without another personal licence holder and the Licensing Board may issue the premises licence with no premises manager which may result in the premises not being able to sell alcohol. (note, no record on our data base of a Personal Licence for Chloe Cowie).

I can confirm that at time of writing no variation has been lodged to substitute the designated premises manager.

#### 5. Conclusion and recommendation

- 1) If at the time of the board hearing the Premises Annual Fee remains outstanding, then for the Licensing Board to consider all options in respect of Section 39 of the Act.
- 2) If the Premises Licence Annual Fee is paid, then in terms of Section 39 of the Act a Warning to the licence holder, for failing to pay the Annual Fee in a timeously manner and to ensure that payments are paid on time and no later than 1<sup>st</sup> October Annually.
- 3) For the Board to consider issuing the premises licence with no Premises Manager, in line with the Board's Supplementary Policy, as noted below in respect of the premises manager not working within the premises on a day-to-day basis:

*6.5: “The Board expects Personal Licence Holders that are also Designated Premises Managers (“DPMs”) 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 1.00 a.m., or where the Board has required the presence of a Personal Licence Holder in terms of its local conditions relating Festive hours. 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 DPM is likely to be absent from the premises for a period of more than three months, the Premises Licence Holder should consider substituting a new DPM onto the licence for the duration of the absence.”*

Yours sincerely,

**Sarah Ward**  
**Civic Licensing Standards Officer**

Enclosed:   Reminder Letter, Reminder email(s), Non-Compliance letter, and  
                  Section 14 Letter and Notice  
                  Copy of email from Sandra ref Transfer / DPM proposals.

**Fiona Stewart**

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**From:** Sarah Ward  
**Sent:** 29 November 2023 16:18  
**To:** Fiona Stewart  
**Subject:** Review Letter and supporting emails correspondence - Durn House Portsoy AB-N-P309  
**Attachments:** SW - 29.11.2023 - Durn House Review PL Letter to Licensing Board.doc; ACTION IMMEDIATELY - OUTSTANDING ANNUAL FEE - DURN HOUSE LTD PREMISES LICENCE HOLDER - AB-N-P309 ; ACTION URGENT - Annual Fee Reminder ; ACTION LICENCE HOLDER - Outstanding Annual Fee Payment - Non Compliant Letter AB-N-P309 - Durn House, Portsoy; 12.01.2023 email correspondence from Sandra Scrudis response ref - Durn House Premises Licence AB-N-P309  
**Importance:** High

Fiona,  
For the Licensing Boards Attention, Request Review of Premises Licence in respect of Breach in Schedule 3 (10) Annual Fees.

Regards,  
Sarah Ward  
Civic Licensing Standards Officer  
Aberdeenshire Council



**Fiona Stewart**

---

**From:** Sarah Ward  
**Sent:** 08 November 2023 09:22  
**To:** Sarah Ward  
**Subject:** ACTION Notice to be posted Recorded Delivery ref Durn House Portsoy  
**Attachments:** 8.11.2023 Sec 14 Notice Durn House ref Annual Fees.doc

**Importance:** High

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Regards,  
Sarah Ward  
Civic Licensing Standards Officer  
Aberdeenshire Council



Our Ref: SMW/ LAPREM/00212/22  
Ask for: Sarah Ward  
Direct Dial: 07824547358 / 01467 534725  
Email: sarah.ward@aberdeenshire.gov.uk

Infrastructure Services

Environmental Health

St Leonards

Sandyhill Road

Banff

AB45 1SD

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

Licence Holder  
Durn House Ltd  
71-75 Shelton Street  
Covent Garden  
London  
SC2H 9JQ

8<sup>TH</sup> November 2023

Dear Licence Holder,

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

**Durn House, Portsoy AB-N-P309**

Further to our letters by email dated 29<sup>th</sup> August and reminders dated 17<sup>th</sup> & 24<sup>th</sup> October, our records show the payment of £280.00 remains outstanding.

