



THE MORAY LICENSING BOARD

THURSDAY 3 AUGUST 2017

YOUR ATTENDANCE IS REQUESTED at the Meeting of **THE MORAY LICENSING BOARD** to be held within the The Moray Council, Council Chambers, High Street, Elgin on Thursday 3 August 2017 at 10.00am.



Alasdair McEachan
CLERK

27 July 2017

BUSINESS

1. Appointment of Convener and (if the Board chooses) Vice Convener
2. Prior Minutes
 - (i) Minutes of the Meeting held on 23 March 2017
 - (ii) Minutes of the Special Meeting held on 31 July 2017 – to be tabled

The Licensing (Scotland) Act 2005

3. Applications Section – Appendix 1
4. Site Visit Procedures Report
5. Annual Review of Income and Expenditure and Business Transacted Report

CLERK:	Alasdair McEachan
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THE MORAY LICENSING BOARD

THURSDAY 3 AUGUST 2017

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Alasdair McEachan
CLERK

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4. Site Visit Procedures Report
5. Annual Review of Income and Expenditure and Business Transacted Report

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THE MORAY LICENSING BOARD**SEDERUNT****COUNCILLOR J ALLAN****COUNCILLOR D BREMNER****COUNCILLOR F BROWN****COUNCILLOR G COWIE****COUNCILLOR P COY****COUNCILLOR J DIVERS****COUNCILLOR R EDWARDS****COUNCILLOR L LAING****COUNCILLOR R SHEPHERD****CLERK TO THE BOARD: Mr 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 23 March 2017

PRESENT

Councillors: G Cowie
J Divers
M Howe
G Leadbitter
A McLean
R Shepherd
D Slater
S Warren

APOLOGIES

Apologies were intimated on behalf of Councillors J Allan and C Tuke

IN ATTENDANCE

Sean Hoath, Depute Clerk to the Licensing Board

1. PRIOR MINUTES

- (i) The Minutes of the Meeting held on 2 February 2017 were submitted and approved.
- (ii) The Minutes of the Special Meeting held on 13 March 2017 were submitted and approved.

2. New Provisional Licence Premises – Square Roots Kitchen Ltd, Keith

The applicant was represented by Mr Russell Morrison. The deputy clerk introduced the application. After hearing from the applicant, the Board agreed to grant the licence.

New Provisional Licence Premises – Buckie Service Station, Buckie

The applicant was represented by Ms Janet Hood. The deputy clerk introduced the application. After hearing from the applicant, the Board agreed to grant the licence.

3. Public Sector Equality Duties

The deputy clerk introduced the report. After hearing the report, the Board agreed to the recommendation.

MORAY LICENSING BOARD

MEETING, 23 March 2017 at 10:00am in Council Chambers, Council Headquarters, High Street, Elgin, IV30 1BX

Licensing (Scotland) Act 2005

Type	Premises	Applicant	Date received	Comments
New Premises Licence	Speyside Craft Brewery 2 Greshop Road Forres IV36 2GU	Sebastian Jones	25 October 2016	New premises licence application Site visit carried out Paperwork in order Neighbour representation
New Provisional Licence	El-Gin Findrassie House Elgin Moray IV30 5PS	El-Gin Findrassie Ltd	20 January 2017	New provisional licence application Site visit carried out Paperwork in order No objections or representations
New Premises Licence	Whisky Advisors 2 Albert Place Dufftown AB55 4AY	Whisky Advisors Ltd	10 January 2017	New premises licence application Site visit carried out Paperwork in order Neighbour objection
Major Variation	Cragganmore Distillery Ballindalloch AB37 9AB	Diageo Scotland Ltd	12 April 2017	Major variation application to increase on sale terminal hour to 11pm daily , increase off sale terminal hour to 10pm daily, add activities and allow access for children and young persons. Site visit carried out Paperwork in order No objections or representations
Major Variation	Mansefield Hotel 2 Mayne Road Elgin IV30 1NY	Thomas Ross Fairbairn Murray	11 April 2017	Major variation application to extend licensed area for building extension Site visit carried out Paperwork in order No objections or representations

MORAY LICENSING BOARD

MEETING, 23 March 2017 at 10:00am in Council Chambers, Council Headquarters, High Street, Elgin, IV30 1BX

