

THE MORAY LICENSING BOARD

THURSDAY 1 OCTOBER 2015

NOTICE IS HEREBY GIVEN that the Meeting of **THE MORAY LICENSING BOARD** is to be held within the The Moray Council, Council Chambers, High Street, Elgin on Thursday 1 October 2015 at 10.00am.

Alasdair McEachan
CLERK

23 September 2015

BUSINESS

1. Prior Minutes
 - (i) Minutes of the Meeting held on 20 August 2015 (copy attached)
 - (ii) Minutes of the Special Meeting held on 23 September 2015 (copy attached)

The Licencing (Scotland) Act 2005

2. Applications Section– Appendix 1
3. Premises Licence Review Hearing – Case Number 1 of 2015 Following Application for Review by the Trading Standards Manager – Report by the Clerk (copy attached)
4. Premises Licence Review Hearing – Case Number 2 of 2015 Following Application for Review by the Trading Standards Manager – Report by the Clerk (copy attached)
5. Personal Licence Application Hearing Following Disclosure of Relevant Conviction on Application (Case Number 3 of 2015) – Report by the Clerk (copy attached)
6. Chief Constable Report Under Section 12A – Report by the Clerk (copy attached)
7. Christmas/New Year Arrangements 2015/2016 – Report by the Clerk (copy attached)
8. Calendar of Meetings – Report by the Clerk (copy attached)

CLERK:	Alasdair McEachan
--------	-------------------

THE MORAY LICENSING BOARD

SEDERUNT

COUNCILLOR G ALEXANDER

COUNCILLOR J ALLAN

COUNCILLOR G COWIE

COUNCILLOR J DIVERS

COUNCILLOR M HOWE

COUNCILLOR G LEADBITTER

COUNCILLOR M McCONACHIE

COUNCILLOR A MCLEAN

COUNCILLOR R H SHEPHERD

COUNCILLOR C TUKE

CLERK TO THE BOARD: M A McEachan

THE MORAY LICENSING BOARD

MINUTE OF THE MEETING OF THE MORAY LICENSING BOARD

The Moray Council Chambers, Council Headquarters, High Street, Elgin on Thursday 20 August 2015

PRESENT

Councillors: G Alexander

J Allan

G Cowie

J Divers

M Howe

G Leadbitter

M McConachie

A McLean

R H Shepherd (Convener)

C Tuke

IN ATTENDANCE

Sean Hoath, Depute Clerk to the Licensing Board

Sergeant Gavin Jardine, Police Scotland

1. PRIOR MINUTES

- (i) The Minutes of the Meeting held on 11 June 2015 were submitted and approved.
- (ii) The Minutes of the Special Meeting held on 4 August 2015 were submitted and approved.

2. LIST OF DECISIONS FOR APPLICATIONS FOR PREMISES LICENCES

(i) Application for Variation to Premises Licence at Lidl UK, 18 West Road, Forres, IV36 2GW

The Depute Clerk introduced the application and advised the applicant had not been cited to the meeting as the application was for a small change to layout which had increased the capacity slightly. The Board agreed to grant the variation.

(ii) Application for Variation to Premises Licence at Lidl UK, 10 East Cathcart Street, Buckie, AB56 1PJ

The Depute Clerk introduced the application and advised the applicant had not been cited to the meeting as the application was for a small change to layout which had increased the capacity slightly. The Board agreed to grant the variation.

(iii) Application for Variation to Premises Licence at Lidl UK, Station Road, Elgin, IV30 1QW

The Depute Clerk introduced the application and advised the applicant had not been cited to the meeting as the application was for a small change to layout which had increased the capacity slightly. The Board agreed to grant the variation.

(iv) Application for a New Premises Licence at Drummuir Castle, Keith, AB55 5JE

The Depute Clerk introduced the application. The manager of the premises was in attendance. The Board agreed, as there was still an outstanding Building Standards section 50 certificate, that they would grant a provisional licence to be confirmed under delegated powers once that final certificate was received.

(v) Application for a New Premises Licence at 41 The Square, Tomintoul, AB37 9ET

The Depute Clerk introduced the application. The manager of the premises was in attendance and the applicant was represented by Michael Stewart, solicitor. After hearing from the applicant's representative the Board agreed to grant the licence.

(vi) Application for a New Premises Licence at Welcome Sheddie, West Beach Caravan Park, West Beach, Hopeman, IV30 5RU

The Depute Clerk advised the Board that the applicant had asked for deferral of this application to the next meeting as the section 50 certificates were outstanding. The Board agreed to defer the application.

(vii) Application for a Provisional Premises Licence at 26-32 High Street, Fochabers, IV32 7DX

The Depute Clerk introduced the application and advised that for a provisional licence the paperwork was in order. The applicant was represented by Neil Ross, solicitor. After hearing from Neil Ross the Board agreed to grant the provisional licence, but asked that as the area was currently a building site that a further site visit was scheduled around the completion of works.

(viii) Application for a Provisional Premises Licence at 51 Harbour Street, Hopeman, IV30 5RU

The Depute Clerk introduced the application. The manager of the premises was in attendance and the applicant was represented by Michael Stewart, solicitor. After hearing from the applicant's representative the Board agreed to grant the provisional licence.

(ix) Application for a Provisional Premises Licence at OJ's Snooker and Pool, 17 West Church Street, Buckie, AB56 1BN

The Depute Clerk introduced the application. The applicant was in attendance. After hearing from the applicant and confirming details with the applicant and the police on the entry to the premises of young persons, the Board agreed to grant the provisional licence.

3. Personal Licence Application Hearing Following Disclosure of Relevant Conviction on Application (Case Number 2 of 2015)

The Depute Clerk introduced the report and outlined the recommendations within the report. Councillor Tuke made a motion to grant the licence with no hearing as there was no recommendation from the Chief Constable. Councillor Cowie seconded the motion. Councillor McConnachie made an amendment to hold a hearing which was seconded by Councillor Leadbitter. The outcome of the vote was 5 motion, 4 amendment and one abstain. Therefore the motion was carried and the licence was granted.

4. Membership of the Board and Appointment of Vice Convener

The Depute Clerk introduced the report. The Board noted the content and were minded to appoint a Vice Convener, Councillor Cowie.

5. Air Weapons and Licensing (Scotland) Bill Update

The Depute Clerk introduced the report and outlined the recommendations, and also advised that Royal Ascent had been received so the Bill was now in force. The Board noted the content of the report and those areas highlighted particularly for in terms of licensing.

6. Annual Review of Licensing Fees

The Depute Clerk introduced the report and outlined the recommendations. After hearing all the recommendations the Board agreed on the first option to take no action and the current fee structure was to remain at this time.

7. Review of Statement of Licensing Policy

The Depute Clerk introduced the report and outlined the recommendations. The Board agreed to proceed with option 1 and agreed to the Policy Sub Group being Councillors McLean, Howe, Shepherd, Allan, Cowie and Divers. A meeting of the Policy Sub Group was to be arranged by the Depute Clerk. Councillor Leadbitter also suggested that the list of consultees should be extended to cover Community Associations, Community Planning Partnership, Social Services and Moray Women's Aid. The Depute Clerk noted the additions.

MINUTE OF SPECIAL MEETING OF THE MORAY LICENSING BOARD

23 SEPTEMBER 2015

PRESENT

Councillors Alexander
 Allan
 Cowie
 Divers
 Howe
 Leadbitter
 McLean
 Shepherd
 Tuke

APOLOGIES

Apologies were intimated on behalf of Councillor McConachie

IN ATTENDANCE

Sean Hoath, Depute Clerk

1. CONVENING OF MEETING

The meeting was convened at 11.30am at the HQ Car Park, Council Office, Elgin. Councillor Shepherd left the meeting after the first premises visited.

2. SITE VISITS

The following premises were visited:

- (i) Variation to Premises Licence – Glenmoray Distillery, Bruceland Road, Elgin
- (ii) Premises Licence – Savers, 42 High Street, Forres

3. CONCLUSION OF MEETING

At the conclusion of the foregoing programme of site visits, the meeting concluded at 12.30pm.

