

Aberdeenshire Licensing Boards
South Aberdeenshire Divisional Licensing Board
Supplementary Statement of Licensing Policy
Operating Hours
30th November 2007 – 29th November 2010

Operating Hours

General

Licensed hours must be detailed in the operating plan of every premises.

The Board does not wish to unnecessarily inhibit the development of a thriving and safe evening and night-time local economy, which is important for investment, employment and tourism. While each application is assessed on its own merits, the following sets out the Board's policy on licensed hours. For applications for hours at times outwith the Board's policy, applicants will require to demonstrate to the Board that the additional requested hours are appropriate in the circumstances.

Off Sales

For applications relating to premises licences and to occasional licences, the licensed hours for the sale of alcohol for consumption off the premises ("off-sales hours") are within 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 any effect the proposed off-sales hours might have on the occurrence of anti-social behaviour.

On Sales

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 11.00 a.m. Where an application is made to the Board to open earlier than 11.00 a.m. the Board considers it would be more consistent with the licensing objectives to restrict such opening to operation where the emphasis is on food or tourism as opposed to so called vertical drinking establishments. The Board will expect applicants to demonstrate measures that promote the licensing objectives. The Board further considers that it would be difficult for any application to justify the sale of alcohol prior to 09.00 a.m. unless there are exceptional circumstances.

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. Taking into account the 5 licensing objectives, the presumption against 24-hour drinking and the Guidance for Licensing Board and Local Authorities issued by

the Scottish Executive and that mandatory conditions specified by Regulation apply to those premises opening beyond 1.00 a.m. 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:

Restaurants

Those premises or parts of the premises where the supply of alcohol for consumption is *ancillary to a table meal* taken by persons within the premises.

1.00 a.m. daily

A table meal generally consists of a meal eaten by a person sitting at a table, counter or other structure which serves the purpose of a table. The meal must be eaten with cutlery or similar accoutrements. Snacks, sandwiches and crisps are not considered to constitute table meals.

Premises Offering no significant Entertainment Facilities

Those premises or parts of the premises where the provision of alcohol is the principal activity and significant entertainment facilities are not provided. This includes public houses and members' clubs.

Annually	1.00 a.m. daily
Festive Season (see page 3)	1.30 a.m.
Hogmanay	3 a.m.

Premises Offering Significant Entertainment in Function Rooms or Subject to 'Close Down'

Premises or parts of premises which ordinarily fall under "Premises offering no significant entertainment facilities" but which

- have a separate function room and/or
- are closed down and cleared of patrons for at least one hour beforehand, for the purpose of entertainment and/or functions and
- where the provision of alcohol is ancillary to the entertainment.

Entertainment/functions considered acceptable for this purpose include dances, discos, dinner-dances, wedding receptions and parties where a disco or band is provided. This includes Snooker Halls, Bingo Halls and Leisure Facilities. Entertainment/functions not considered acceptable for this purpose include darts, dominoes or pool competitions, karaoke evenings or private parties where there is no significant entertainment. Nor would it be acceptable where live entertainment is not an integral part of the function e.g. background piano music.

Annually	1.00 a.m. daily
Festive Season	1.30 a.m.
Hogmanay	3 a.m.

Premises offering Significant Entertainment Facilities and subject to Conditions the Board may impose

Premises or parts of premises where the provision of alcohol to persons frequenting the premises for consumption on the premises is ancillary to the significant entertainment provided and subject to conditions the Board may impose in relation to such premises. These include nightclubs.

Annually	Sundays-Thursdays:	2.00 a.m.
	Fridays-Saturdays:	3.00 a.m.
Festive Season & Hogmanay	Sundays- Saturdays	3.00 a.m.

Such premises 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 applicants 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.

Early Morning Hours

The Board will consider extending the commencement of the sale of alcohol in premises from 11.00 a.m. until 9.00 a.m. on condition that the sale of alcohol is ancillary to a table meal taken by persons within the premises.

Table meal has the same definition as outlined under "Restaurant" above.

The Board may attach conditions to such licences. The earlier a premises wishes to open, the more the Board will expect applicants 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.

Festive Season

The Board's festive hours will apply each year on the undernoted dates:

The Friday and Saturday preceding 25 December

24th December

25th December

26th December

The Friday and Saturday preceding 31 December

1 January until 0130 hours (the following day)

Each Hogmanay 31 December open until 0300 hours (1 January)

Section 64 of the Licensing (Scotland) Act 2005 contains a presumption against 24-hour drinking unless the Board is satisfied that there are exceptional circumstances which justify allowing the sale of alcohol on the premises during such a period.

