

Aberdeenshire Licensing Boards
North Aberdeenshire Divisional Licensing Board
Supplementary Statement of Licensing Policy
Licence Types and Board Procedures
30th November 2007 – 29th November 2010

Types of Licence

Personal Licences

Every premises will require one or more personal licence holders.

The personal licence is intended to ensure that anyone managing premises is suitably capable of doing so. Whilst the Act requires every sale to be "authorised" by a personal licence holder, such authorisation can be a general one.

The Board expects the terms of any general authorisation for the sale of alcohol to be in writing, specific to the premises, available for inspection by any LSO, brought to the attention of and signed by all parties involved and enforced by the premises manager.

The Board does not consider that a personal licence holder is required to be on the premises at all times, with the exception of certain late opening premises, where mandatory conditions require a personal licence holder to be on the premises after 1.00a.m. However where a personal licence holder is not present they are not removed from all responsibility. This should be addressed in the terms of the authorisation.

Premises Licences

Premises that wish to sell alcohol for consumption on or off the premises will require to have a premises licence. This will govern, amongst others, what activities are allowed on the premises and what hours the premises can be open for business. Each licence will be tailored to the type of premises in question. There must be a description of the premises, an operating plan and a layout plan of the premises.

Applicants should pay particular attention to the operating plan and the layout plan. If a particular activity is not mentioned in the operating plan that activity cannot take place on those premises until further authorisation is sought from the Board by way of seeking a variation of the premises licence.

The operating plan should set out clearly the applicant's proposals including the activities that would be undertaken on the premises, proposed opening hours and their policy in relation to access for children.

The Board will welcome accessibility for families including children and facilities suitable to cater for children.

The layout plan of the premises should show, amongst other things, the area where alcohol will be sold, seating arrangements and areas suitable for children. The form of the operating plan and layout plan are set out in Regulations made under the Act.

The Board should be able to determine with certainty the kind of operation which would be permitted in terms of the licence, and be assured that the premises will continue to operate on that basis once a licence is granted.

Provisional Premises Licence

A provisional premises licence has to be confirmed within 2 years, otherwise it will automatically be revoked. Upon confirmation the Board may make a variation of the conditions to which the licence is subject.

Temporary Premises Licence

Where a licence holder wishes to carry out alterations etc to the principal licensed premises then the Board can issue a temporary licence for a secondary premises to enable the licence holder to continue to trade pending completion of the works.

To issue a Temporary Premises Licence the Board must be satisfied that:

- the temporary premises are suitable for use for the sale of alcohol; and
- that it is necessary to grant the application to enable the applicant to carry on business pending reconstruction or conversion of the principal premises.

The Board may vary the conditions to which the licence is subject, if it considers appropriate to do so.

Application Process

Risk Assessment

The Board requires that applicants applying for premises licences and occasional licences complete a risk assessment in respect of the premises and to provide a copy of this to the Board with the application and operating plan. A risk assessment should be an end-to-end process, Licence holders are reminded that all activity directly connected to their premises, both inside and out, should be considered. Risk assessment criteria are set out at Schedule 1 to this Supplementary Policy Statement. The purpose of the risk assessment is to help applicants demonstrate compliance with the 5 licensing objectives.

Please note that the Board does not accept any responsibility for your risk assessment(s) and is not in a position to sign it (them) off. You are advised to consider these matters carefully and if in doubt engage appropriate professionals to assist you in these matters. The Board reserves the right to comment on the content of your risk assessment(s) and ask for more or different information as may be required.

General

Applications can be accepted in electronic format, paper format or a combination of the two.

Operating Plans

Every operating plan must set out clearly the applicant's proposals including the activities that would be undertaken on the premises, proposed opening hours and their policy in relation to access for children.

Operating plans will encourage a flexible licensing regime. They must make clear to the Board how the premises are to be run, including full details of all activities to be undertaken on the premises and the times they will be undertaken. This will include seasonal variations. Operating plans must be provided with each application in a prescribed format and should be particular to each premises and not completed in general terms.

The operating plan should include very detailed information and, in turn, the information provided will enable the Board to make an informed decision and later determine if a breach of the operating plan and/or the licence conditions should occur.

The Board recognises that it is not always possible for licence holders to predict customer demand and requirements. However a balance must be struck between vague references to potential activities and definite details of actual activities. Matters that cannot be predicted when formulating an operating plan can be the subject of an occasional licence, an occasional extension or, for regular activities, a variation to the operating plan.

Where a material breach of the operating plan has occurred, the LSO or the Board may initiate a review of the licence. The Act allows anyone to apply to the Board for a review of the licence.