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

**How to Pay**

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

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

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

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

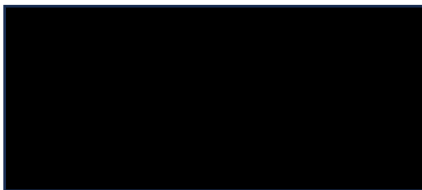


Further failure to comply with this notice will result in the premises licence being subject to a review hearing at the next meeting held by Aberdeenshire Licensing Board, in December. At the hearing the Licensing Board may consider one of the following steps:

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

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

Yours faithfully,



**Sarah Ward**  
**Civic Licensing Standards Officer**

**Cc: Licence Holder, Durn House, Durn Road, Portsoy AB45 2XT**

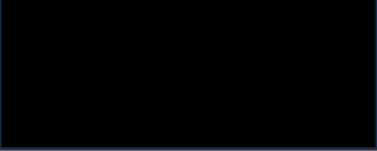
If you have difficulty reading this document, please contact  
Sarah Ward [REDACTED]

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

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

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

<b>Premises Licence Holder &amp; Licence No:</b>		Durn House Limited AB-N-P309
<b>Premises Subject to Notice:</b>		Durn House, Durn Road, Portsoy AB45 2XT
<b>Date &amp; Time Issued:</b>		8.09.2023 (Office hours)
<b>Premises Manager Details:</b>		Matthew Gillic
<b>Manner of service:</b>		By Post (Recorded)
<b>Details to Whom Issued:</b>		Durn House Limited
<b>Details of Breach of Condition and Remedy</b>		
<i>Licensing Standards Officer should detail the condition(s) breached and describe the remedial action required to be taken in order to comply with this notice. *</i>		
<u>Mandatory Conditions.</u>		
<b>Schedule 3 paragraph 10 of the Licensing (Scotland) Act 2005</b>		
<u>Remedy</u>		
Make payment of the outstanding annual fee - £280.00 within 7 days from date of this notice.		
Payment can be made in any of the following methods: Online, telephone or at one of the Aberdeenshire Council Service Points.		
Where possible, we would encourage you to pay online at the undernoted website address. <a href="http://www.aberdeenshire.gov.uk">http://www.aberdeenshire.gov.uk</a>		
<b>REQUIREMENT TO COMPLY</b>		
<b>With Immediate Effect:</b>		<b>NO</b>
<b>(or) Comply By:</b>		

		Date: 7 days from date of the attached letter
<b>Licensing Standards Officer (Print Name &amp; Signature)</b>		<b>Notice Received by (Print Name &amp; Signature)</b>
Sarah Ward,		

**Fiona Stewart**

---

**From:** Sarah Ward  
**Sent:** 24 October 2023 08:16  
**To:** Durn House; [REDACTED]  
**Subject:** ACTION LICENCE HOLDER - Outstanding Annual Fee Payment - Non Compliant Letter AB-N-P309 - Durn House, Portsoy  
**Attachments:** Durn House Portsoy Annual Fees Non Complaint Letter 2023.pdf; IDOX EDRMS: 'Email to Me'  
**Importance:** High

Good Morning Licence Holder,

To date we've been unable to trace payment for Annual Fees; previous email correspondence has been sent with no response.

A non compliant letter and copy of Annual Fee letter as attached, Please Action Immediately.

Any queries, regarding said matter please do not hesitate to contact licensing by email on [licapps@aberdeenshire.gov.uk](mailto:licapps@aberdeenshire.gov.uk)

Kind Regards,

Sarah Ward  
Civic Licensing Standards Officer  
Aberdeenshire Council

[REDACTED]



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

Our Ref: SMW / LAPREM/00212/22  
Ask for: Sarah Ward  
Direct Dial: [REDACTED]  
Email: [REDACTED]

Licence Holder  
Durn House Ltd  
71-75 Shelton Street  
Covent Garden  
London  
WC2H 9JQ

24.10.2023

Dear Licence Holder,

**Licensing (Scotland) Act 2005, Annual Fee Payment  
Durn House, Portsoy AB-N-P309**

I refer to the above premises and write to advise that in terms of paragraph 7(2) of the Licensing (Fees) (Scotland) Regulations 2007 the annual fee in respect of the premises has not been paid by **01/Oct/203**. The outstanding fee due is £280.00, you are now required to pay the fee within 7 days of the date of this letter.

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

If the above contravention remains un-resolved within 7 days, I shall issue the premises with a Section 14(2) (a) compliance Notice.

I will be happy to offer advice or guidance on remedying the matters but would also recommend that you consider taking legal advice if you have any concerns about the matters being raised. If there have been any management changes that effect the licence, please get in touch to discuss any variations that may be required.