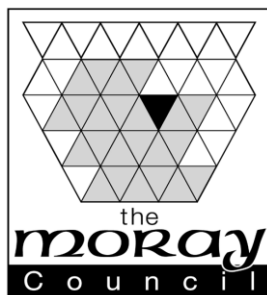
APPENDIX 1

MORAY LICENSING BOARD

MEETING, 1 October 2015 at 10:00am in Council Chambers, Council Headquarters, High Street, Elgin, IV30 1BX

Licensing (Scotland) Act 2005

Type	Premises	Applicant	Date Received	Comments
Variation (Major)	Glen Moray Distillery Bruceland Road Elgin IV30 1SF	Glen Moray Distillery Limited	28 July 2015	To add outdoor area Outstanding BS issues Site visited Cited to meeting
New Premises	Savers 42 High Street Forres IV36 1PF	Savers Health and Beauty Limited	12 August 2015	Off Sales 10am to 5.30pm Mon to Sat 12noon to 4pm Sunday No obj's/rep's Site visited Cited to meeting



ITEM: 3

PAGE: 1

REPORT TO: THE MORAY LICENSING BOARD 1 OCTOBER 2015

**SUBJECT: LICENSING (SCOTLAND) ACT 2005 – PREMISES LICENCE
REVIEW HEARING - CASE NUMBER 1 OF 2015 FOLLOWING
APPLICATION FOR REVIEW BY THE TRADING
STANDARDS MANAGER**

BY: CLERK TO THE BOARD

1. Reason for Report

1.1 The Licensing (Scotland) Act 2005 at section 36(1) provides that anyone can request a review of a premises licence.

1.2 This report is to notify the Board:

1.2.1 That an application for a review of a particular premises licence has been submitted by the Trading Standards Manager, eligible as any person. A copy of the application for review has been circulated separately.

1.2.2 The Board may reject a review application if the board considers the application:

1.2.2.1 Is frivolous or vexatious.

1.2.2.2 Does not disclose any matter relevant to any ground for review.

1.2.3 That, where the application is not rejected, section 38(1) of the Licensing (Scotland) Act 2005 requires the Board to hold a review hearing to consider and determine the review application.

1.2.4 That, if satisfied at the hearing that a ground for review is established, The Board is to proceed to determine whether any further steps should be taken in respect of the premises licence.

1.2.5 That if during the course of the premises licence review, the Board makes a finding that a personal licence holder, who is or was working in the premises, acted in a manner inconsistent with the licensing objectives then the Board must also hold a hearing to review the personal licence.

2. Recommendations

It is recommended that the Board:-

- 2.1 Note the application for review by any person and the initial requirement for the Board to determine if it considers the application to be frivolous or vexatious or does not disclose any matter relevant to a ground for review;**
- 2.2 Note the requirement in section 38 to hold a review hearing, following the application by the Trading Standards Manager, if the Board determines that any matter relevant to a ground for review is disclosed;**
- 2.3 Note that details of the premises licence review application have been passed to the licence holder and the Licensing Standards Officer (LSO) and the LSO has reported on the same;**
- 2.4 Hear from the parties, consider the matter and determine whether a ground for review is established and, if so, determine whether one of the possible steps set out in paragraph 3.9 is necessary.**
- 2.5 Note the requirement that if during the course of the premises licence review, the Board makes a finding that a personal licence holder, who is or was working in the premises, acted in a manner inconsistent with the licensing objectives then the Board must also hold a further hearing to review his/her personal licence.**

3. Background

- 3.1 A request for review from the Trading Standards Manager was received on 25 August 2015. The Trading Standards Manager states that the grounds for review are relevant to one or more of the licensing objectives of preventing crime and disorder and protecting and improving public health.**
- 3.2 The grounds for review, as set out in the Licensing (Scotland) Act 2005 at section 36(2), are as follows:**
 - 3.2.1. That one or more of the conditions to which the premises licence is subject has been breached; or**
 - 3.2.2. Any other ground relevant to one or more of the licensing objectives.**
- 3.3 It should be noted that in this case the Trading Standards Manager has included a recommendation that, if the Board finds that ground(s) for review are established, then the Board should proceed to issue a warning to the premises licence holder and vary the licence so as to add conditions.**
- 3.4 Section 36(6) provides that the Board may reject a premises licence review application if it considers the application to be frivolous or vexatious or if it does not disclose any matter relevant to a ground for review.**

- 3.5 By virtue of section 38(1), if the review application is not rejected, then the Board must hold a hearing for the purposes of considering and determining the review application.
- 3.6 Where a hearing of a review application is to be held the Board must give notice of the hearing to the applicant, the licence holder and the Licensing Standards officer (LSO). Notices were issued to all on the 15 September 2015 and, in relation to the licence holder and LSO, notices were accompanied by a copy of the review application.
- 3.7 The LSO is required to prepare and submit a report to the hearing and a copy of that report has been circulated to members. The Board must take the report into account at the hearing.
- 3.8 The Board may also obtain further information from such persons, and in such manner, as the Board thinks fit, and take the information into account. The Board may also take into account any information relevant to any ground for review even though it is not relevant to any circumstances alleged in the review application under consideration.
- 3.9 At the hearing the Licensing Board may, after giving the parties an opportunity to be heard and having regard to all the evidence including the application and the report of the LSO and if satisfied that a ground for review is established take such of the following steps that the Board considers necessary or appropriate for the purposes of any of the licensing objectives:
 - 3.9.1. Issue a written warning to the licence holder;
 - 3.9.2. Make a variation of the licence, which may be permanent or for such period as the Board may determine;
 - 3.9.3. Suspend the licence for such period as the Board may determine;
 - 3.9.4. Revoke the licence.
- 3.10 Any steps taken must also be reasonable and proportionate, having regard to all the circumstances of the case, as well as necessary or appropriate for the purposes of the licensing objectives.
- 3.11 The licensing objectives are set in out in paragraph 5(a).
- 3.12 Where the Board has made a variation or suspended the licence the Board may, on the application of the licence holder, and if satisfied that, by reason of a change of circumstances, the variation or suspension is no longer necessary, revoke the variation or suspension.

4. Implications

(a) Single Outcome Agreement / Service Improvement Plan

In the exercise of functions under the Licensing (Scotland) Act 2005 the Licensing Board is to have regard to and promote the licensing objectives which are:

- Preventing crime and disorder
- Securing public safety
- Preventing public nuisance
- Protecting and improving public health
- Protecting children from harm

The licensing objectives closely reflect some of the objectives of the Community Plan and are intended to promote community involvement and prevent the consumption of alcohol from being the source of nuisance, anti-social behaviour and harm. This is also true of the social inclusion and environmental aspects of the Corporate Plan.

(b) Policy and Legal

Legal implications have been explained above.

(c) Financial Implications

None

(d) Risk Implications

Taking account of allegations made, the Board is to have regard to all the circumstances and decide whether any of the licensing objectives have been compromised and whether any potential risk identified then justifies further intervention as necessary and appropriate for the purpose of the objectives.

(e) Staffing Implications

None.

(f) Property

None.

(g) Equalities

There are no issues in this case.

(h) Consultations

Consultation is not required.

5. Conclusion

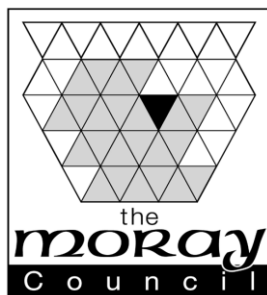
- 5.1** It is proposed that the Board note the application for review by the Trading Standards Manager and determine if it considers the application to be frivolous or vexatious or does not disclose any matter relevant to a ground for review;

- 5.2 It is proposed that the Board hold a review hearing if the application is not rejected, hear from the parties, take account of the LSO's report and the evidence, consider the matter and determine whether a ground for review is established and, if so, determine whether one of the possible steps set out in paragraph 3.9 is necessary for any of the licensing objectives, reasonable and proportionate.**

Author of Report: Sean Hoath, Senior Solicitor, Depute Clerk to the Licensing Board

Background Papers: There are no background papers

Ref: SAH/TT



ITEM: 4

PAGE: 1

REPORT TO: THE MORAY LICENSING BOARD 1 OCTOBER 2015

**SUBJECT: LICENSING (SCOTLAND) ACT 2005 – PREMISES LICENCE
REVIEW HEARING - CASE NUMBER 2 OF 2015 FOLLOWING
APPLICATION FOR REVIEW BY THE TRADING
STANDARDS MANAGER**

BY: CLERK TO THE BOARD

1. Reason for Report

1.1 The Licensing (Scotland) Act 2005 at section 36(1) provides that anyone can request a review of a premises licence.

1.2 This report is to notify the Board:

1.2.1 That an application for a review of a particular premises licence has been submitted by the Trading Standards Manager, eligible as any person. A copy of the application for review has been circulated separately.