Layout Plan

The layout plan of the premises should show, among other things, the area where alcohol will be sold, seating arrangements and areas suitable for children. Each area should be clearly delineated including any beer gardens, outdoor seating areas, smoking areas. Inclusion of any outside areas will avoid any doubts when it comes to bye-laws concerning the consumption of alcohol in public places. Where the premises covers more than one floor then there should be a layout plan for each floor.

Off sales plans should clearly show all areas where alcohol will be displayed for the purpose of sale. More information on display areas for offsales is included in Appendix 9 to the Board's Policy Statement. The plans should also indicate the position of a lock-fast store for any alcohol stored, but not on display within the premises.

The Board expects plans as far as possible to be to scale and of good quality. Inadequate plans may be rejected. The Board will accept plans in paper or electronic format. Paper plans should be of a size no larger than A3 for ease of conversion to electronic format.

For ease of distribution and security, applicants are requested to note that wherever possible electronic format should be **.pdf**. Other types of specialist application, like .cad, or general applications prone to manual alteration should not be used. In addition the Board would like electronic format files to remain under 4 megabytes in size. Electronic files must be capable of being printed off so that they can be read clearly.

Forms and Fees

Forms and details of fees are available on Aberdeenshire Council's website at the following address –

www.aberdeenshire.gov.uk

Objections

Notification of Application

The Board must, within 21 days of receipt of an application for a premises licence give notice of the application to:-

- each person having a notifiable interest in neighbouring land (defined by Regulation as within a 4 metre radius of the premises)
- any community council within whose area the premises are situated
- Aberdeenshire Council
- Chief Constable of Grampian Police
- Grampian Fire and Rescue Service

The Board will also publish notice of each application on Aberdeenshire Council's website and/or a designated public access system available on the internet.

Objections and Representations

Any person may submit an objection or representation to the Board. Any objection must relate to one of the 5 licensing objectives and relate to specific premises.

An objector opposes the grant of any licence at all. Objectors should address the statutory grounds including the licensing objectives. Any person considering lodging an objection should seek independent legal advice before doing so.

A person making a representation is not concerned with the issue of a licence in principle. A representation is concerned with the conditions or the suggestion of possible modifications that could be made to the operating plan and layout plan. Representations can also be made in support of an application. Any person considering making a representation should seek independent legal advice before doing so.

The Board will reject what it considers to be frivolous or vexatious objections or representations and may seek to recover resultant wasted expenses.

Any objection to a premises licence application on the general basis of opposing the use of alcohol or to Sunday licensed hours will be considered to be frivolous by the Board and will be rejected without being considered in determining the premises licence application subject to the objection relating to the particular premises.

The Board will address each case on its own merits, based on its local knowledge of the area and those that will be directly affected by the granting of a licence.

Types of Premises Applications

New Application

Applications in the first instance will be vetted by the Clerk of the Licensing Board. It is therefore essential that applicants complete all questions on the relevant application form and provide as much detail as possible.

Application to Vary

Premises licence holders can apply for variations to the terms and conditions of the premises licence. All such applications must be accompanied by the original premises licence or a written explanation as to its loss. Each variation application will be considered on its own merits.

Application to Transfer

A premises license holder may apply to the Board to transfer the licence. They must transfer the licence to a legal personality and in accordance with the conditions sets out in ss.33-34 of the Act.

Occasional Extension

An Occasional Extension of permitted hours can be granted to a licence holder in connection with any occasion/function taking place on his/her licensed premises and lasting not more than one month.

Other Licences

Occasional Licences

An occasional licence may be granted to the holder of a licence for premises authorising him/her to sell alcohol at an occasion/function for a period of not more than 14 days where the event is taking place outwith their licensed premises. It is noted that holders of a personal licence and a representative of any voluntary organisation or registered club may also apply for an occasional licence.

Conditions

General

Applicants should refer to the Board's Supplementary Policy Statement on Conditions and Management of Licensed Premises (Appendix 9) for information on conditions.

Applicants should confirm, when submitting their operating plans, the measures put in place to comply with any such conditions, whether mandatory or discretionary.

Complaints and Enforcement

Licensing Standards Officer

The LSO will investigate complaints against licensed premises in relation to matters relating to the licensing objectives. In the first instance, complainers are encouraged to raise the complaint directly with the licensee or business concerned to seek a resolution.

If direct communication with the licence holder proves ineffective then the complaint may be raised with the LSO, perhaps for mediation.

Where an interested party has made valid representations about licensed premises, or a valid application for a license to be reviewed, the LSO may initially recommend a conciliation meeting to address and clarify the issue of concern.

The Board

The Board will follow the best practice in enforcement including the adoption of the best Regulation Principles and the Hampton Standards: Proportional; Accountable; Consistent; Transparent and Targeted.

When a matter is submitted to the Board by the LSO it will be anticipated, except in the most serious cases, that attempts have been made through advice and negotiation to address the issues.