Licensing (Scotland) Act 2005

Major Variation	Captain's Table The Boatyard Findhorn Forres Moray IV36 3YE	Katrina Paterson	29 March 2017	Major variation application to extend terminal hour from 8pm to 10pm Site visit carried out Paperwork in order No objections or representations
Major Variation	Keith Brewery Ltd Unit R Isla Bank Mills Station Road Keith Moray AB55 5DD	Keith Brewery Ltd	22 June 2017	Major variation application to add activities – conference facilities, club/members groups to facilitate tours, recorded music Site visit carried out Paperwork in order No objections or representations
Major Variation	Premier Convenience Store 31 Reidhaven Square Keith AB55 5AB	M & D Tandon Catering Ltd	13 June 2017	Major variation application to extend terminal hour from 9pm to 10pm and opening hour 10am instead of 12.30pm on Sundays. Paperwork in order No objections or representations* *To be updated at the meeting

Applications to for Premises Licence

Section 20 Application

20 Application for premises licence

(1) Any person, other than an individual under the age of 18, may apply to the appropriate Licensing Board for a premises licence in respect of any premises.

(2) An application under subsection (1) must—

(a) contain a description of the subject premises, and

(b) be accompanied by—

(i) an operating plan for the subject premises,

(ii) a plan (referred to in this Act as a “layout plan”), in the prescribed form, of the subject premises, and

(iii) the certificates required by section 50(1).

Notice of Application

Notice of the application has been given to—

(a) each person having a notifiable interest in neighbouring land *i.e. neighbours within 4 metres of the boundary of the premises*

(b) the community council within whose area the premises are situated,

(d) the chief constable, and

(e) the fire service

(f) the NHS

Section 22 of the Licensing (S) Act 2005 applies which means that any person may, by notice to the Licensing Board object to the application on any ground relevant to one of the grounds for refusal or make representations to the Board concerning the application.

Objections / Representations

A representation is not an objection to a licence being granted. It means the presenter would like to see a changes or changes to the licence or conditions on the licence before it is granted.

Objections and representations are controlled by section 22 as follows:

22 Objections and representations

(1) Where a premises licence application is made to a Licensing Board, any person may, by notice to the Licensing Board—

(a) object to the application on any ground relevant to one of the grounds for refusal specified in section 23(5), or

(b) make representations to the Board concerning the application, including, in particular, representations—

(i) in support of the application,

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

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

(3) Where a Licensing Board receives a notice of objection or representation under subsection (1) relating to any premises licence application made to the Board, the Board must—

- (a) give a copy of the notice to the applicant in such manner and by such time as may be prescribed, and
 - (b) have regard to the objection or representation in determining the application,
- unless the Board rejects the notice under subsection (4).

The Board may reject a submission as frivolous or vexatious.

Section 22(4) A Licensing Board may reject a notice of objection or representation received by the Board under subsection (1) if the Board considers the objection or representation is frivolous or vexatious.

(5) Where a Licensing Board rejects a notice of objection or representation under subsection (4), the Board may recover from the person who gave the notice any expenses incurred by the Board in considering the notice.

(6) In any proceedings by a Licensing Board for the recovery of expenses under subsection (5), a copy of any minute of proceedings of the Licensing Board—

- (a) recording the Board's rejection of the notice and the grounds for the rejection, and
 - (b) certified by the clerk of the Board to be a true copy,
- is sufficient evidence of the rejection and of the establishment of the ground for rejection.

Consideration and determination of a Premises Licence Application

Section 23(4) states that:

“(4) The Board must, in considering and determining the application, consider whether any of the grounds for refusal applies and—

- (a) if none of them applies, the Board must grant the application, or
- (b) if any of them applies, the Board must refuse the application.”

Possible Courses of Action

1. Grant the licence as applied for;
2. Grant the licence with a condition(s) under s.27(6). Determine the licensing objective and how the situation can be improved and the exact terms of a condition.
3. Grant the licence with a modification to the operating plan under s.23(7) which states that
“(7) Where the Licensing Board considers that—
 - (a) they would refuse the application as made, but
 - (b) if a modification proposed by them were made to the operating plan for the subject premises accompanying the application, they would be able to grant the application,

the Board must, if the applicant accepts the proposed modification, grant the application as modified.”