PLEASE SEE PAYMENT OPTIONS IN ATTACHED LETTER.

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

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

Yours sincerely,

A large black rectangular redaction box covering the signature area.

Sarah Ward  
Civic Licensing Standards Officer

Cc: Licence Holder, DPM, Enquiries all by email.

Enc. Copy of letter reminder letter.

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

**Fiona Stewart**

---

**From:** Sarah Ward  
**Sent:** 17 October 2023 16:02  
**Subject:** ACTION URGENT - Annual Fee Reminder

**Importance:** High

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Good Afternoon,

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

I am currently unable to trace the annual fee payment which was due by 1<sup>st</sup> October 2023. All Annual Fee letters were sent by email to the premises licence holder on the 29<sup>th</sup> August; if you are not in receipt of said letter, please by return of email contact me asap.

It may be that you've already made payment (and my apologies if this is the case) ; therefore , I ask if you can confirm when and how the payment was made e.g. date and reference to the receipt number or forward me a copy of your receipt.

If payment has not been made please go to - [www.aberdeenshire.gov.uk](http://www.aberdeenshire.gov.uk) Online payment is the quickest option, using a debit or credit card.

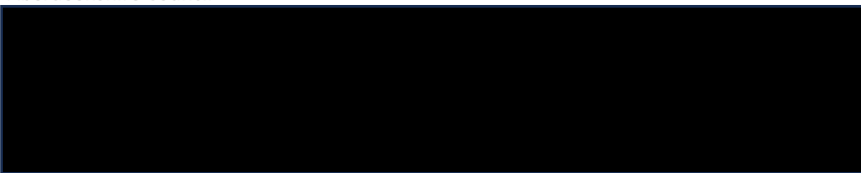
- Click on the word "Pay"
- At the bottom of the list click on "Liquor Licence Annual Fee"
- Complete your details on screen

Should you wish to pay by telephone then please contact [licapps@aberdeenshire.gov.uk](mailto:licapps@aberdeenshire.gov.uk) confirming a telephone number that licensing call you on for taking telephone card payment.

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

Thanks in advance,

Regards,  
Sarah Ward  
Civic Licensing Standards Officer  
Aberdeenshire Council



**Fiona Stewart**

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**From:** Sarah Ward  
**Sent:** 29 November 2023 16:16  
**To:** Sarah Ward  
**Subject:** 12.01.2023 email correspondence from Sandra Scrudis response ref - Durn House Premises Licence AB-N-P309

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**From:** [sandra](#) [REDACTED]  
**Sent:** 12 January 2023 14:37  
**To:** Sarah Ward [REDACTED]  
**Subject:** RE: ACTION - Sandra Scrudis - Durn House Premises Licence AB-N-P30

Dear Sarah,

Many thanks for your email below which I received today.

I was about to contact you this week to discuss what we need to do in any event and apologise for the delay due to the death of my husband John just before Christmas and then the Christmas and new year break.

In view of recent events we have decided to re-structure the business. And as a result we wish to transfer the licence to Durn House Ltd. nothing else will change and matthew will continue as premises manager on a part-time basis supported by Vivienne Long until we can get a personal license in place for Candice White who is the General Manager and will take over as premises manager in due course. Unfortunately, Matthew has been diagnosed with a serious illness and will need to step down once we have things in place.

Your assistance in providing details on how we can do this would be appreciated at this difficult time.

I am happy to meet with you or hold a telephone conversation if that would assist.

Kindest Regards

*Sandra*

**Sandra Scrudis**

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**From:** Sarah Ward [REDACTED]  
**Sent:** 11 January 2023 16:14  
**To:** [REDACTED]  
**Subject:** ACTION - Sandra Scrudis - Durn House Premises Licence AB-N-P309  
**Importance:** High