The Board will give each party a chance to make written submissions and comments on the other party's submissions before making a decision based on the facts. The Board may also choose to hold a hearing and will give all parties reasonable notice of the same. Each party should provide the Board with copies of documents or evidence upon which they wish to rely no later than 7 days before the hearing. Procedures for Hearings are as set out in the Board's Scheme of Delegation.

It is envisaged that very few such cases will need to be submitted to the Board. However, it should be appreciated that, in appropriate cases, the Board will not hesitate to use their powers to suspend or revoke a licence notwithstanding that this may have a detrimental impact on the business.

The Board will take particular matters seriously when it comes to active promotion of the licensing objectives. A list of particularly serious matters is detailed at Schedule 2 to this Policy Statement.

BOARD PROCEDURES

Openness and accessibility

The Board will deal with all of its business in an open and transparent way. Information and assistance will be made available to those who wish to apply for a licence, to make representations or to object to an application. The Board is also aware of the need to ensure that the licensing process is accessible to all. Assistance will be available on request for those who require special arrangements to access any part of the process.

The Board will develop a statement of procedure and guidance notes which will be made available to the public.

Decision-making

It is the Board's aim to provide an efficient and cost effective service to all those who are involved in the licensing process. Therefore, the Board will adopt a Scheme of Delegation to ensure that decisions can be made in a way which is consistent with this aim. This Scheme will in particular set out the decisions which may be made by the Clerk to the Board or his/her staff. The Board's Scheme of Delegation is attached as Schedule 3 to this Supplementary Policy Statement.

Consideration of premises licence applications

The Licensing Board will assess each premises licence application on its own merits. For the assistance of applicants the Board will have particular regard to:

- the nature of the premises, the style and type of use, the potential number and profile of the customers likely to attend the premises
- the proposed hours of operation
- the means of access to the premises including the location of customer entrances and exits
- the provision of toilet facilities
- whether children and/or young persons are to have access to the premises or parts of premises and upon what terms
- the need for door supervisors
- areas or activities which may have potential for crime and disorder or public nuisance and any measures to mitigate those issues

When considering any application for premises which have been previously licensed, or in any review of an existing licence, the Board will take into account any relevant evidence, especially of the impact on local residents and businesses and will also look at the measures proposed by the applicant to mitigate any adverse impact.

Consideration of Personal Licence Applications

The Board will consider applications for personal licences from individuals living in North Aberdeenshire. When considering an application for a personal licence, the Board will work closely with the Police to

establish whether the applicant has been convicted of any relevant offence (which will be set out in Regulations).

Where the Police have advised that the applicant has an unspent conviction for a relevant offence, the Board will consider whether the application should be refused under the Act. In making a decision the Board will have regard to the seriousness and age of the conviction along with any other circumstances it considers to be relevant.

Suggested Areas to Include in Risk Assessments Relating to Premises Licence and Occasional Licence Applications

Crime and Disorder

Applicants should consider whether door supervisors or other security staff are required in respect of the venue and the licensable activity proposed.

In the event that door supervisors are used by the applicant's premises:

- such persons must hold the relevant qualifications under the Private Security Industry Act 2001
- 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
- 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 premises.

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.

In the event that door supervisors or other security staff are used, applicants should make appropriate arrangements for a daily register and the recording of incidents in an approved incident log.

The daily register and incident log should be open to inspection by authorised officers of the Board, the LSO and Grampian Police on request.

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.

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.

Applicants should also discourage 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.

For city centre/large town venues the Board recommends the Safer Clubbing Guide referred to in the Board's Supplementary Policy Statement on Discretionary Conditions and Management of Licensed Premises(Appendix 9), as an example of good practice.

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 Pub Watch schemes as example of good practice and expects licence holders to actively participate in such schemes.

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.

Applicants must consider the use of exclusions of known troublemakers from their premises to minimise the risk of disorder. In certain cases organisations of licensees must consider the operation of an exclusion or banning scheme so that known troublemakers are refused entry to all licensed premises in a particular vicinity. 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 Board or the police for consideration of an Anti Social Behaviour Order (ASBO) to enforce an exclusion.

Applicants should consider whether to adopt a dispersal policy in respect of the premises. This would set out the steps the venue will take at the end of the trading session to minimise the potential for disorder and disturbance as customers leave the premises.

If such a policy is adopted by the venue it should be agreed with Grampian Police and steps should be taken to ensure that all staff (including door staff) are familiar with the policy.

Proof of Age

It is expected that all applicants adopt and adhere to a policy on requesting proof of age for all persons who appear under the age of 21.

Proof of age may be a valid passport, a valid EU photocard driver's licence or an approved card with the 'PASS' logo / hologram. Proof of age means requesting proof and checking that the proof is valid, belongs to the person producing it and has no obvious signs of tampering.