1.2.2 The Board may reject a review application if the board considers the application:

1.2.2.1 Is frivolous or vexatious.

1.2.2.2 Does not disclose any matter relevant to any ground for review.

1.2.3 That, where the application is not rejected, section 38(1) of the Licensing (Scotland) Act 2005 requires the Board to hold a review hearing to consider and determine the review application.

1.2.4 That, if satisfied at the hearing that a ground for review is established, The Board is to proceed to determine whether any further steps should be taken in respect of the premises licence.

1.2.5 That if during the course of the premises licence review, the Board makes a finding that a personal licence holder, who is or was working in the premises, acted in a manner inconsistent with the licensing objectives then the Board must also hold a hearing to review the personal licence.

2. Recommendations

It is recommended that the Board:-

- 2.1 Note the application for review by any person and the initial requirement for the Board to determine if it considers the application to be frivolous or vexatious or does not disclose any matter relevant to a ground for review;**
- 2.2 Note the requirement in section 38 to hold a review hearing, following the application by the Trading Standards Manager, if the Board determines that any matter relevant to a ground for review is disclosed;**
- 2.3 Note that details of the premises licence review application have been passed to the licence holder and the Licensing Standards Officer (LSO) and the LSO has reported on the same;**
- 2.4 Hear from the parties, consider the matter and determine whether a ground for review is established and, if so, determine whether one of the possible steps set out in paragraph 3.9 is necessary.**
- 2.5 Note the requirement that if during the course of the premises licence review, the Board makes a finding that a personal licence holder, who is or was working in the premises, acted in a manner inconsistent with the licensing objectives then the Board must also hold a further hearing to review his/her personal licence.**

3. Background

- 3.1 A request for review from the Trading Standards Manager was received on 25th August 2015. The Trading Standards Manager states that the grounds for review are relevant to one or more of the licensing objectives of preventing crime and disorder and protecting and improving public health.**
- 3.2 The grounds for review, as set out in the Licensing (Scotland) Act 2005 at section 36(2), are as follows:**
 - 3.2.1. That one or more of the conditions to which the premises licence is subject has been breached; or**
 - 3.2.2. Any other ground relevant to one or more of the licensing objectives.**
- 3.3 It should be noted that in this case the Trading Standards Manager has included a recommendation that, if the Board finds that ground(s) for review are established, then the Board should proceed to issue a warning to the premises licence holder and vary the licence so as to add conditions.**
- 3.4 Section 36(6) provides that the Board may reject a premises licence review application if it considers the application to be frivolous or vexatious or if it does not disclose any matter relevant to a ground for review.**

- 3.5 By virtue of section 38(1), if the review application is not rejected, then the Board must hold a hearing for the purposes of considering and determining the review application.
- 3.6 Where a hearing of a review application is to be held the Board must give notice of the hearing to the applicant, the licence holder and the Licensing Standards officer (LSO). Notices were issued to all on the 15 September 2015 and, in relation to the licence holder and LSO, notices were accompanied by a copy of the review application.
- 3.7 The LSO is required to prepare and submit a report to the hearing and a copy of that report has been circulated to members. The Board must take the report into account at the hearing.
- 3.8 The Board may also obtain further information from such persons, and in such manner, as the Board thinks fit, and take the information into account. The Board may also take into account any information relevant to any ground for review even though it is not relevant to any circumstances alleged in the review application under consideration.
- 3.9 At the hearing the Licensing Board may, after giving the parties an opportunity to be heard and having regard to all the evidence including the application and the report of the LSO and if satisfied that a ground for review is established take such of the following steps that the Board considers necessary or appropriate for the purposes of any of the licensing objectives:
 - 3.9.1. Issue a written warning to the licence holder;
 - 3.9.2. Make a variation of the licence, which may be permanent or for such period as the Board may determine;
 - 3.9.3. Suspend the licence for such period as the Board may determine;
 - 3.9.4. Revoke the licence.
- 3.10 Any steps taken must also be reasonable and proportionate, having regard to all the circumstances of the case, as well as necessary or appropriate for the purposes of the licensing objectives.
- 3.11 The licensing objectives are set in out in paragraph 5(a).
- 3.12 Where the Board has made a variation or suspended the licence the Board may, on the application of the licence holder, and if satisfied that, by reason of a change of circumstances, the variation or suspension is no longer necessary, revoke the variation or suspension.

4. Implications

(a) Single Outcome Agreement / Service Improvement Plan

In the exercise of functions under the Licensing (Scotland) Act 2005 the Licensing Board is to have regard to and promote the licensing objectives which are:

- Preventing crime and disorder
- Securing public safety
- Preventing public nuisance
- Protecting and improving public health
- Protecting children from harm

The licensing objectives closely reflect some of the objectives of the Community Plan and are intended to promote community involvement and prevent the consumption of alcohol from being the source of nuisance, anti-social behaviour and harm. This is also true of the social inclusion and environmental aspects of the Corporate Plan.

(b) Policy and Legal

Legal implications have been explained above.

(c) Financial Implications

None

(d) Risk Implications

Taking account of allegations made, the Board is to have regard to all the circumstances and decide whether any of the licensing objectives have been compromised and whether any potential risk identified then justifies further intervention as necessary and appropriate for the purpose of the objectives.

(e) Staffing Implications

None.

(f) Property

None.

(g) Equalities

There are no issues in this case.

(h) Consultations

Consultation is not required.

5. Conclusion

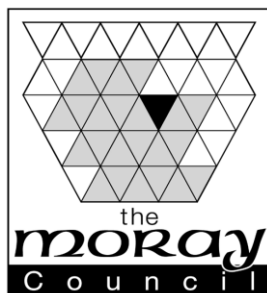
- 5.1** It is proposed that the Board note the application for review by the Trading Standards Manager and determine if it considers the application to be frivolous or vexatious or does not disclose any matter relevant to a ground for review;

- 5.2 It is proposed that the Board hold a review hearing if the application is not rejected, hear from the parties, take account of the LSO's report and the evidence, consider the matter and determine whether a ground for review is established and, if so, determine whether one of the possible steps set out in paragraph 3.9 is necessary for any of the licensing objectives, reasonable and proportionate.**

Author of Report: Sean Hoath, Senior Solicitor, Depute Clerk to the Licensing Board

Background Papers: There are no background papers

Ref: SAH/TT



ITEM: 5

PAGE: 1

REPORT TO: THE MORAY LICENSING BOARD ON 1 OCTOBER 2015

SUBJECT: LICENSING (SCOTLAND) ACT 2005 – PERSONAL LICENCE APPLICATION HEARING FOLLOWING DISCLOSURE OF RELEVANT CONVICTION ON APPLICATION (CASE NUMBER 3 OF 2015)

BY: CLERK TO THE BOARD

1. REASON FOR REPORT

1.1 This report is to notify the Board:

1.1.1 That notice of relevant conviction(s) has been disclosed on an application for a personal licence;

1.1.2 The Chief Constable has confirmed to the Clerk that the applicant (case number 3 of 2015) has been convicted of relevant offence(s) but the Chief Constable has made no further recommendation;

1.1.3 That, as a result, s.74(5A) of the Licensing (Scotland) Act 2005 states the Board may hold a hearing to consider and determine whether the licence should be granted or refused.