4. Refuse - In section 23(5) of Act:

(5) The grounds for refusal are—

- (a) that the subject premises are excluded premises,
- (b) that the application must be refused under section 25(2), 64(2) or 65(3),
- (c) that the Licensing Board considers that the granting of the application would be inconsistent with one or more of the licensing objectives,
- (d) that, having regard to—
 - (i) the nature of the activities proposed to be carried on in the subject premises,
 - (ii) the location, character and condition of the premises, and
 - (iii) the persons likely to frequent the premises,the Board considers that the premises are unsuitable for use for the sale of alcohol,
- (e) that, having regard to the number and capacity of—
 - (i) licensed premises, or
 - (ii) licensed premises of the same or similar description as the subject premises,in the locality in which the subject premises are situated, the Board considers that, if the application were to be granted, there would, as a result, be overprovision of licensed premises, or licensed premises of that description, in the locality.

5. Defer – if for example the Board wanted to arrange a further site visit.

Licensing Objectives

Section 4 sets out the licensing objectives:

“(1) For the purposes of this Act, the licensing objectives are—

- (a) preventing crime and disorder,
- (b) securing public safety,
- (c) preventing public nuisance,
- (d) protecting and improving public health, and
- (e) protecting children from harm.”

Consequences of Refusal

Where a Licensing Board has refused a premises licence application the Board must refuse any subsequent premises licence application in respect of the same premises before the expiry of the period of one year beginning with the date of the earlier refusal UNLESS at the time of the earlier refusal the Board directed that this provision would not apply or the Board is satisfied that there has been a material change of circumstances.

Applications to Vary a Licence

Section 29 Application

By section 29(1) a premises licence holder may apply to the appropriate licensing Board for a variation of the licence. Such an application must be accompanied by

- (a) the premises licence to which the application relates, or
- (b) if that is not practicable, a statement of the reasons for failure to produce the licence.

Meaning of Variation

Section 29(5) defines a variation as meaning any variation (which includes addition deletion or other modification) of:

- (a) any of the conditions to which the licence is subject (*other than those to which the licence is subject by virtue of section 27(1) which are Schedule 3 mandatory conditions*);
- (b) any of the information contained in the operating plan contained in the licence;
- (c) the layout plan contained in the licence (subject to s.29(6)(a) below); or
- (d) any other information contained or referred to in the licence.

A variation that involves a change to the information contained within the operating plan is not a minor variation and it requires to be determined by the Licensing Board.

Notice of Application

Notice of the application has been given to—

- (a) each person having a notifiable interest in neighbouring land *i.e. neighbours within 4 metres of the boundary of the premises*
- (b) the community council within whose area the premises are situated,
- (c) the chief constable, and
- (d) the fire service
- (e) the NHS

Section 22 applies of the Licensing (S) Act 2005 applies which means that any person may, by notice to the Licensing Board object to the application on any ground relevant to one of the grounds for refusal or make representations to the Board concerning the application.

Determination of the Variation Application

Section 30(3) provides that the Licensing Board must hold a hearing for the purpose of considering and determining the application. The Board must consider whether any of the grounds for refusal applies and:

- (a) if none of them applies, the Board must grant the application;
- (b) if any of them applies, the Board must refuse the application;

Section 30(5) provides that the grounds for refusal are:

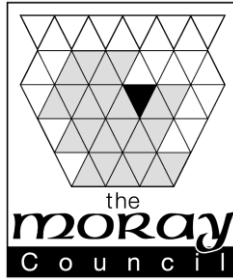
- (a) that the application must be refused under section 32(2) (*licence refused within the last year*), 64(2) (*licence sought for 24 hours continuous*) or 65(3) (*off sale hours outside 10am to 10pm*);
- (b) that the Licensing Board considers that the granting of the application would be inconsistent with one or more of the licensing objectives;
- (c) that, having regard to the nature of the activities carried on or proposed to be carried on in the subject premises, the location, character and condition of the premises, and the persons likely to frequent the premises, the Board considers that the premises are unsuitable for use for the sale of alcohol in accordance with the proposed variation;
- (d) that the Board considers that if the application were to be granted, there would, as a result, be overprovision of licensed premises, or licensed premises of that description, in the locality.

Where the Licensing Board grants the application, the Board may make a variation of the conditions to which the licence is subject.

Where the Licensing Board refuses the application the Board must specify the ground for refusal, and where relevant the Board must specify the licensing objective or objectives in question.