Premises opening after 1.00 a.m. during the Festive Season may be subject to mandatory conditions (this is subject to the approval of Regulations) and the Board may attach additional conditions.

The Board wishes to make it clear that the Festive Season hours should be accounted for within the Seasonal Variation section of operating plans and should not be the subject of extended hours applications.

Occasional Extensions – s.67

The Licensing Board may extend the licensed hours in respect of premises by such period as the Board considers appropriate. The Board will normally only do so in connection with

- (i) a special event or occasion to be catered for on the premises, or
- (ii) a special event of local or national significance.

The grant of an extension of licensed hours can only last for one month.

Where the hours sought fall outwith the on-sales hours specified in this statement, the applicant will require to demonstrate the hours requested are appropriate in the circumstances. The applicant 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
- why the event or occasion is considered to be special
- why the event or occasion cannot take place within the on-sales hours specified above
- proposed stewarding arrangements
- how the request complies with the licensing objectives.

The Board will have complete discretion as to whether to grant the application taking into account any Police objections and Licensing Standards Officer (“LSO”) comments and having regard to the licensing objectives. The Board may hold a hearing for the purposes of determining any application, but this is not mandatory. Where the Board does hold a Hearing, the Board will ensure that before determining the application, the applicant is given an opportunity to comment on any objections from the Police, adverse comments from the LSO and objections/observations from members of the public.

No extension can be granted to operate for a period of more than one month and such an extension cannot be further extended.

On occasions of local, national 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 at –

www.aberdeenshire.gov.uk

In addition, 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.

Occasional Licences

It is possible to make an application for an occasional licence authorising the sale of alcohol on premises which are not licensed premises. This may be made by –

The holder of a premises licence

The holder of a personal licence

A representative of any voluntary organisation (includes registered clubs)

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

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

There are restrictions on the number of applications a voluntary organisation or registered 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
- 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.

Applicants will be required to lodge a health and safety risk assessment of the event with their applications.

To allow time to consult the Police and for objections to be made, applications should be submitted as far in advance of the event as possible but **not later than 28 days** before the event is due to take place. Applicants 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.

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.

The Board considers the commencement of the sale of alcohol shall not normally be earlier than 11.00 a.m. For the terminal hour beyond which alcohol must not be sold on the premises, the Board considers the following to be appropriate –

Where there is *no specific* entertainment- 1.00 a.m. daily

Where there *is specific* entertainment - 1.30 a.m. daily

Applicants 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.

Conditions

The Board is aware of the mandatory conditions which are set out both in the Act and in Regulations. The Board will consider on an individual basis whether it is necessary or expedient to impose additional conditions, to promote one or more of the licensing objectives or otherwise to give effect to the provisions of this policy statement or to the provisions of the Act. Such conditions may include a requirement for a representative of a Voluntary Organisation to have undergone relevant training. The decision whether to impose any conditions will be made on an objective basis, any representations made and any other relevant information available to the Board when considering the application. The Board will seek to avoid the imposition of disproportionate conditions.

Lack of Demand and the Duty to Trade

Applicants should be aware that premises are *obliged to remain open* for the licensed hours they apply for and which are granted by the Board.

The information provided in operating plans will enable the Board and the LSO to determine if a breach of the operating plan and/or the licence conditions has occurred. Where this is the case the LSO or the Board will initiate a review of the licence.

Applicants should note that the Act allows *anyone* to apply to the Board for a review of the licence on any of the grounds set out in Section 36 of the Act. Applicants should not, for example, grossly overestimate their licensed hours “just in case” they may be required.

The Board recognises that there may be circumstances that would reasonably cause a temporary deviation from the licensed hours given in the operating plan. Such circumstances will not ordinarily be considered a breach of the operating plan.

The Board also recognises the need for businesses, especially in a rural environment, to remain economically viable when faced with a lack of demand. Licensed premises may wish to close early owing to a lack of customers and, therefore, not trade for their full complement of licensed hours. Again, this will not ordinarily be treated as breach of the operating plan.

However, in considering such issues, the Board will give particular attention to whether these “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 change the operating plan of the premises concerned.

Drinking Up Time and Dispersal Policy

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

On such date as is prescribed as the date in Spring when the clocks go forward to mark the changeover to British Summer Time, 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.

On such date as is prescribed as the date in Autumn when the clocks go back to mark the changeover from British Summer Time to Greenwich Mean Time, 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.

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 Greenwich Mean Time in Autumn.

Additional Considerations

In determining applications where more than one activity takes place in the premises or where parts of premises fall under different categories as specified in this 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.

Premises where more than one of the categories applies in different part 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.