**APPENDIX 2**

**Copy Premises Licence**



**ABERDEENSHIRE LICENSING BOARD**

**PREMISES LICENCE**

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

**Premises licence number: AB-N-P309**

**Date of commencement of licence: 2 May 2017**

**Postal address of premises:**

**Durn House  
Durn Road  
Portsoy  
Aberdeenshire  
AB45 2XT**

**Description of premises:**

**4 Storey Georgian Mansion operating as a guest house**

**Licensing Hours**

**ON SALES**

<i>Day</i>	<i>ON Consumption</i>	
	<i>Opening Time</i>	<i>Terminal Hour</i>
Monday	12:00	00:00
Tuesday	12:00	00:00
Wednesday	12:00	00:00
Thursday	12:00	00:00
Friday	12:00	00:00
Saturday	12:00	00:00
Sunday	12:00	00:00

**OFF SALES**

<i>Day</i>	<i>OFF Consumption</i>	
	<i>Opening Time</i>	<i>Terminal Hour</i>
Monday	<i>n/a</i>	<i>n/a</i>
Tuesday	<i>n/a</i>	<i>n/a</i>
Wednesday	<i>n/a</i>	<i>n/a</i>
Thursday	<i>n/a</i>	<i>n/a</i>
Friday	<i>n/a</i>	<i>n/a</i>
Saturday	<i>n/a</i>	<i>n/a</i>
Sunday	<i>n/a</i>	<i>n/a</i>

NOTES:

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

Durn House Ltd.  
71-75 Shelton Street  
London



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

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

Matthew Gillic



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

20/00134/PERLIC

Moray Council

8 February 2023

.....  
**Depute Clerk to the Board**

Appendix 1

**Mandatory Conditions for Premises Licences – Schedule 3 of the Licensing (Scotland) Act 2005 (as amended) – with effect from 1 May 2018**

**Interpretation**

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

**Compliance with the Operating Plan**

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

**The Premises Manager**

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

**Authorisation of Sales of Alcohol**

5. Every sale of alcohol made on the premises must be authorised (whether generally or specifically) by –

- (a) The premises manager, or
- (b) Another person who holds a personal licence.

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

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

---

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

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

**Pricing of Alcohol**

6A

- (1) Alcohol must not be sold on the premises at a price below its minimum price.
- (2) Where alcohol is supplied together with other products or services for a single price, sub-paragraph (1) applies as if the alcohol were supplied on its own for that price.
- (3) The minimum price of alcohol is to be calculated according to the following formula—

$$\text{MPU} \times \text{S} \times \text{V} \times 100$$

Where—

MPU is the minimum price per unit,  
S is the strength of the alcohol, and  
V is the volume of the alcohol in litres.

- (4) The Scottish Ministers are to specify by order the minimum price per unit for the purposes of sub-paragraph (3).
- (5) For the purposes of sub-paragraph (3), where—
  - (a) the alcohol is contained in a bottle or other container, and
  - (b) the bottle or other container is marked or labelled in accordance with relevant labelling provisions,

the strength is taken to be the alcoholic strength by volume as indicated by the mark or label.



- (6) The Scottish Ministers are to specify by order the enactments which are relevant labelling provisions for the purposes of sub-paragraph (5).

6B

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

7. Where the price at which any alcohol sold on the premises for consumption on the premises is varied –

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

7A Where the price at which any alcohol sold on the premises for consumption off the premises is varied –

- (a) the variation (referred to in this paragraph as “the earlier price variation”) may be brought into effect only at the beginning of a period of licensed hours, and
- (b) no further variation in the price at which that alcohol is sold on the premises may be brought into effect before the expiry of the period of 72 hours beginning with the coming into effect of the earlier price variation.

**Irresponsible Drinks Promotions**

8.

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

- (5) In this paragraph "drinks promotion" means, in relation to any premises, any activity which promotes, or seeks to promote, the buying or consumption of any alcohol on the premises.

**Provision of non-alcoholic drinks**

9.

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

**Requirement for Age Verification Policy**

9A

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

**Payment of annual or recurring Fees**

10.

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

**Notices – Admission of Persons under 18**

11.

- (1) The condition specified in this paragraph applies only in the case of premises on which alcohol is sold for consumption on the premises.
- (2) There is to be displayed so that it is reasonably visible to customers entering the premises a sign of at least A4 size which –
  - (a) States that person under the age of 18 are not permitted on the premises; or
  - (b) States that such persons are permitted on the premises or on such parts of the premises as are specified on the sign.

**Baby Changing Facilities**

12.

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

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

13.