Subsequent Applications Following Refusal

Where a Licensing Board has refused a premises licence variation application the Board must refuse any subsequent premises licence variation application in respect of the same premises licence, and seeking the same variation made before the expiry of the period of one year beginning with the date of the earlier refusal UNLESS at the time of the earlier refusal the Board directed that this provision would not apply or the Board is satisfied that there has been a material change of circumstances.



REPORT TO: THE MORAY LICENSING BOARD 3 AUGUST 2017

SUBJECT: LICENSING (SCOTLAND) ACT 2005 – PROCEDURE FOR SITE VISITS

BY: CLERK TO THE BOARD

1. REASON FOR REPORT

- 1.1 To ask the Board to approve a procedure for conducting site visits for licence applications.

2. RECOMMENDATION

- 2.1 **It is recommended that the Board consider and agree the process for site visits attached at Appendix 1.**

3. BACKGROUND

- 3.1 On 3 October 2013 (para 5 of the minute refers) the Board agreed to adopt the current statement of policy. Within the appendices to the statement of policy is a document that sets out the Board's agreed hearing procedure.
- 3.2 As part of the hearing procedure the Board undertakes site visits. The current procedures merely state that these "will be arranged with the applicant/premises licence holder".
- 3.3 As a body that is independent from the Council the Licensing Board is free to set its own procedures.
- 3.4 In order to clarify the procedure for future site visits a more detailed procedure has been produced to work alongside the hearing procedure and the draft is attached at Appendix 1.

4. SUMMARY OF IMPLICATIONS

- (a) **Moray 2026: A Plan for the Future and Moray Corporate Plan 2015 - 2017**
The provisions of alcohol licensing directly relate to the priorities within the 10 Year Plan (Moray 2026) 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**
None
- (c) **Financial implications**
None
- (d) **Risk Implications**
None
- (e) **Staffing Implications**
None
- (f) **Property**
None
- (g) **Equalities**
None
- (h) **Consultations**
None required.

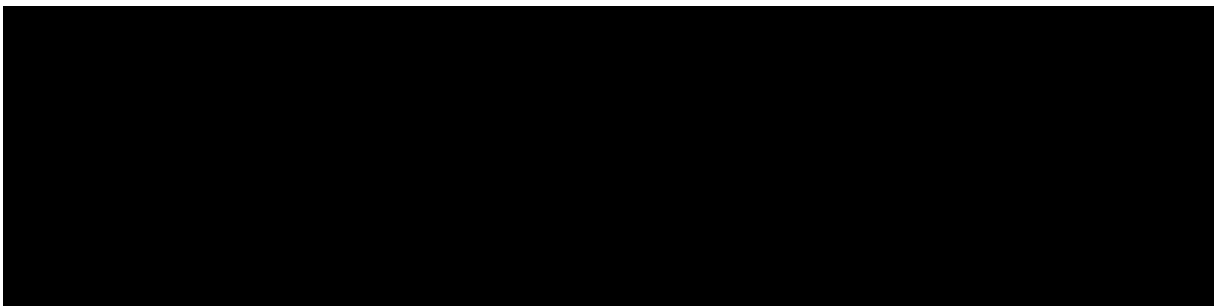
5. **CONCLUSION**

The Board should consider, amend if necessary and agree the draft procedure for site visits.

Author of Report: Sean Hoath

Background Papers: There are no background papers

Ref: SAH



Appendix 1

Moray Licensing Board Site Visits Detailed Procedure

Purpose of a Site Visit

A site visit is not a decision making forum. A site visit will assist the Board in assessing the suitability of the premises for the sale of alcohol and will provide an opportunity to view the surroundings. The surroundings are particularly important when it comes to assessing any representation or objection e.g. the proximity of neighbours.

A site visit will take place even where the application for consideration is a provisional premises licence and the premises is not ready. It is still an opportunity to view the surroundings of the proposed premises. The Licensing Board may decide to re-visit when the premises is ready.

Site visits form part of the hearing process. The Board's agreed hearing procedure sets out the circumstances when a site visit is desirable as follows:

"Where appropriate the Moray Licensing Board will endeavour to make arrangements to visit the premises in advance of the hearing"... "The Moray Licensing Board is particularly interest in visiting premises where it is proposed that children and/or young persons be allowed access or where application is made to vary the provisions for access by children and/or young persons."

'Appropriate' generally means where the application for consideration is either a new premises licence, a new provisional premises licence or a major variation to an existing premises and the major variation is either so major as to warrant a re-visit and/or where a change to access for children and / or young persons is proposed.