2. RECOMMENDATIONS

It is recommended that the Board:-

2.1 Note the existence of a relevant conviction and the absence of a recommendation by the Chief Constable;

2.2 Determine whether to hold a hearing for the purpose of considering and determining the application;

2.3 If a hearing is held then, having regard to the notice from the Chief Constable, hear from the parties, consider the matter and determine whether to grant or refuse the personal licence having regard to any of the licensing objectives;

2.4 If a hearing is not held then grant the application.

3. BACKGROUND

- 3.1 The Licensing (Scotland) Act 2005 section 73 requires the Board to notify the Chief Constable of the receipt of an application for a personal licence. The Chief Constable then has up to 21 days to respond to the notice of application with notice as to whether the applicant has been convicted of a relevant or foreign offence.
- 3.2 The Chief Constable has confirmed to the Clerk that the applicant (case number 3 of 2015) has been convicted of offence(s) but the Chief Constable has made no recommendation for refusal.
- 3.3 The Licensing (Relevant Offences) (Scotland) Regulations 2007 (SSI 2007 No. 513) prescribe which offences are relevant offences for the purposes of the Licensing (Scotland) Act 2005. The list of relevant offences within the Regulation includes, amongst others, the offences disclosed.
- 3.4 Accordingly the applicant for personal licence has been convicted of a relevant offence which has been confirmed by the Chief Constable's representative but no recommendation on behalf of the Chief Constable has been provided.
- 3.5 This report is to notify the Board that under s.74(5A) of the Licensing (Scotland) Act 2005 the Board may hold a hearing, as a result of receipt of the Chief Constable's notice, to consider and determine the application.
- 3.6 If a hearing is held then at that hearing the Licensing Board must, after having regard to the Chief Constable's notice and after giving the licence holder concerned and the Chief Constable an opportunity to be heard:
 - 3.6.1. If satisfied that it is necessary to do so for the purposes of any of the licensing objectives refuse the application; or
 - 3.6.2. If not so satisfied grant the application.
- 3.7 If a hearing is held then it should be noted that, even in the absence of a recommendation by the Chief Constable, it is possible for the Board to conclude that it is necessary to refuse the application for the purpose of any of the licensing objectives. However, in the absence of such a recommendation by the Chief Constable based on crime prevention grounds, the Board should be slow to draw the conclusion that refusal is necessary for the purpose of crime prevention.
- 3.8 If a hearing is not held then the Board must grant the application.
- 3.9 The licensing objectives are:
 - 3.9.1. Preventing crime and disorder
 - 3.9.2. Securing public safety

- 3.9.3. Preventing public nuisance
- 3.9.4. Protecting and improving public health
- 3.9.5. Protecting children from harm

- 3.10 Should the Board decide not to hold a hearing then the Board must grant the application in accordance with s. 74(5B).

4. IMPLICATIONS

(a) Moray 2023: A Plan for the Future/Service Plan

The Moray Licensing Board exercises statutory functions under various Acts including the Licensing (Scotland) Act 2005 and the Gambling Act 2005, which includes promoting licensing objectives such as :

- Preventing crime and disorder
- Securing public safety
- Preventing public nuisance
- Protecting and improving public health
- Protecting children from harm

The objectives of licensing regimes closely reflect some of the priorities within the Moray 2023 plan in relation to healthier citizens, a growing and diverse economy and safer communities. Alcohol and alcohol dependency influence the health of the population. The alcohol industry in terms of production, retail and the positive effects on tourism all aid a growing economy. Regulation of the sale of alcohol contributes to a safer community. Provision for appropriate staff and support will assist the Board in this.

(b) Policy and Legal

Legal implications have been explained above.

(c) Financial Implications

None

(d) Risk Implications

The Board is to have regard to any of the licensing objectives, particularly the crime prevention objective and decide whether the risk justifies intervention on such grounds.

(e) Staffing Implications

None.

(f) Property

None.

(g) Equalities

There are no issues in this case.

(h) Consultations

Consultation is not required.

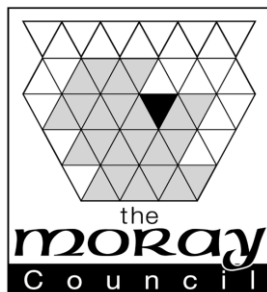
5. CONCLUSION

- 5.1. It is proposed that the Board note the existence of a relevant conviction and the absence of a recommendation by the Chief Constable;**
- 5.2. It is proposed that the Board determine whether to hold a hearing for the purpose of considering and determining the application;**
- 5.3. It is proposed that, if a hearing is held then the Board, having regard to the notice from the Chief Constable, should hear from the parties, consider the matter and determine whether to grant or refuse the personal licence having regard to any of the licensing objectives;**
- 5.4. It is proposed that if a hearing is not held then the Board grant the application.**

Author of Report: Sean Hoath, Senior Solicitor, Depute Clerk to the Licensing Board

Background Papers: There are no background papers

Ref: SAH/TT



REPORT TO: THE MORAY LICENSING BOARD 1 OCTOBER 2015

SUBJECT: LICENSING (SCOTLAND) ACT 2005 – CHIEF CONSTABLE’S REPORT UNDER SECTION 12A

BY: CLERK TO THE BOARD

1. Reason for Report

1.1 This report is to place before the Board a report from the Chief Constable, who has a responsibility to report certain matters to the Board on an annual basis.

2. Recommendations

It is recommended that the Board:-

2.1 Note the contents of the report attached at Appendix 1.

2.2 Note that the Chief Constable’s representative has been invited to attend the meeting to answer any questions about the report.

3. Background

3.1 The Chief Constable on 2 September 2015, submitted a report under section 12A of the Licensing (Scotland) Act 2005. This section provides that he should send a report to the Licensing Board at the end of each financial year that sets out the following information.

3.1.1 His views about matters relating to policing in the Licensing Board’s area during that year and the following year, in connection with the operation of the Licensing (Scotland) Act 2005; and

3.1.2 any steps taken during the year, or intended to be taken in the following year, to prevent the sale or supply of alcohol to children or young people in the Board’s area.

3.2 The Chief Constable’s report for 1 April 2014 to 31 March 2015 is attached at **Appendix I.**

4. **SUMMARY OF IMPLICATIONS**

(a) Moray 2023 A Plan for the Future/Service Plan

The provisions of alcohol licensing directly relate to the priorities within the 10 Year Plan (Moray 2023) in relation to healthier citizens, a growing and diverse economy and safer communities. Alcohol and alcohol dependency influence the health of the population. The alcohol industry in terms of production, retail and the positive effects on tourism all aid a growing economy. Regulation of the sale of alcohol contributes to a safer community.

(b) Policy and Legal

Matters raised in the Chief Constable's report may be relevant to Licensing Board policy.

(c) Financial implications

None.

(d) Risk Implications

None

(e) Staffing Implications

None.

(f) Property

None.

(g) Equalities

None.

(g) Consultations

None.

5. **Conclusion**

5.1 It is proposed that the Board note the report from the Chief Constable.

Author of Report: Sean Hoath, Senior Solicitor, Depute Clerk to the Licensing Board

Background Papers:

Ref: SH



**POLICE
SCOTLAND**

Keeping people safe

**CHIEF CONSTABLE'S REPORT TO THE
MORAY LICENSING BOARD
FOR THE PERIOD
1ST April 2014 to 31st March 2015**

LVRD/ 04/05/2015 V.1

Foreword

I am pleased to present my Annual Report for 2014/15, in accordance with the requirements of the Licensing (Scotland) Act 2005 (S12A).

This report is set against a backdrop of recorded crime in Scotland reaching a 40 year low and outlines the comprehensive activity which has been undertaken in North Aberdeenshire over the last twelve months. Going forward, this report confirms the steps we will take in 2015/16 to ensure we continue to improve on our performance and positively impact upon the lives of people throughout Scotland.

Over the last year, our Licensing focus has centred on prevention, supplemented by intervention and enforcement measures. Collectively, these measures are designed to improve our consistency of approach, reduce violence and positively influence behaviour and cultural attitudes towards alcohol across Scotland.

Working in partnership to deliver results remains at the heart of policing. We continue to seek out new partnership opportunities, whilst maintaining and building upon our existing relationships to support the licensed trade, relevant authorities and local communities.