- (1) Alcohol which is for sale only for consumption off the premises may be displayed only in one or both of the following –

- (a) A single area of the premises agreed between the Licensing Board and the holder of the licence; or
  - (b) A single are of the premises which is inaccessible to the public.
- (1A) Sub-paragraphs (1B) to (1D) apply where the premises, in so far as they are used for the sale of alcohol, are so used only or primarily for the sale of alcohol for consumption off the premises.
- (1B) Any drinks promotion on the premises may take place only in any one or more of the following –
- (a) an area referred to in sub-paragraph (1)(a) and (b),
  - (b) a room on the premises which is used for offering the tasting of any alcohol sold on the premises (for consumption off the premises) and the resulting tasting and is separate from those areas.
- (1C) A drinks promotion in connection with the premises may not take place in the vicinity of the premises.
- (1D) For the purposes of sub-paragraph (1C), the “vicinity” means the area extending 200 metres from the boundary of the premises (as shown on the layout plan)
- (2) In an area agreed in terms of sub-paragraph (1)(a), a product other than alcohol may be displayed only if it is –
- (a) A non-alcoholic drink; or
  - (b) Packaged with, and may be purchased only along with, alcohol.
  - (c) A branded non-alcoholic products, or
  - (d) A newspaper, magazine or other publication.
- (2A) Sub-paragraph (2) is without prejudice to sub-paragraph (1B).
- (3) This paragraph does not apply in respect of premises -
- (a) whose main function is to provide a visitor attraction, and
  - (b) where -
    - (i) the premises form part of a larger site which is used principally for the production of alcoholic drinks, or
    - (ii) the visitor attraction is used principally to provide information about and promote the history and attributes of a particular alcoholic drink or a particular category of alcoholic drink.
- (4) In this paragraph –  
“branded non-alcoholic product” means a product which does not consist of or contain alcohol and which –

- (a) bears a name or image of, or
  - (b) is an image of,  
an alcoholic product (namely, a product consisting of, or containing alcohol)
- “drinks promotion” means any activity which promotes, or seeks to promote, the buying of any alcohol sold on the premises for consumption off the premises but does not include the display of any product which is –
- (a) a branded non-alcoholic product for sale on the premises, or
  - (b) a newspaper, magazine or other publication –
    - (i) for the sale on the premises, or
    - (ii) if not for sale on the premises, which does not relate only or primarily to alcohol.

**Late Opening Conditions**

**NOTES**

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

**CONDITIONS**

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

**Matters to be Covered in Staff Training**

"Relevant training" means training of at least 2 hours' duration which covers each of the matters listed below.

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

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



Appendix 2

**Local Conditions**

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.
2. Premises Licence Holders must ensure that the premises, internally and externally, are maintained in good, clean and tidy condition at all times.
3. Premises Licence Holders must ensure that Refusal Registers and Daily Incident logs are accessible for inspection by Police and Licensing Standards Officers
4. The Licence Holder must ensure that any general authorisation for the sale of alcohol required within the premises is -
  - 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
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.
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.
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.
8. The Licence Holder shall provide safe high chairs for the use of young children
9. The Licence Holder shall provide heating facilities for baby/toddler's food at no cost to the customer.
10. The Licence Holder shall provide containers for the disposal of soiled nappies
11. The Licence Holder shall ensure that heating sources are adequately protected.
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.
21. 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.  
Images recorded on CCTV must be kept for at least seven days and must be made available to Police Scotland on request

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

**Question 1**

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

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

**Question 2**

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

<b>Day</b>	<b>ON Consumption</b>	
	<b>Opening Time</b>	<b>Terminal Hour</b>
Monday	12:00	00:00
Tuesday	12:00	00:00
Wednesday	12:00	00:00
Thursday	12:00	00:00
Friday	12:00	00:00
Saturday	12:00	00:00
Sunday	12:00	00:00

**Question 3**

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

	<b>OFF Consumption</b>
--	------------------------

<i>Day</i>	<i>Opening Time</i>	<i>Terminal Hour</i>
Monday	<i>n/a</i>	<i>n/a</i>
Tuesday	<i>n/a</i>	<i>n/a</i>
Wednesday	<i>n/a</i>	<i>n/a</i>
Thursday	<i>n/a</i>	<i>n/a</i>
Friday	<i>n/a</i>	<i>n/a</i>
Saturday	<i>n/a</i>	<i>n/a</i>
Sunday	<i>n/a</i>	<i>n/a</i>