It would be good practice for licence holders to include the prominent display of details of any local initiatives for ID cards within their premises.

Glass and Bottles

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.

Applicants are expected to take reasonable steps to prevent the removal of glasses and opened bottles from premises (including authorised pavement seating areas and beer gardens).

Applicants should also consider policies which provide that, on appropriate occasions, all drinks are dispensed into 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 glass ware and plastic bottles.

Byelaws on Alcohol in Designated Places

Where such orders are in force applicants will be expected to take reasonable steps to inform customers of the existence and effect of such an order. These may include the display of a notice to that effect at exit points from the building.

Applicants should consider whether a personal licence holder and/or the premises manager should be a member of a recognised licence holder's association or other representative body such as a pubwatch scheme.

Public Safety

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.

Applicants may have a capacity limits imposed on the premises through fire or building standards regulations. However applicants should note that the Board might seek to impose capacity conditions where there are no such limits on safety grounds, following representations on safety grounds.

The Board may also seek to impose capacity figures which are lower than the safety figure on crime and disorder grounds.

Applicants should demonstrate how they intend to control and maintain the agreed occupancy levels within the venue.

Applicants should consider adopting procedures for:

- supervisors/attendants - numbers and locations;
- staff training;
- entry/egress control;
- evacuation procedures;
- accident/incident reporting;
- routine maintenance of the venue and daily inspections, with a record log, to address in particular the :-
 - checking of all exit routes and signage;
 - removal of obstructions and security devices to exit routes and doors, prior to the occupation of the building;
 - testing of fire alarm, emergency lighting and music cut-out systems and compiling a record log of the tests.

Applicants should consider the installation, testing, maintenance and certification of:

- fire detection systems;
- fire fighting equipment/fire suppression systems;
- alarm system;
- electrical installation for the premises;
- portable electrical appliances;
- emergency lighting system;
- music cut-out systems;
- fire retardant treatments for materials used for drapes, furnishings and decorations. Including treatment frequency and certification and make general fire precautions.

Applicants should consider the regular inspection and maintenance of floors, roof members, beams, mezzanine floors, stairs, lintels, ceilings and any other structural elements.

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;
- systems for the collection of glass and bottles.

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.

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 given to the treatment of any person who appears unwell, including those affected by drugs or alcohol.

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.

The Board expects that there should normally be reasonable facilities and access for people with disabilities. The Board will, therefore, expect the needs of disabled people to be addressed in the operating plan. The operating plan should normally include physical and managerial methods for the safe evacuation of disabled persons. This should clearly identify trained members of staff to implement emergency egress plans and clarify whether equipment such as lifts are safe to be used.

Prevention of Public Nuisance

Applicants should determine and implement steps to prevent noise and vibration 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.

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.

In considering applications from pub, clubs and similar premises and activities the Board expects licence holders to have regards to any guidance published such as the Good Practice Guide on the control of noise from pubs and clubs published by the Institute of Acoustics (available to purchase at:

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

and the Code of Practice on Environmental Noise Control at Concerts published by the Noise Council. Aberdeenshire Council's Environmental Health Service will also provide a Guidance Note on Control of Noise, which will be available on the Council's website.

Particular care must be taken where the noise source is in the open air, e.g. beer garden, play area, car park, access road, temporary structure or queue.

Applicants should consider any special measures that should be adopted in premises located near sensitive premises such as nursing homes, hospitals or places of worship.

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.

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.

The provision of hot food at and from premises after 11pm is often associated with the litter of paper containers and food discarded onto the streets and onto private property in the vicinity of premises. Applicants should determine and implement steps to prevent additional litter (e.g. food waste and food packaging, cans, 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.

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. Therefore 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.

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 of greater importance between 11 p.m. and 7 a.m. than at other times of the day.

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

Applicants should consider the steps to be taken to ensure staff leave the premises safely and quietly. This will be of greater importance between 11 p.m. and 7 a.m. than at other times of the day.

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, vehicle stereos, noise from engines idling, and vehicle exhaust fumes.

Applicants should consider whether there is sufficient provision for public transport with regard to the proposed opening hours (including taxis and private hire vehicles) for patrons. Failure to do so may result in nuisance and this will be considered a serious failure.

Applicants should consider whether the service of the premises by licensed taxi or private hire vehicles is likely to disturb local residents and take reasonable steps to prevent disturbance from this source. Examples of actions that can be taken include the provision of an indoor waiting area, arrangements for door staff to advise customers that their transport has arrived and phones in entrance lobbies perhaps linked directly to a private hire company.

Protecting and Improving Public Health

Applicants will be expected to demonstrate in their risk assessment that suitable and sufficient measures have been identified and will be implemented and maintained to protect patrons' health. Such measures will include:-

- Making available information with regard to sensible drinking,
- The effects of excessive alcohol consumption

- Contact points where assistance can be obtained for problem drinking, and
- Promotion of designated driver schemes

The Board expects applicants to promote sensible drinking. The Board also expects applicants to apply an appropriate drug policy such as is available from Grampian Police.