Police Scotland strives to ensure the safety and wellbeing of people, places and communities across Scotland and our focus remains 'Keeping People Safe'.

Sir Stephen House QPM
Chief Constable
Police Scotland

Police Scotland Licensing Overview

Licensing Structure

Following the inception of Police Scotland in 2013; a two tier structure for Licensing was adopted, to support both national and local priorities and service delivery. This is defined through a national policy unit and local licensing teams.

National Perspective

The National Liquor and Civic Licensing Policy Unit (NLCLPU)

The NLCLPU is a specialist department within Licensing and Violence Reduction Division (LVRD) which exists to support territorial divisions across Police Scotland.

It consists of a Chief Inspector, Inspector, Sergeant and a Constable and is based at Dalmarnock Police Office, Glasgow.

Working with divisional licensing teams the NLCLPU shape policy and strategy around the police licensing function and provide practical and tactical advice to police licensing practitioners, operational officers, supervisors and policing Commanders.

The NLCLPU seek to ensure that legislation governing the sale and supply of alcohol is applied consistently across the country and that all opportunities are taken to stop the illegal or irresponsible sale, supply or consumption of alcohol. This is with the intention of preventing and reducing violent crime and disorder.

The National policy unit has particular focus on;

- Scrutiny of the most serious incidents of violence and disorder linked to licensed premises.
- Identifying opportunities to impact on serious and organised crime groups who may seek to exploit the licensed trade
- Working closely with partners to identify and address licensed premises issues and inform personal licence holder training.
- Engaging with Major event and festival organisers to agree alcohol management plans that will set out how alcohol sale, supply and risk are to be controlled.
- Support the development of the National Licensing ICT solution “Innkeeper”

Local Perspective

Police Scotland comprises of 14 divisions each of which has a dedicated licensing team within a Divisional Coordination unit which consist of Police officers and members of police staff.

These teams service the statutory obligation placed on the Chief Constable to respond to the 34 Licensing Boards and have oversight of all licensable activity with their division.

Local Licensing teams regularly work in partnership with the licensed trade and any other relevant body, to prevent violent incidents and vulnerability occurring in and around licensed premises.

Where problems are identified local problem solving is adopted, licensing staff generally take an incremental approach and try to agree a proactive and positive way forward to address ongoing issues.

However, on occasions enforcement activity or an application to review a premises licence may be the solution to the problem and local Licensing teams will report to COPFS and/or Local Licensing Boards as necessary.

Priorities

Both the National Liquor and Civic policy unit and Divisional Licensing work towards Police Scotland National priorities;

- Violence, Disorder and Antisocial behaviour
- Serious organised Crime
- Counter Terrorism
- Protecting people at risk of harm
- Road Safety and Road crime

PART 1

MORAY LICENSING BOARD AREA

The Licensing Board area is policed by Aberdeenshire and Moray Division.

Chief Superintendent Mark McLaren is the Local Police Commander who has the responsibility for all day-to-day policing functions.

Local Policing Priorities

Following our public consultation process, the policing priorities for Aberdeenshire and Moray Division, as set out in our Local Policing Plan are as follows;

Acquisitive Crime
Antisocial Behaviour, Violence and Disorder
National Security
Public Protection
Road Safety and Road Crime
Serious Organised Crime and Drugs

Senior Officers

The senior officers who hold responsibility for licensing with the area of Aberdeenshire and Moray Division are as follows;

Superintendent George MacDonald

Partnerships

Licensing Department;

Inspector Gillian Milne
Sergeant Gavin Jardine

Head of Department
Licensing Sergeant

Moray Command Area

The Moray Area covers the multi member wards of Elgin City North, Elgin City South, Heldon & Laich, Fochabers & Lhanbryde, Buckie, Keith & Cullen, Speyside & Glenlivet and Forres.

These are contained within four Policing areas each with a nominated Local Policing Team Inspector. The area covers the large towns of Elgin, Forres, Keith, Lossiemouth and Buckie with additional smaller settlements in the community.

Moray covers 2238 square kilometres and a population of around 88,000 people. The economy revolves around tourism, forestry and agriculture with the Scotch Whisky Industry playing a large role in the local and Scottish economy.

The community is served by larger Police stations in the main towns with smaller stations at Fochabers and Rothes.

There are 326 Licensed premises within the area of Moray. The majority of these premises are housed in the larger areas of population, which enjoy a relatively significant night time economy, where, at times, extra demand can often be placed on local Police resources.

Area Commander

Chief Inspector Willie Findlay is the Area Commander for Moray. He is based at Elgin Police Office. His responsibilities include delivering the outcomes of the Local Policing Plan, community engagement, performance management and partnership working.

PART 2: OPERATION OF THE LICENSING (SCOTLAND) ACT 2005

Introduction

Aberdeenshire and Moray Divisional Licensing team is currently headed by Inspector Gillian Milne and supported by Sergeant Gavin Jardine both based at Stonehaven Police Office. Additional administration staff and enquiry officers are based at Inverurie and Elgin Police Offices. All staff have a Division wide remit.

Partnerships

Local Police enjoy a productive relationship with partner agencies, and there are various initiatives in the area encompassing a number of issues the communities of Moray face.

For example, Operation Avon is a Moray Community Safety partnership initiative aimed at tackling youth issues such as underage drinking and antisocial behaviour. This Operation takes the form of joint operations within a nominated town or area and is intelligence led. Patrols are carried out usually on a weekend night between 1830hrs and 2330hrs and are attended variously by a mix of Police, Community Wardens, Youth Justice Social workers, Health workers and Community learning and development officers. The focus is mainly on intervention and education as opposed to enforcement and the operation seeks to jointly engage young people with a view to promoting responsible and healthy lifestyles.

In addition, the Winter Safer Streets campaign took place over the festive period in Aberdeenshire and Moray Division. This involved additional Police Officers being involved in the operation which was carried out in collaboration with several partner agencies including both Aberdeenshire and Moray Councils, the Scottish Fire and Rescue Service, Street Pastors, NHS Grampian, Moray Safety Community Partnership and Moray Alcohol and Drug Partnership/.

The operation saw extra high-visibility patrols across the region with a focus on targeting anti-social behaviour and violence, which also included more than 700 licensed premises visits carried out.

The result was a marked decrease in both serious and common assaults.

One other local initiative which has taken place over the reporting period is Operation Sandside. This is an integral part of Aberdeenshire and Moray Division's partnership approach to violence reduction and seeks to proactively and robustly prevent, reduce and detect violent crime within the Division as a whole. This continual commitment to keeping people safe sees the deployment of additional officers, national resources and partner agencies within the community to focus on bringing violent offenders to justice and prevent further offending.

Enforcement phases involved a concerted week of action where officers engaged in a variety of activities to investigate outstanding crimes of violence, apprehend violent offenders wanted on warrant and prevent further crimes occurring through effective patrols including increased visits to licensed premises.

Cognisance was given to the importance of alcohol as a causation factor in violent incidents, and therefore close liaison with the Divisional Licensing Team and associated partners took place. This included those engaged in the licensed trade.

The groups and organisations which Aberdeenshire and Moray Division as a whole works with in partnership to jointly improve local licensing issues in addition to the above are as follows;

- Local Licensing Forum
- Licensed Trade Association
- Community Safety Partnership
- Local Pubwatch initiatives
- Local Security Industry companies
- Voluntary organisations/Event organisers - in respect of sale/supply of alcohol at events
- Alcohol Drug Partnerships

Problem Solving

Incident management is a critical aspect of our ongoing monitoring of licensed premises.

Police Officers submit an Inspection of Licensed premises report via a software system (Innkeeper) on every occasion they are called to attend an incident at licensed premises with particular focus upon violence, disorder, anti-social behaviour, drunkenness, drug dealing or misuse, underage drinking, breaches of licensing legislation and any other matter that might impact on the safety of the public.