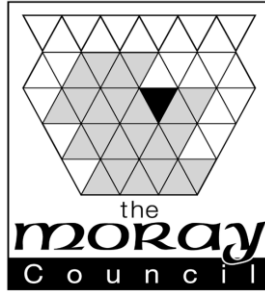
A site visit is considered to be a meeting of the Board so will be properly constituted with a quorum of 5.

Time of a Site Visit

Site visits will take place any time between one and two weeks before the hearing date.

Procedure

1. The Depute Clerk will note the applications where a site visit is required and ask Members' Support staff to find a suitable date(s) for site visits and invite members.
2. Members will arrange their own transport and are requested to provide an additional space for an officer to accompany them.
3. An agenda will be issued no less than 3 working days. The agenda will be issued electronically.
4. An officer will accompany members on the site visits to bring file documents for information only. As it is not a decision making forum so the visit is only for information gathering. The applicant can be asked to show members around the premises and/or explain changes required but the application should not be discussed in any detail.
5. Hospitality will not be accepted during site visits.
6. After the site visit a draft minute will be produced and included in the agenda for the Licensing Board meeting. Where necessary, owing to the shortness of time, the minute will be tables at the meeting



REPORT TO: THE MORAY LICENSING BOARD 3 AUGUST 2017

SUBJECT: LICENSING (SCOTLAND) ACT 2005 – ANNUAL REVIEW OF LICENSING FEES

BY: CLERK TO THE BOARD

1. Reason for Report

1.1 This report is to:

- 1.1.1 Update the Board on the overall income versus expenditure for alcohol licensing for the last financial year by way of an annual financial report;
- 1.1.2 Make predictions in respect of likely future income and expenditure;
- 1.1.3 Determine whether the Board wishes to undertake a review of licensing fees as a result;
- 1.1.4 Advise the Board of business transacted in the last calendar year.

2. Recommendations

It is recommended that the Board:-

- 2.1 Note the current fees attached at Appendix 1;**
- 2.2 Note the financial report on income and expenditure data at Appendix 2;**
- 2.3 Agree to publish the financial report;**
- 2.4 Consider future fees i.e. whether the Board wishes to keep the current fee structure or revise the same and in the latter case proceed to nominate and instruct a policy sub group to consider proposals for change as the Board sees fit.**
- 2.5 Note the business transacted for the calendar year 2016 at Appendix 3;**

3. Background

Current Fees

- 3.1 The Licensing (Fees) (Scotland) Regulations of 2007 (referred to here as the “Fees Regulations”) were made in accordance with the Licensing (Scotland) Act 2005 (“the Act”). The Fees Regulations require each Licensing Board to set certain fees in respect of various applications under the Act. This includes application and annual premises licence fees that are set by Boards but within overall maxima prescribed by the Scottish Government.
- 3.2 The current fee scale is attached at Appendix 1. It was agreed by the Board at the meeting on the 11 August 2016 (paragraph 4 of the minute refers).
- 3.3 The current scale sets the premises licence application at the maximum level prescribed by the Scottish Government, which means that those fees cannot be increased but they could be reduced.
- 3.4 The current scale sets the premises licence annual fees at 20% below the maximum level prescribed by the Scottish Government, which means that those fees can either be increased by up to 20% or reduced.
- 3.5 In accordance with the Fees Regulations, the fee structure is designed around the principle that licensing was to become, as far as possible, self funding and that each Board was to broadly recover, through licensing fees, the overall cost to the Council and Board of providing licensing functions.
- 3.6 The expenses to be recovered are not limited to Licensing Board expenses. Expenses must include all those incurred by both the Board and the Moray Council in administering the Act in general. This includes expenses for all Board and Council licensing administration including that from other departments of the Council contributing to the licensing procedure.