Protection of Children from Harm

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. An example of such a check would be the completion of a Disclosure Scotland check to the appropriate standard.

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 premises or where the sale of alcohol takes place the Board will expect the Code of Practice to be fully implemented.

The code can be found at: <http://www.portmangroup.co.uk/?pid=1&level=1>

In the case of 'children only' events, for example, an under 18 disco, production of play, a pantomime or similar event the Board will usually recommend a specific ratio of adult supervisors to children that can be reasonably expected, on the premises for the activity. The normal ratio will be one supervisor per 50 children plus one supervisor for each floor and one supervisor for each exit. This would mean at an event where 300 children are expected, which takes place on premises which have 2 floors and 4 exits there would need to be 6 supervisors for the capacity of the premises, plus 2 for the two floors, plus 4 for the number of exits giving a total of 12 supervisors on duty throughout the duration of the event. Applicants may have higher levels of supervision if they wish.

In the case of premises giving film exhibitions the Board will expect licence holders or clubs to include in their operating schedule arrangements for restricting children from viewing age restricted films, classified according to the recommendation of the British Board of Film Classification or the licensing authority itself. The Licence holder may also require to obtain a Cinema Licence from Aberdeenshire Council.

Helpful Organisations

Below is a list of helpful organisations. Contact Details will be provided on request. This list is not exhaustive.

- Aberdeenshire Community Planning Partnership
- Pubwatches at Peterhead, Banff and Turriff
- Alcohol Focus Scotland, including Servewise
- Aberdeenshire, Banffshire & Kincardineshire Licensed Trade Association
- Aberdeenshire Trading Standards
- Aberdeenshire Community Safety Executive
- Aberdeenshire Alcohol and Drugs Action Team
- BEDA
- Grocer's Federation
- Shopwatch at Peterhead
- British Institute of Innkeeping
- Grampian Police
- Alcoholics Anonymous

LIST OF SERIOUS MATTERS

The Board considers the following to be serious matters:-

- Use of the premises for the use or supply of drugs;
- Use of the premises for laundering the proceeds of crime including drug crimes;
- Use of the premises for the sale or distribution of firearms;
- Use of the premises for the sale or supply of stolen or counterfeit goods;
- Underage purchase and consumption of alcohol;
- Use of the premises for prostitution or sale/distribution of pornography;
- Use of the premises for unlawful gaming;
- Use of the premises for the organisation of racist, homophobic or sexual abuse or attacks;
- Failure to promptly respond to a warning properly given by the Fire Authority or other competent authority on a matter of public safety at premises;
- Failure to avoid easily avoidable but critical risks, including any obstruction of an escape route to, and if necessary beyond a fire exit, and the locking or fastening of fire exit doors during times that premises are open for trade, will be considered an extremely serious failure owing to the dangers to the public;
- Nuisance from noise or smell caused by a failure to install any or inadequate equipment and/or failure to maintain such equipment;
- Failure to implement an effective policy to prevent fly posting and to contain or collect litter from flyers or other advertising materials discarded in the vicinity of the premises;
- Failure to implement an effective policy to contain or collect litter discarded in the vicinity of the premises;
- Previous convictions for licensing offences;
- Previous failure to comply with licence conditions.
- Any other matter that the Board considers to be serious in the particular circumstances of the application or licence being considered by them.

The above list is not exhaustive.

ABERDEENSHIRE LICENSING BOARD ***North Division***

SCHEME OF DELEGATION

This Scheme of Delegation covers the powers of the Licensing Board, in terms of the following legislation, as from 1st February 2008:-

- Licensing (Scotland) Act 1976
- Licensing (Scotland) Act 2005

These delegations will be subject to any alterations made necessary due to amendments to Legislation, Regulations, Codes of Practice or Government Circulars. In the event of a conflict between the terms of this Scheme of Delegation and the relevant legislation, the Scheme of Delegation shall be amended forthwith to accord with the provisions of the said relevant legislation.

Licensing (Scotland) Act 1976

1. Reserved to the Licensing Board

Decisions on the following matters are not subject to delegation and shall only be discharged by the Licensing Board:-

- 1.1. Applications for the grant of a new licence;
- 1.2. Applications for the Regular Extension of Permitted Hours;
- 1.3. Applications for the grant of a Children's Certificate;
- 1.4. The suspension of a licence;
- 1.5. The making of a Closure order;
- 1.6. The restriction of the terminal permitted hour;
- 1.7. Applications for restoration of restricted hours;
- 1.8. Applications for the grant of Sunday Opening;
- 1.9. Sunday Restriction Orders or the revocation of such orders.