The information obtained may show a causal link between the operation of the premises and the incident. Where necessary, a four stage process may be engaged in order to address any issues or concerns regarding the premises. This can range from low level 'interaction' which may involve a discussion between the Police and premises licence holder, or the premises may become 'monitored' with closer attention being paid to day-to-day operations and incidents occurring. Where necessary the

premises licence holder and management may be asked to attend an 'intervention' meeting with the Police, where concerns can be discussed and may involve an agreed action plan with set time scales being put in place for the premises to remedy any matter.

The most serious status premises can attain is that of being considered 'problematic' where it is unlikely that interaction or intervention will resolve the issue and it is likely that the Police would submit a premises licence review application to the Licensing Board.

For problematic, intervention or monitored premises there may be a tasked visiting regime put in place where Police Officers are tasked to visit the premises and observe their operation with a view to noting improvements, or otherwise. These tasked visits are assessed by Aberdeenshire and Moray Division Command Officers on a weekly basis.

Seven licensed premises were subject to this problem solving process and all were satisfactorily concluded.

The use of this approach continues to very successful in resolving issues which may have previously been brought before the Board to be remedied.

Summary

During the reporting period, there have been numerous visits and inspections of licensed premises in the Moray Board area. As alluded to earlier, given the larger areas of population and subsequent higher numbers of licensed premises, the majority of these visits took place in these towns.

Section 1

Through the aforementioned daily analysis of the various visits and incidents at licensed premises, there are no reports in the North Board area during the reporting period of unlicensed sale or supply of alcohol.

Section 20 - Applications

Each application received from the Licensing Board is scrutinised by staff of the Divisional Licensing Team and where relevant, objections and representations are made to the Board, paying particular attention to both relevant convictions and the five licensing objectives. Recent amendments to the legislation have also widened the scope of the Chief Constable's (C.C) response. One example of this is in relation to applications where the C.C is now permitted to raise concerns with the Board when he believes that the granting of the application is inconsistent with the licensing objectives, regardless of whether the applicant or any connected persons have relevant convictions.

Within the limits of what the legislation permits, the Chief Constable will always endeavour to bring all relevant information before the Board to afford the fullest picture of the applicant/application to be considered in any subsequent deliberations.

Section 36 - Application for Review of Licence

During the reporting period there were no premises licences taken to a review hearing at the Board.

Section 63 - Sale or Supply out-with Licensed Hours

There have been no reports of the above offence during the reporting period.

Section 72 - Personal Licence Applications

In line with the section above regarding premises applications, close scrutiny is made by the Divisional Licensing team paying particular attention to relevant convictions and the five licensing objectives. Despite this scrutiny, over the reporting period, there have been no objections to any personal licence applications for the Moray Board area.

Section 84 - Personal Licence Reviews

The Divisional Licensing Team has a system in place which monitors the conduct of personal licence holders. Should such a person be charged with any offence, this is brought to the attention of the team by the officers dealing with that individual. The offence is looked at and should it be inconsistent with any of the five licensing objectives, consideration will be given to bringing this to the attention of the Board in respect of a personal licence review. In addition, should an individual be convicted of a relevant offence, this will undergo the same scrutiny. During the reporting period, no personal licence holders in the Moray Board area have fallen foul of this system, and therefore, no review hearings have been required.

Section 94 - Exclusion Orders

When an individual is charged with a violent offence on licensed premises, the reporting officers request an exclusion order within the Police report, requesting that the accused person be excluded on conviction from licensed premises in the area where the offence was committed, for a period of time the court sees fit. Work is currently ongoing with the Crown Office and Procurator Fiscal Service regarding the granting of any exclusion order so that the effectiveness of these requests can be measured.

Section 97 - Closure Orders

There have been no closure orders implemented during the reporting period.

Sections 111 - 116 - Drunkenness/Disorder Offences

As mentioned above, where offences such as these are detected on licensed premises following a review of incidents, the Divisional Licensing Team in conjunction with the Local Commander for the area, will decide if the premises are to be

monitored. If that decision is taken, the premises will undergo an increased inspection regime. This process is best described by an example where a premises from the Moray area underwent a robust period of monitoring as a result of increased reporting of drunkenness and assaults on or near to the premises. Local Officers interacted with the Premises Licence Holder and staff and a strict inspection regime was instigated for the relevant times. Any compliance issues were quickly identified and rectified, and following the period of monitoring, a marked improvement in the overall running of the premises was evident. The resultant decrease in demand on local Police has also been clear. This was a successful interaction between Police and the premises management and has contributed greatly to ensuring the licensing objectives are being met.

Over the reporting period Police Officers in the Moray Board area have recorded the following common licensing offences:

Attempt to enter relevant premises whilst drunk [Sect 111(1)]	8
Drunk and Incapable on relevant premises [Sect 111(2)]	3
Disorderly conduct on premises whilst drunk [Sect 115(1)(a)]	15
Disorderly conduct/refusal to leave licensed premises [Sect 116(1)]	27

When such offences occur, these will be brought to the attention of premises management, to allow them to review their internal processes. Local Officers and the Divisional Licensing team will offer advice and assistance and where appropriate if further intervention is required, consideration will be given a more focussed interaction with the premises (as outlined above).

PART 3: PREVENTING THE SALE OR SUPPLY OF ALCOHOL TO CHILDREN OR YOUNG PERSONS

Introduction

This section of the report concentrates specifically on children and young people, and the licensing objective of protecting children from harm.

Evidence to the contrary is scant, and therefore it would be fair to say that the Moray area does not suffer greatly from any issues surrounding the sale or supply of alcohol to children or young persons. However, that does not mean that Police Scotland are complacent to the dangers of such behaviour, and Operation Avon as described above demonstrates this.

Should there be intelligence that the practice is taking place, The Police Service of Scotland reserves the capability to carry out test purchase operations. For the reporting period, no operations were carried out in the Board area.

Aberdeenshire and Moray Division is committed to engaging with the community, in particular with schools and educational establishments to raise awareness of vulnerability and risk associated with the consumption of alcohol. School liaison officers assist in disseminating that message in schools across the Division in line with the Curriculum for Excellence syllabus.

Officers in the Safer Communities Team also continue to drive home the dangers and consequences of counterfeit, borrowed or stolen identity documents as proof of age to enter licensed premises and purchase alcohol. Literature is regularly supplied to licensed premises in this regard.

In respect of licensed events which occur out-with licensed premises, officers from the Divisional Licensing team are consulted to ensure that appropriate conditions are sought on all such licences. In respect of larger events, the Divisional Licensing team will also be asked to consider the suitability of the event alcohol management plan. Access to such events by children and young persons is closely scrutinised and appropriate conditions sought to regulate the limits and scope of such access.

In the reporting period, there is one reported offence in respect of the sale/supply of alcohol to children and young persons in the Board area, where one adult was charged with purchasing alcohol for a young person from an off sales premises. The relevant offences are considered to be as follows:

Sale of alcohol to a child/young person [Sect 102(1)]

Person under 18 buy or attempt to buy alcohol [Sect 105(1)]

Buy/attempt to buy alcohol for a child/young person [Sect 105(4)(a)]

Consumption of alcohol by a child/young person on premises [Sect 106(1)]

Such offences are always brought to the attention of the relevant licensed premises to ensure that their processes are as robust as they should be. Where shortcomings are identified within the premises, consideration will be given to engaging with the premises in line with the four stage process outlined previously.

PART 4: TACKLING SERIOUS AND ORGANISE CRIME

Introduction

Many of the processes and procedures involved in licensing applications are carried out to guard against serious and organised crime groups (SOCG) infiltrating the licensed trade in any way.

If such an SOCG were able to gain a foothold in licensed premises this would afford the criminal group a seemingly legitimate income stream, which could be no more than a veneer for other criminal activities such as money laundering, tax evasion, drug and people trafficking and other dishonest activities.

Many of the procedures currently carried out by the Divisional Licensing team, particularly in relation to new premises licences, the transfer of premises licences and the appointment of premises managers are done to ensure complete financial transparency and to ensure there are no business related irregularities which may be indicative of SOCG involvement.

As part of this, the Divisional Licensing team staff regularly liaise with Police Interventions staff who are aware of OCG activity within the Division to ensure that applicants are not affiliated in any way to such groups before responding to the Licensing Board.