4. Financial Report on Income and Expenditure

- 4.1 A review of licensing fees is undertaken annually.
- 4.2 With the assistance of officers in the Finance department, the Clerk has now collated income and expenditure figures for the financial year 1 April 2016 to 31 March 2017.
- 4.3 The figures and calculations are summarised at **Appendix 2**.
- 4.4 The figures reveal the following indications:
 - 4.4.1 There has been a steady reduction in the level of recharges over time. This was attributable to a review of the time legal and other staff spend in providing and supporting the licensing system as well as a reduction in the level of recharges by the Council for fixed costs e.g. buildings, utilities etc.;

- 4.4.2 The drop in the level of expenses has resulted in a notional surplus in the past.
- 4.4.3 The notional surplus lead to the reduction of annual fees for the year 1 October 2016 to 30 September 2017. Annual fees follow this cycle which does not follow the financial year but because fees are due in October the majority of income for the year is collected in October i.e. in the middle of the financial year;
- 4.4.4 Taking account of the reduction in income, because of the reduced annual fees, there is still a notional surplus of approx £18000 for the last financial year.
- 4.4.5 Individual fluctuations between financial years can be viewed in the light of the figures for previous years with a view to ensuring that overall income broadly equates to expenditure.
- 4.4.6 Efficiency savings have lead to a reduction in the cost of administering licences, which has resulted in a reduction of the cost to the licence holders.

Publication of the Financial Report

- 4.5 It should also be noted that The Air Weapons and Licensing (Scotland) Act 2015 has now introduced requirement for Boards to publish both a functions report (relating to the objectives, decisions etc) and a financial report (relating to income and expenditure) no later than three months after the end of each financial year i.e. by the end of June each year. The financial information detailed in this report serves as the required financial report. There was no suitable date to bring the report earlier.
- 4.6 The Board is asked to note and agree to publication of the financial report on the Board's web pages.
- 4.7 The Board has previously agreed to review fees on an annual basis and this fits in line with the new requirement for an annual financial report.

5. Future Fees

- 5.1 As income is primarily made up of annual fees and as the number of premises licences is largely stable, overall income is quite consistent. It is therefore anticipated that the income for 2017/2018 will be of a similar level if the current fee structure remains the same. However, it should also be borne in mind that overall numbers of applications, particularly major variations and personal licences are reducing as time goes on.
- 5.2 If fees and expenditure remain at the current levels, it appears likely that income will again exceed expenditure in 2017/2018 by a relatively small margin.

- 5.3 It should be noted that figures for both projected income and expenditure can only ever be estimates and may not be a true reflection of actual amounts. The estimates are based on historical data about income, expenditure and transactions.
- 5.4 The target is for income to be broadly in line with expenditure as set out in the Fees Regulations.
- 5.5 Whilst income is expected to largely stay the same, expenditure, as noted and allowed for last year, is expected to increase as a result of likely increased provision for Licensing Standards Officers (LSOs). The Air Weapons and Licensing (Scotland) Act 2015 has been passed and the requirement to have Civic LSO(s) is now in force. A report will be submitted to a future meeting of Moray Council regarding a proposed increase to the LSO provision. It has been estimated that if the LSO function for alcohol licensing is increased back to 1 FTE (from the current 0.4 FTE) the additional cost will be £28,000 per annum. This is above the current notional surplus. However, it is envisaged that a full time Liquor LSO would also undertake work in connection with gambling premises and the difference may be offset by gambling income. Should the split of work as between Liquor LSO work and gambling work turn out to be different from that calculated for then it may mean that fees will have to increase in future to reflect this.
- 5.6 There is no specific legal requirement or guidance on whether historic deficits or surpluses should be taken into account when calculating future fees. The stated requirement is only for the Board to “have regard to the desirability of ensuring that the total fees payable under these Regulations to that Board in respect of any period are likely to be broadly equivalent to the expenses incurred by that Board, and the council for the area of that Board, in administering the Act generally...”. Fee setting is not an exact science.
- 5.7 As a result of all the above, the recommendation is for the Board to keep the current fee structure as it is with a further review in a year.
- 5.8 Alternatively the Board may choose to revise fees now. In respect of any review it should be noted that where, in accordance with legislation, fees are set by the Board there is no requirement to consult upon those fees before any variation is brought into effect.
- 5.9 In case the Board does choose to take the option of review now members are invited to give any guidance or remit as appropriate and appoint and instruct a Policy Sub Group to:
- 5.9.1 Work with Officers on the task of balancing income and expenditure more closely;
 - 5.9.2 Settle on proposals for a revised fee structure;
 - 5.9.3 Decide whether and how the same should be issued for consultation;
 - 5.9.4 Proceed with and consider the results of any consultation and revise proposals if required;
 - 5.9.5 Bring final draft proposals back to the Board for approval and implementation.