2. Delegation to the Clerk, or Depute Clerks to the Licensing Board

Decisions on the following matters are delegated to the Clerk or the Depute Clerks to the Licensing Board:-

- 2.1. Applications for Occasional Licences in terms of Section 33 of the Act;
- 2.2. Applications for Occasional Permissions in terms of Section 34 of the Act;

- 2.3. Applications for Occasional Extensions in terms of Section 64 of the Act;
- 2.4. Applications in terms of Section 25 of the Act;
- 2.5. Applications in terms of Section 26 of the Act;
- 2.6. Applications in terms of Section 59(1)(i) of the Act;
- 2.7. Applications for consent to alterations in terms of Section 35 of the Act.

[Note: The Clerk or Depute Clerks may elect not to use their delegated powers in a particular case in which case the matter will be referred either to the Convener, in the case of Occasionals or to the Board on all other matters].

3. Delegation to the Convener of the Licensing Board

Decisions on the following matters are delegated to the Convener of the Licensing Board:-

- 3.1. Decisions on occasionals applications that are outwith policy days or hours, or have been lodged late.

4. Other Matters

Any matters which are not the subject of a specific delegation in terms of this Scheme of Delegation and are not prescribed by the Licensing (Scotland) Act 1976 shall be determined by the Licensing Board at a meeting as may be arranged by the Clerk in consultation with the Convener of the Licensing Board.

Licensing (Scotland) Act 2005

1. Reserved to the Licensing Board

Decisions on the following matters shall be made by the Licensing Board at a meeting arranged by the Clerk:-

- 1.1. Determining the Licensing Board's policy for the purposes of a Licensing Policy Statement or any Supplementary Licensing Policy Statement;
- 1.2. Determining, for the purposes of any such statement, whether there is overprovision of licensed premises, or licensed premises of any particular description, in any locality;
- 1.3. Determining a premises licence application;
- 1.4. Determining a premises licence variation application where the variation sought is not a minor variation;
- 1.5. Determining an application for the transfer of a premises licence where the applicant has been convicted of a relevant or foreign offence;
- 1.6. Determining a personal licence application, or a personal licence renewal application where the applicant has been convicted of a relevant or foreign offence;
- 1.7. The determination in terms of Section 70(2) of the Act as to whether or not the Licensing Board will hold a hearing to determine an application for extended hours where an objection, representation or a notice recommending refusal from the Chief Constable or a report from the Licensing Standards Officer recommending refusal has been received;

- 1.8. Where a decision has been taken not to hold a hearing in terms of section 70 (2) of the Act, the determination of the application;
- 1.9. Conducting a hearing under the Act, including taking any of the following steps:-
 - 1.9.1 At a review hearing in respect of a premises licence –
 - (i) Issuing a written warning to the licence holder;
 - (ii) Revoking or suspending the licence; or
 - (iii) Making a variation of the licence; or
 - 1.9.2 Making an order revoking, suspending or endorsing a personal licence.
- 1.10. In terms of Paragraph 9 of the Licensing (Transitional and Saving Provisions)(Scotland) Order 2007, the decision as to whether, in the case of a premises licence application during the transitional period, to request an anti-social behaviour report from the Chief Constable;
- 1.11. In terms of Paragraph 11 of the Licensing (Transitional and Saving Provisions)(Scotland) Order 2007 – “No requirement for a hearing” – the decision as to whether an objection to a premises licence application made during the transitional period should be rejected under Section 22(4) of that Act where no other competent objections have been made;
- 1.12. Making a Closure Order
- 1.13. Refusing an application for confirmation of a provisional licence.

2. Delegation to the Clerk or Depute Clerks to the Licensing Board

Decisions on the following matters are delegated to the Clerk or the Depute Clerks to the Licensing Board:-

- 2.1. Any application for a minor variation of premises licences (Section 29)
- 2.2. Any application for variation to substitute a new premises manager;
- 2.3. Any application to transfer a premises licence – where the transferee has NOT been convicted of any relevant or foreign offence (Sections 33 to 35);
- 2.4. Any application for confirmation of a provisional premises licence – where no variation (other than a minor variation) has been made to the operating plan or layout plan for the premises to which the licence relates since the provisional licence was issued or since a variation of the provisional premises licence was granted (Section 46);
- 2.5. Any 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 (Sections 56 – 61);
- 2.6. Any application for extended hours – 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 (Sections 68 – 70);
- 2.7. Any application for a personal licence or renewal of a personal licence where the applicant has NOT been convicted of a relevant or foreign offence (Section 74);

2.8. In terms of Paragraph 11 of the Licensing (Transitional and Saving Provisions)(Scotland) Order 2007 – “No requirement for a hearing” – the decision as to whether an application for a premises licence, made during the transitional period, can be approved via a list at a meeting of the Licensing Board where:-

- (i) There are no valid objections to the application;
- (ii) 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;
- (iii) 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; and
- (iv) No request for an anti-social behaviour report in terms of paragraph 6 of the Licensing (Transitional and Saving Provisions)(Scotland) Order 2007 has been made.