Examples of SOCG Activity in the Board area -

As far as the licensed trade is concerned within the Moray Board area, there is no intelligence available to suggest that serious and organised crime groups have infiltrated liquor licensed premises.

PART 5: PROPOSED ACTIVITY FOR THE NEXT YEAR

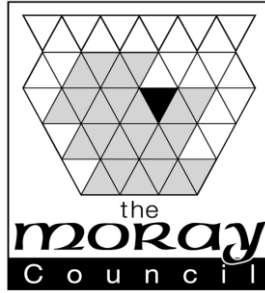
It is intended that over the forthcoming year, the Divisional Licensing team, in conjunction with local Police, will work alongside all licensed premises, including Registered Clubs, to ensure that these premises are adhering to the spirit of the legislation, in that they all work to and fully understand the five licensing objectives.

Aberdeenshire and Moray Division will continue to work closely with the Moray Licensing Board and be mindful of their Policy and the legislative framework available.

We will continue to raise objections, representations and other concerns when appropriate to keep unsuitable applicants or operating practices out of licensed premises in the Board area.

We aim to improve standards and compliance across the licensed trade and tackle business practices that result in excess alcohol consumption and vulnerability, whilst supporting legitimate local traders who make a positive contribution to local economies and communities.

By doing so and by working collaboratively with our partners, we will support the licensed trade in upholding the five licensing objectives and the spirit of the 2005 Act, to ensure the safety and wellbeing of the people of Aberdeenshire and Moray Division.



REPORT TO: THE MORAY LICENSING BOARD 1 OCTOBER 2015

SUBJECT: LICENSING (SCOTLAND) ACT 2005 – CHRISTMAS/NEW YEAR ARRANGEMENTS 2015/2016

BY: CLERK TO THE BOARD

1. Reason for Report

- 1.1 The reason for this report is to invite the Board to consider licensed premises opening hours for Christmas and New Year 2015/2016.

2. Recommendations

It is recommended that the Board :-

- 2.1 **Agree the opening hours proposed for Christmas and New Year 2015/2016 at Appendix 1; and**
- 2.2 **Determine whether the opening hours will be published by way of:**
- 2.2.1. **Purely guidance as to what will be accepted for occasional licence and extended hours applications; or**
- 2.2.2. **A general extension to licensing hours in accordance with the Board's power described in 3.3 and 3.4 below as well as guidance as to what will be accepted for occasional licence and extended hours applications.**
- 2.3 **Determine whether these arrangements can be used for future years without the need to report back to the Board each time;**
- 2.4 **Instruct the Clerk to advise all licence holders of the agreed arrangement.**

3. Background

- 3.1 The Board considers annually the arrangements for the forthcoming Christmas/New Year period in relation to licensing hours.
- 3.2 Premises trade under a premises licence, which includes an operating plan. Within the operating plan it is possible for premises to detail seasonal opening hours that may be outwith their core operational hours. Applicants were

reminded of this during the processing of their applications and, as a result, many premises may have allowed for seasonal opening hours already. Those allowed would have been within the guidelines set by the Board in recent years.

- 3.3 Under section 67 of the Licensing (Scotland) Act 2005 the Board has the power to grant a general extension to licensing hours where it is considered appropriate to do so in connection with a special event of local or national significance. Christmas and New Year would be such an appropriate time. A general extension can be for such period as the Board may determine and can apply to:
- (a) the whole of the Licensing Board's area or only to specified parts of the area,
 - (b) licensed hours generally or only to specified descriptions of licensed hours, and
 - (c) all licensed premises in the Board's area or only to specified descriptions of such premises.
- 3.4 Upon making a general extension determination the Board must—
- (a) give notice of the determination to—
 - (i) the appropriate chief constable, and
 - (ii) the holders of premises licences and occasional licences in respect of premises to which the determination applies, and
 - (b) publicise it in such manner as the Board sees fit.
- 3.5 A general extension of hours does not require any licensed premises to be open for the sale of alcohol during the period of any extension of licensed hours specified i.e. there is no duty to trade to the extended hours.
- 3.6 A general extension would obviate the need for individual premises to apply for extended hours unless they wished to open outwith the terms of the general extension, in which case each application would be considered on its own merits. In determining an extended hours application the Board is to take into account any notice of objection from the police and/or any report from the Licensing Standards Officer.
- 3.7 In relation to unlicensed premises, or in respect of a function outwith a general extension of hours at a members' club subject to a premises licence, it will be necessary to apply for an occasional licence rather than extended hours. The processing and determination of an occasional licence application differs from that for an extension of hours. The application is sent to consultees and publicly advertised so that anyone can object or make representations on an occasional licence application. However if there are no objections or representations then the occasional licence must be granted.
- 3.8 The same hours have been approved each year for some years and this report has become standard. It has also made no practical difference in the past as to whether the festive holidays fall at the weekend or during the week. It is therefore anticipated that no adjustment is required to take account of changes to the calendar dates and days. Accordingly the Board is asked to approve the same hours, whether by way of guidance or general extension, in

respect of future years without the necessity of reporting back to the Board each year. This will save administrative time and costs.

4. The Proposals

- 4.1 It is proposed that the Board consider and approve the licensed premises opening hours as described in **Appendix 1** attached.
- 4.2 It is then proposed that the Board determine whether the hours will be granted by way of a general extension of hours in accordance with the Board's power or whether the same will be issued by way of guidance as to what will be accepted for occasional licence and extended hours applications.
- 4.3 It is proposed that the Board instruct the Clerk to publicise the arrangements in accordance with the Board's decision, both on the Board's website and by email notice to all licensed premises for which contact details are held.
- 4.4 In the absence of a general extension of hours all licence holders seeking operating hours outside of those detailed in their operating plan will require to apply for extended hours. All non licensed premises (and premises licensed for members' clubs) could apply for occasional licences. In both cases the hours would simply be issued as a guideline for hours that would be deemed acceptable without further enquiry other than the usual consultations. It will remain the case that each application will need to be decided on it's own merits.

5. Implications

(a) Moray 2023: A Plan for the Future/Service Plan

The Moray Licensing Board exercises statutory functions under various Acts including the Licensing (Scotland) Act 2005 and the Gambling Act 2005, which includes promoting licensing objectives such as :

- Preventing crime and disorder
- Securing public safety
- Preventing public nuisance
- Protecting and improving public health
- Protecting children from harm

The objectives of licensing regimes closely reflect some of the priorities within the Moray 2023 plan in relation to healthier citizens, a growing and diverse economy and safer communities. Alcohol and alcohol dependency influence the health of the population. The alcohol industry in terms of production, retail and the positive effects on tourism all aid a growing economy. Regulation of the sale of alcohol contributes to a safer community. Provision for appropriate staff and support will assist the Board in this.

(b) Policy and Legal

Legal implications have been explained above.

(c) Financial Implications

None

(d) Risk Implications

It is not believed that the extended hours will increase the risk of adverse impact on the licensing objectives despite the fact that this option bypasses the consultations which form part of the occasional/extended hours application process.

(e) Staffing Implications

Staff time would be saved by the granting of a general extension of hours as it will not be necessary to process as many extended hours applications.

(f) Property

None

(g) Equalities

There are no issues.

(h) Consultations

Consultation is not required.

6. Conclusion

- 6.1 It is recommended that the Board agree the licensed premises opening hours proposed for Christmas and New Year 2015/2016 and determine whether the hours will be published by way of purely guidance as to what will be accepted for occasional licence and extended hours applications or as a general extension to licensing hours and whether the same decision will apply to future years automatically.**

Author of Report: Sean Hoath, Senior Solicitor, Depute Clerk to the Licensing Board

Background Papers: There are no background papers

Ref: SAH/TT

Appendix I**LICENSING (SCOTLAND) ACT 2005**
FESTIVE SEASON ARRANGEMENTS – 2015/2016**All Premises**

Licensing hours as per the operating plan for the individual premises (whether within the core hours or the seasonal hours or both) or as per the general extension whichever is the later i.e.