- 5.10 There is a requirement that fees may not be varied so that the variation comes into effect less than a year after the date with effect from which the fee in question was first determined or last varied. As the fees were last varied on 11 August 2016, they cannot be varied again before 11 August 2017.
- 5.11 Finally, it has been noted before that the Scottish Government is reviewing licensing fees and exploring options for a possible change to the fee structure. No decisions have yet been made and there is no current timescale indicated. Recommendations in this report proceed on the assumption of the statutory fee structure remaining the same. However a Scottish Government review may again alter the timescale for future reviews.

Business Transacted

6. There is attached at Appendix 3 a review of business transacted during the financial year 2016/2017.

7 SUMMARY OF IMPLICATIONS

(a) Moray 2026 A Plan for the Future/ Service Plan

The provisions of alcohol licensing directly relate to the priorities within the 10 Year 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.

(b) Policy and Legal

Policy and Legal implications have been explained above.

(c) Financial implications

Financial implications relating to fee levels have been explained above. The Licensing Board Financial report for the year ended 31 March 2017 is at Appendix 1 and shows a surplus of income over expenditure of £18,023. Income is expected to continue to exceed expenditure in the short term, although it is expected that expenditure will increase in the future if the proposal to increase LSO provision is agreed by Council.

(d) Risk Implications

As explained above, the projected figures for future income are only estimates. Accordingly there is a risk that the actual income differs from the projected income.

The risk in connection with the setting of fees is that if fees are set too low then the cost of administering the licensing system may not be recouped. Conversely if fees continue to produce a surplus then the Board's decisions in respect of fees may be open to judicial review.

(e) Staffing Implications

Preparation of fee projections has involved considerable staff time and fees are reviewed annually. No additional resources are required. It is anticipated that going forward fee income will ensure full cost recovery in terms of providing the licensing function.

(f) Property

None.

(g) Equalities

In considering this matter the Board should have regard to issues of equality and the subject's (licence holders) rights under the European Convention on Human Rights (and the Human Rights Act 1998). It is not considered necessary to undertake an equalities and human rights impact assessment.

The Board should have regard to all the circumstances.

(h) Consultations

As far as possible, the figures within this report have been prepared in consultation with Deborah Brands, Principal Accountant of the Council's Finance Department.

A copy of the report has been considered by the Council's Equalities Officer who had no comments.

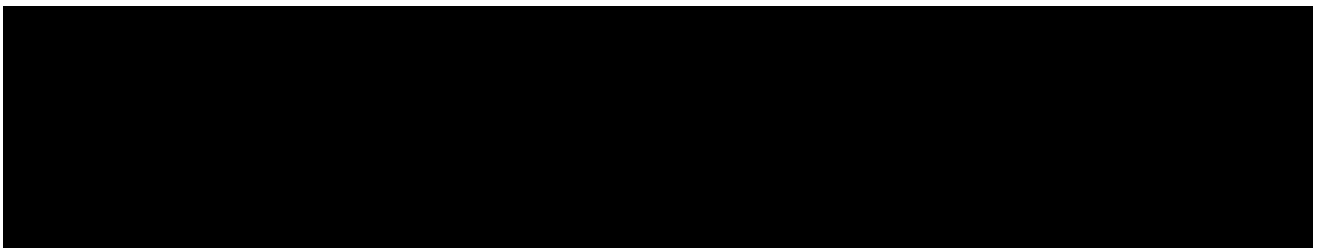
6 Conclusion

- 7.1 It is proposed that the Board note the contents of this report and determine what further action is required.

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

Background Papers:

Ref: SH



Appendix 1**Moray Licensing Board
Current Fee Scale****Premises Licence Application Categories and Annual Fees**

Category	Rateable Value	Application Fee	Annual Fee
Category 1	nil rateable value or within certain defined exemptions described above	200	144
Category 2	rateable value between £1 and £11,500	800	176
Category 3	rateable value between £11,501 and £35,000	1100	224
Category 4	rateable value between £35,001 and £70,000	1300	400
Category 5	rateable value between £70,001 and £140,000	1700	560
Category 6	rateable value over £140,000	2000	720

Type of Application and Fee

Type of Application	Fee - £
An application to vary a premises licence where the variation sought is the substitution of a premises manager and any other variation is a minor variation	31
An application to vary a premises licence where the variation sought is a minor variation and there is no substitution of the premises manager	20
Application for an occasional licence	10
Application for extended hours	10
Application for a personal licence	50