[Note: the Clerk and the Depute Clerks may elect not to use their delegated powers in a particular case, in which case the matter will be referred to the Licensing Board.]

3. Other Matters

Any matters which are not the subject of a specific delegation in terms of this Scheme of Delegation and are not prescribed by the Licensing (Scotland) Act 2005 shall be determined by the Licensing Board at a meeting arranged by the Clerk in consultation with the Convenor of the Licensing Board.

ABERDEENSHIRE LICENSING BOARD

North Division

Procedures for Hearings

Communication

Generally, the Board will accept communications by letter sent by post or Legal Post, by fax or by e-mail. Details of where to send communications are listed at the end of this Schedule.

All communications should be addressed to “The Clerk to the Board”

If a party has made representations and later wishes to withdraw the same, they should give written notice to the Clerk no later than 7 days before the date of the relevant Hearing. If all representations are withdrawn, the Hearing may be cancelled and the application considered under delegated powers.

Except where otherwise provided, a “requirement to give a notice (or to notify)” is a requirement to give notice in writing; and for that purpose, a message sent by fax or e-mail must be treated as a notice given in writing.

When will the North Aberdeenshire Board hold a Hearing?

Premises Licences

The table below lists the relevant sections of the Act, whether the Board must or may hold a hearing and the time limit for doing as set out in the legislation.

Section	Type of Application	Hearing	Time limit
Section 23(2)	Consideration of premises licence	MUST	119 days after last day on which objections can be lodged
Sections 29 – 30	Consideration of major variation of premises licence	MUST	119 days after last day on which objections can be lodged
Section 33	Transfer of licence where there are relevant convictions	MUST	42 days after the date on which Board received Section 33(6)(b) notice
Section 38	Review of Premises licence by Board or application to review premises licence	MUST	42 days after the date on which the Board made the Section 38(1)(a) proposal or received the Section 38(1)(b) application.
Section 59	Application for occasional licence with representations by Police/LSO or written objections made	MAY	42 days after the date on which the Board received the occasional licence application
Section 38 and 44	Consideration of relevant conviction on part of the Licence Holder	MUST	42 days after the date on which the Board received notice of the relevant conviction
Section 68	Application for extended hours for a special event	MAY	42 days after the date on which the Board received the application
Section 97 & 100	Consideration of Closure Order	As per Regulations	As per Regulations

Personal Licences

Before the Board can determine an application the following criteria must be satisfied by the applicant:

- The applicant is aged 18 or over;
- The applicant possesses a licensing qualification; and
- No personal licence previously held by the applicant has been revoked within the period of 5 years ending with the day on which the application was received.

The table below lists the relevant sections of the Act, whether the Board must or may hold a hearing and the time limit for doing as set out in the legislation

Section	Type of Application	Hearing	Time limit
Section Sections 73 & 75	Consideration of application where Chief Constable has specified relevant offence	MUST	42 days after the date on which Chief Constable notifies relevant offence
Section 83	Consideration where Chief Constable notifies relevant offence after grant of personal licence	MUST	42 days after the date on which the Board received the notice in terms of Section 83(4)(b).
Section 84	Review of premises licence where licence holder acted in manner inconsistent with licensing objectives	MUST	Within time limit listed above for review of premises licence
Section 86	3 endorsements on licence	MUST	As required

Notice of Hearings

The Board will give notice of any hearing that is to be held in relation to applications or licences issued in terms of the Licensing (Scotland) Act 2005.

A notice will specify:

- The date, time and place at which the Hearing, Adjourned Hearing or Additional Hearing (as the case may be), is to take place.
- That the Board will make available the documents relevant to the Hearing to any person that has made representations (unless the representations are considered by the Board to be vexatious or frivolous.)
- That the Board may consider the matter in the absence of any party, should that party fail to attend the Hearing

The notice will be issued by ordinary first-class post. The Board will endeavour to ensure that it is received by relevant parties not later than 10 working days* before the first day on which the Hearing is to be held.

** Periods are subject to the issue of further Regulations*

Information and Documents to Accompany a Notice of Hearing

The Notice of Hearing will be accompanied by a copy of this document.

Prior to the Hearing

Each party should, as far as possible, notify other parties and the Clerk of the evidence that they intend to rely on at the Hearing, including full details of that evidence and copies of documents (defined in its widest sense) to be produced.

The Board generally will not permit the leading of evidence by witnesses at a Hearing.

Notification including, where relevant, copy documents should be sent to other parties and the Clerk not later than 7 days before the Hearing.