- Where the operating plan (within core hours and/or seasonal hours) allows for later hours than those within the general extension then the operating plan will take precedence.
- Where the operating plan (within core hours and/or seasonal hours) does not allow for hours as late as those detailed within the general extension then the premises may continue to (but would not be forced to) trade to the terminal hour(s) detailed in the general extension (rather than the hour(s) in the operating plan) without the need for an extended hours application.

This general extension of hours applies to the sale of alcohol for consumption ON the premises only. Off sales must remain within the hours 10.00am to 10.00pm.

Christmas General Extension

Applicable to: All Premises
Extension: 24 December 2015 – until 1:30am
25 December 2015 – until 1:30am

Festive Period General Extension

Applicable to: All Premises
Extension: 26 December 2015 - until 1.30am
27 December 2015 - until 1.30am
28 December 2015 - until 1.30am
29 December 2015 - until 1.30am
30 December 2015 - until 1.30am

New Year General Extension

Applicable to: All Premises
Extension: 31 December 2015 - until 3.00am
1 January 2016 - until 3.00am
2 January 2016 - until 3.00am

Notes: -

Applications for beyond the times stated above on these dates will still be considered on their merits.

Extended hours applications in respect of hours that are not covered by either the applicant's operating plan or the general extension period AND occasional licence applications :-

- (1) 24 & 25 December 2015 – may be submitted on one application form with a fee of only £10.00
- (2) 26 to 30 December 2015 – may be submitted on one application form with a fee of only £10.00
- (3) 31 December 2015 and 1 & 2 January 2016 – may be submitted on one application form with a fee of only £10.00

Applications by licensed premises for extended hours and applications for occasional licences between 24 and 31 December 2015 and 1 and 2 January 2016 will not require to state a specific event for which the extension is required other than “festive opening”.

All applications for occasional licences and extended hours for the festive period require to be lodged with the Clerk to the Licensing Board at least four weeks before the events stipulated in the application and the last lodging date for applications will be **20 November 2015.**

Please note that due to the processing times set by the Licensing (Scotland) Act 2005 applications must be submitted by this date in order to be processed in time for festive events.

Application forms may be obtained:

- From the Moray Council website at www.moray.gov.uk/licensing OR
- From the Moray Council Access Points OR
- By contacting:
Address – Council Office, High Street, Elgin, IV30 1BX
Telephone – 01343 563030
DX – 520666
E-mail – licensing@moray.gov.uk

Conditions for All Late Opening Premises i.e. Open Past 1.00am

All premises opening past 1am will need a first aider trained to the satisfaction of the Moray Licensing Board from 1am until closure or 5am, whichever is earlier. Guidance has previously been issued to all licence holders on what is an acceptable level of first aid training.

All premises opening past 1.30am will be subject to the Board's curfew. That condition is :

“The premises will be subject to a curfew at any time when the premises will open after 01:30 (1:30am), including seasonal variations. A curfew will apply at 00:30 (12:30am) such that the premises must deny entry to patrons after 00:30, including re-entry to those patrons that leave the licensed area of the premises for any reason after 00:30.”

Conditions for Certain Late Opening Premises i.e. Open Past 1.00am

Additional conditions will apply to certain premises (unless exempt) where the capacity is at least 250 people and which–

(a) will regularly provide at any time in the period between 1:00 am and 5:00 am–

(i) live or recorded music with a decibel level exceeding 85dB;

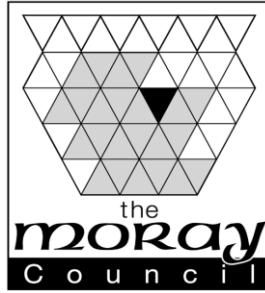
(ii) facilities for dancing; or

(iii) adult entertainment; or

(b) when fully occupied, are likely to have more customers standing than seated.

Where the above criteria are met then those premises will also be subject to the following conditions past 1.00am :

- A designated person who is the holder of a personal licence must be present on the premises from 1:00 am until closure or 5am, whichever is earlier
- There must be written policies in existence concerning the evacuation of the premises and the prevention of the misuse of drugs on the premises.
- 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.
- There must be persons responsible for checking on the safety and wellbeing of persons using any toilet facilities on the premises.
- 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 1:00 am until closure or 5am, whichever is earlier.



REPORT TO: THE MORAY LICENSING BOARD 1 OCTOBER 2015

SUBJECT: LICENSING (SCOTLAND) ACT 2005 – CALENDAR OF MEETINGS

BY: CLERK TO THE BOARD

1. Reason for Report

- 1.1 To invite the Board to fix a Calendar of Meetings for the year 2016 in accordance with paragraph 4.1 below.

2. Recommendations

- 2.1 It is recommended that the Board consider the proposed dates and determine whether these are suitable to be fixed as the dates for the Meetings of the Board for 2016.**

3. Background

- 3.1 The Licensing (Scotland) Act 2005 and associated Regulations provide for set processing times for various applications to be decided upon, and Licensing Boards are free to set meeting dates in order to comply with these processing times.
- 3.2 In order to best meet the anticipated processing requirements the Clerk has devised a list of proposed Board meetings that will allow for one meeting every two months. It is anticipated that this timescale will meet the processing times for the majority of business to be undertaken.
- 3.3 It is stressed that all proposed dates are based on anticipated demand for the Board's time. In the event that the planned meetings do not meet the anticipated processing requirements, the Clerk may be required to request further meetings on a demand led basis.
- 3.4 In particular planned meetings may not meet the timescale for holding premises licence review hearings. Under the 2005 Act anyone can request a review and in respect of an application for review of a premises licence, there is a timescale of 42 days from the date of receipt of the application in which the Board must hold a review hearing. Where the planned timetable does not meet this requirement a further meeting will be requested specifically for the purpose of considering the review application.

- 3.5 Conversely, where a lack of business dictates, the Clerk may determine, with the agreement of members, that it will not be necessary to proceed with a particular Board meeting.
- 3.6 In accordance with the Scheme of Delegation it will not be necessary to conduct all business at Board meetings. Where the agreed scheme dictates, matters will be dealt with by the Clerk and staff. In addition, where appropriate, members are reminded that certain matters may be dealt with by way of email circulation to the Board e.g. in respect of occasional licence applications where a representation has been received.
- 3.7 Currently the Board undertakes site visits, which are arranged by way of special meetings so that a quorum of members is required. Site visits are arranged as necessary around the relevant Board meeting date.

4. The Proposals

- 4.1 It is proposed that the dates for the Meetings of the Board from 1st January 2016 to 31st December 2016 be as follows:

<u>Proposed Meetings</u>	
DAY	DATE
Thursday	18 th February 2016
Thursday	7 th April 2016
Thursday	2 nd June 2016
Thursday	11 th August 2016
Thursday	6 th October 2016
Thursday	1 st December 2016

5. Implications

(a) Moray 2023: A Plan for the Future/Service Plan

The Moray Licensing Board exercises statutory functions under various Acts including the Licensing (Scotland) Act 2005 and the Gambling Act 2005, which includes promoting licensing objectives such as :

- Preventing crime and disorder
- Securing public safety
- Preventing public nuisance
- Protecting and improving public health
- Protecting children from harm

The objectives of licensing regimes closely reflect some of the priorities within the Moray 2023 plan in relation to healthier citizens, a growing and diverse economy and safer communities. Alcohol and alcohol dependency influence the health of the population. The alcohol industry in terms of production, retail and the positive effects on tourism all aid a growing economy. Regulation of the sale of alcohol contributes to a safer community. Provision for appropriate staff and support will assist the Board in this.

- (b) Policy and Legal**
Legal implications have been explained above.
- (c) Financial Implications**
None
- (d) Risk Implications**
None
- (e) Staffing Implications**
None
- (f) Property**
None
- (g) Equalities**
There are no issues.
- (h) Consultations**
Consultation is not required.

6. Conclusion

It is recommended that the Board:

- 6.1 Consider the proposed dates and determine whether these are suitable to be fixed as the dates for the Meetings of the Board for 2016.

Author of Report: Sean Hoath, Senior Solicitor, Depute Clerk to the Licensing Board
Background Papers: There are no background papers
Ref: SAH/TT