Type of Application and Fee

Type of Application	Fee - £ Category 1-3	Fee - £ Category 4-6
Any variation of a premises licence that is not within the definition of the prescribed fees below i.e. that is a major variation	350	500
Application by the licence holder to transfer and vary a licence	375 for major variations and 145 for minor ones	600 for major variations and 220 for minor ones
Application by the licence holder to transfer a licence (no variation)	125	200
Application by another person to transfer and vary a licence	450 for major variations and 220 for minor ones	675 for major variations and 295 for minor ones
Application by another person to transfer a licence (no variation)	200	275
Application for a provisional premises licence £Variable (to be the same as a category 1 premises)	180	180
Application for confirmation of a provisional premises licence £Variable (this will vary between premises. The confirmation fee will be the fee that would have been payable for a premises licence application (based on the rateable value as above) LESS the amount paid on application for the provisional premises licence as a category 1)	Variable	Variable
Application for a temporary premises licence	200	200
Application for a replacement personal licence	25	25
Application for a replacement premises licence	40	40

APPENDIX 2**LICENSING (SCOTLAND) ACT 2005****MORAY LICENSING BOARD FINANCIAL REPORT****FOR THE YEAR ENDED 31 MARCH 2017**

The Moray Licensing Board is required under section 9B of the Licensing (Scotland) Act 2005 to publish an annual financial report within 3 months of the end of the relevant financial year.

This report has been prepared using financial data taken as at 31 March 2017. The relevant budgets and other finance sources that the data has been extracted from have not yet been audited. Consequently the figures provided in this report are indicative and cannot be relied upon as an accurate reflection of income and expenditure relative to the exercise of the Licensing Board's functions under the Licensing (Scotland) Act 2005.

The financial statement is as follows:

	£
Income¹:	(106,926)
Expenditure	
Direct Staff Costs ²	51,596
Other Direct Costs ³	8,545
Indirect Costs ⁴ :	<u>28,762</u>
Total Expenditure	88,903
Net Income	(18,023)

Notes:

1. Denotes income from applications and annual fees received under the Licensing (Scotland) Act 2005
2. Denotes salary, superannuation, national insurance and pension costs associated with the Clerk, the Licensing Standards Officer and other Council staff responsible for administrative support under paragraph 8 of Schedule 1 to the Licensing (Scotland) Act 2005.
3. Denotes direct costs associated with the exercise of the Licensing Board function such as training, stationery, supplies and services etc.
4. Denotes the portion of central administrative costs such as accommodation, ICT, facility management etc. that are allocated to the Licensing Board.

Appendix 3

Liquor Licensing Statistics for Year 2016-17 (Period 01/04/2016 to 31/03/2017)

Moray Licensing Board		
Premises Licence Statistics		
Licences in Force on 31 March 2017 (this should equal total of a+b+c)		321
(a) on license only		85
(b) off license only		93
(c) both		143
Applications received during 2016-17		
(a) on sale		1
(b) off sale		2
(c) both		1
Applications refused during 2016-17 under section 23		0
Applications granted during 2016-17 under section 23		3
Applications for review of premises licence during 2016-17 under S36 & S37 resulting in:-		
(a) written warning		0
(b) variation		0
(c) suspension		0
(d) revocation		0
(e) no action		0
Occasional Licence Statistics		
Number of Occasional Licences granted during 2016-17		395
Extended Hours Licence Statistics		
Number of Extended Hours Licences granted during 2016-17		32
Personal Licence Statistics		
Personal Licences in Force on 31 March 2017		1,133
Applications during 2016-17 under section 72:-		
(a) refused		0
(b) granted		124
Proceedings taken during 2016-17 under section 83 (notice of conviction) resulting in:-		
(a) endorsement		0
(b) suspension		0

OK

(c) revocation	0
(d) no action	0
Proceedings taken during 2016-17 under section 84 (conduct inconsistent with licensing objectives) resulting in:-	
(a) endorsement	0
(b) suspension	0
(c) revocation	0
(d) no action	0
Proceedings during 2016-17 under section 86 (multiple endorsements) resulting in:-	
(a) endorsement	0
(b) suspension	0
(c) revocation	0
(d) no action	0
Revocations of personal licences during 2016-17 under section 87(3) (failure to provide evidence of having undertaken refresher training)	1

Personal 1 x Surrendered