Attendance at the Hearing

Parties should attend or be represented and should notify the Clerk of their intention to attend no later than 7 days prior to the Hearing. Details of any representative should be included in the notification.

Regulation 14 of the Licensing Procedure (Scotland) Regulations 2007 provides that a party may be represented by another person at a Hearing. However, the Board may decide not to hear from the representative where he cannot produce evidence, in the form of a written authority, confirming his standing to appear for the party.

Where a party fails to appear or be represented the Board will then decide whether to proceed with the Hearing in the absence of that party or adjourn the Hearing to another date. Each matter will be considered on its own merits. However, in general:

1. If a party has indicated an intention to appear but fails to do so, the Hearing may proceed in their absence;
2. If a party has given no indication about appearing and there is no apparent reason for the failure then the Hearing will proceed and the Board will make such decision as it thinks fit in the absence of that party;
3. If a party leaves a Hearing in circumstances such that it can reasonably be inferred that they do not wish to take any further part then the Hearing will proceed and the Board will make such decision as it thinks fit in the absence of that party;
4. A Hearing will normally only be adjourned on one occasion.

Where a Hearing proceeds in the absence of any party, the Board will consider the application or any representations made by that party (that are not considered by the Board to be vexatious or frivolous).

Power to Postpone

The Board may at any time postpone a Hearing to a specified date. Each case for postponement will be considered on its own merits.

Hearings

The Board will always endeavour to ensure that the rules of natural justice are observed.

Hearings will be conducted in public; however, the Board may retire to consider matters in private. All decisions taken will be taken in public.

In general, a Hearing will take the form of a discussion led by the Board and the Convener. The Board wishes to create, as far as possible, a less formal and more relaxed atmosphere so as not to intimidate parties.

Each party will have the opportunity to address the Board and present evidence.

Conducting a Hearing

At the beginning of the Hearing, the Convener will explain the procedure it proposed to follow in conducting the Hearing. Paper copies of the running order will be circulated to all parties at the start of the Hearing.

Generally speaking, the running order will be as follows:

1. The applicant will be asked to present their case.
2. Any party that has made representations on the application will be invited to present their case;
3. The applicant will then have an opportunity to respond to any points raised;
 - 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 or written submissions or a combination thereof;
 - Cross-examination will not generally be permitted.
 - Hearsay evidence is admissible.
4. Members may ask questions of any party
5. Parties will be asked to sum up (in reverse order) No new evidence to be led at this stage.
6. The Board made request legal advice from the Clerk. The Board may also retire to deliberate.
7. Decision

The Board retains a general discretion, where considered appropriate, to depart from the foregoing and/or disregard procedural errors and/or remedy prejudice to any party.

Exclusion of Disruptive Persons

The Board may require any person attending the Hearing who, in their opinion, is behaving in a disruptive manner to leave the Hearing and may

- Refuse to permit him to return; or
- Permit him to return but only on such conditions as the Board may specify.

Where a person is required to leave the Hearing, the Board will instead:

- Permit him to submit in writing, before the end of the Hearing, any information which he would have been entitled to give orally had he not been required to leave; and
- Take into account that information in reaching a determination.

Procedure Where a Hearing is Not to Take Place.

Where a Hearing is not required by the Act, the Board will endeavour to canvass and account for the views of the parties on the desirability of holding a Hearing, although the Board will not be bound by those views. Where it has been decided that a matter can be determined without a Hearing (with or without the consent of the parties) the Board will, as soon as is reasonably practicable –

- Notify all parties that the hearing has been dispensed with; and
- Determine the application or review.

Where the Board does not hold a hearing, in an instance where there is an option to hold a hearing, the Board will ensure that all relevant parties have the opportunity to state their case, in particular, the applicant will have a chance to respond to any observations made by the Police or the Licensing Standards Officer.

Record of Proceedings

The Board will ensure that a record of the Hearing is taken in a permanent and intelligible form. However, Hearings will not be recorded and a transcript will not be available. Any such record will be kept for a period of 10 years from the date that the matter is finally determined (including any appeal).

Irregularities

The Board may disregard any irregularity resulting from a failure to comply with the provision of this Appendix, or with a procedure otherwise determined by the Board, where that irregularity comes to its attention prior to it making a determination of the matter at hand.

If the Board considers that any person may have been prejudiced by any such irregularity, it must take such steps that it considers necessary to remedy the consequences of the irregularity, before reaching its determination.

Where to send Communications

In writing to	The Depute Clerk to the Board Aberdeenshire Council St. Leonards Sandyhill Road Banff AB45 1BH LP6, Legal Post, Banff
By e-mail	fiona.stewart@aberdeenshire.gov.uk
By fax:	01261 815664 – mark faxes for the attention of the Depute Clerk to the Board