NOTES:

**Question 4**

SEASONAL VARIATIONS

<i>Does the applicant intend to operate according to seasonal demand *</i>	<b>YES</b>
--	------------

*\*If YES – provide details*

<p><b>24th December - 01:30 (25th)</b>  <b>25th December - 01:30 (26th)</b>  <b>26th December - 01:30 (27th)</b>  <b>1st January - 01:30 (2nd)</b>  <b>2nd January - 01:30 (3rd)</b>  <b>31 December - 00:00 (1st)</b></p>
--

**Question 5**

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

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

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

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

**All activities in column 4 can commence at 08:00 and go on through core hours for private and ticketed events.**

**All activities are available to residents at all times.**

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.

**Other Activities: Croquet, quites etc. in the garden.**

**Residents can enjoy and private and ticketed events can be created round or include the following:**

**food and drink tastings, alcohol based cocktail; alcohol free mocktail events, lunches, dinners, afternoon teas, craft/art events, murder mysteries;**

**There is no bar on the premises - all drinks will be served to customers by staff and alcohol can be served throughout the public parts of the premises;**

**Furniture can be moved or installed to take account of events;**

**All activities are able to take place in all rooms on the premises and are open to all under exception of the following:**

**no under 18s will be permitted to take part in alcohol matching or tasting or alcohol based cocktail events;**

**no access by persons under 12 to the pool room. Guests arriving with under 12s will be advised that no under 12s are permitted in the pool room, monitoring will be by CCTV, staff will physically monitor the pool room as they pass to and fro going about their duties and particular rounds will be undertaken by management and staff, and a notice will be kept in place to ensure no access by under 12s to that room is permitted.**

5(g) Late night premises opening after 1.00am

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

<i>Will the music level exceed 85dB?</i>	<b>NO</b>
<i>When fully occupied, are there likely to be more customers standing than seated?</i>	<b>NO</b>

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

*CHILDREN AND YOUNG PERSONS*

6(a) Alcohol is being sold for consumption on the premises will children or young persons be allowed entry?

**YES**

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

**All under 18s need to be accompanied by a responsible adult**

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

**0 - 17 YEARS**

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

**12:00 TO 00:00**

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

**AGES 0 - 17: All public parts of premises including corridors under exception that guests arriving with under 12s will be advised that no under 12s are permitted in the pool room located in the basement area, monitoring will be by CCTV, staff will physically monitor the pool room as they pass to and fro going about their duties and particular monitoring rounds will be undertaken by management and staff, and there is already a notice in place to ensure no access by under 12s to that room is permitted. bedrooms premises are bed and breakfast function facility**



**Question 7**

*CAPACITY OF PREMISES*

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

**16 maximum residents**

**40 maximum additional for events**

**In the event that private functions or ticketed events are proposed which will exceed this number occasional licence permission will be sought well in advance to enable the erection of a marquee in the garden to accommodate the event proposed.**

**Question 8**

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

*Personal details*

8(a) *Name*

8(b) *Date of birth*

**Matthew Gillic**

8(c) *Contact address*

8(d) *Email address*

8(e) Personal licence

<i>Date of issue</i>	<i>Name of Licensing Board issuing</i>	<i>Reference no. of personal licence</i>
	MORAY COUNCIL	20/00134/PERLIC

### APPENDIX 3

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

#### LEGAL TEST

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

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

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

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

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<sup>1</sup> An enforcement notice

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

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

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

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

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

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

### **Premises Licence**

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

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

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

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

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

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

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

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

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

### **Review Hearing**

10. Where a Licensing Board –

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

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

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

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

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

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

13. In particular, the Board may –

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

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

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

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

### Statutory Guidance

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



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

### Review of a premises licence.

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

#### *Application for a review*

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

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

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

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

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

8.89. The Air Weapons and Licensing (Scotland) Act 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 merits such a review of the premises licence. An Air Weapons and Licensing (Scotland) Act 2015 amendment provides that a Board's proposal may include information that the Board considers relevant to its consideration of the alleged ground of review, in relation to the licence holder, connected persons in relation to the licence holder or interested parties in relation to the licensed premises.

*Review Hearing*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8.101 The second and related amendment inserted a new section (Section 39B) into the 2005 Act. This section provides that when a Licensing Board has taken steps to revoke a premises licence on the ground that the licence holder is not a fit and proper person, the Board must recall the revocation if the relevant application is made within

that 28 day period and the Board ultimately grants the relevant application. These provisions enable Boards to take robust action when a Licence Holder is found not to be a fit and proper person and they offer reasonable traders the opportunity to take prompt action to address the Board's concerns and retain their licence.



## APPENDIX 4

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

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

#### NOTE TO PARTIES

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

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

#### NOTE TO PARTIES

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

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

#### NOTE TO PARTIES

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

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

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

**APPENDIX 5**

**WRITTEN SUBMISSIONS**

**Submissions from Sandra Scrudis received 19<sup>th</sup> December 2023**



**Fiona Stewart**

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**From:** Sandra Scrudis [REDACTED]  
**Sent:** 18 December 2023 21:14  
**To:** Fiona Stewart  
**Subject:** Durn House Ltd  
**Attachments:** Aberdeenshire Licensing Board 2 18-12.docx

[REDACTED]

Fiona,  
Further to my telephone message, our business email plus, the server, has an outage so not able to send or receive business email just now. This is my private email which I am able to use for now.  
I have attached an overview which details what is happening currently and the plans for the following weeks at Durn House which I realise is causing concern right now. The annual fee will be paid before 20th.  
As mentioned I am still grieving and not well with quite a few health issues, I have, however, I recognised this could not continue and have taken important decisions as detailed to improve the alcohol management at Durn House, and ensure staff and guests are looked after.  
I need to put my health and my family first at the moment and do not need further stress or anxiety. My GP is looking after me and has agreed I need to step away as this is directly making an impact.  
I am happy to discuss in more detail, however at this time, I am requesting some reasonable adjustments and so postponing the meeting on 20th December may be beneficial to both parties at the moment. I see no point in taking any negative action, but rather provide assistance to the incoming licence holder Chloe.  
I apologise to the board for reaching this stage, but as I have tried to detail, this was not intentional, and was circumstantial with unravelling events for me and my family over past 12 months.

Sandra Scrudis  
Durn

Aberdeenshire Licensing Board

FAO: Fiona

17<sup>th</sup> December 2023

Durn House Ltd – Licensing review

I refer to the request to attend a licence review on 20<sup>th</sup> December and apologise for the delay in response. It has been a very difficult couple of weeks.

Please be advised that I wish the board to consider the contents of this document before coming to any conclusions. I hope this helps to understand where we are. I am happy to discuss over the telephone if appropriate.

I am representing the business at this time, however that will change in January anyway.

We have already appointed a new General Manager who will take over licencing responsibilities from 15<sup>th</sup> January 2024 her name is Chloe Cowie.

We will also have three new personal license holders in place. By 31<sup>st</sup> January.

The current licence holder is Matthew Gillic but is unwell at the present time, but does pop in to keep things on an even keel and is guiding Chloe for training purposes at the moment.

Durn House poses no problems and is low risk. We have never had any violence, had to throw someone out or refuse to serve anyone. Our capacity is 50 guests at any time. Most of the staff have had full alcohol training some of which have worked with us for 6/7 years.

2023 has been a terrible year for business and for me and Matthew personally. I am unsure if you are aware, but my husband John Scrudis, co-owner passed away recently which has had a major impact on the business as well as me and my family.

I also have a number of health issues which include neurological problems, issues with memory difficulties as well as decision making struggles. My GP has advised I need to avoid pressure and stress.

My disabilities include:

- Epilepsy
- Acute arthritis in knees and hands
- Depression and anxiety
- folate deficiency anaemia which is serious see NHS link: [Vitamin B12 or folate deficiency anaemia - Symptoms - NHS \(www.nhs.uk\)](https://www.nhs.uk/health-a-z/conditions/anaemia/anaemia-symptoms/)

My GP can confirm the above.

As a result I am planning's to retire at the end of this year and have in fact put Durn House up for sale as a going concern. The staff are all aware and are very supportive.

In my telephone message I requested reasonable adjustments with a reschedule of the planned meeting if possible plus an appreciation of the situation which in any event is being sorted and maybe beneficial for both sides.

Kindest Regards, Sandra Scrudis, Durn House Ltd