

THE MORAY LICENSING BOARD

THURSDAY 9 OCTOBER 2014

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 9 October 2014 at 10.00am.

Rhona Gunn
CLERK

1 October 2014

BUSINESS

1. Prior Minutes
 - (i) Minutes of the Meeting held on 21 August 2014 (copy attached)
 - (ii) Minutes of the Special Meeting held on 30 September 2014 (copy attached)

The Licencing (Scotland) Act 2005

2. Applications Section– Appendix 1
3. Licensing (Scotland) Act 2005 – Calendar of Meetings – Report by the Clerk (copy attached)
4. Licensing (Scotland) Act 2005 – Christmas/New Year Arrangements 2014/2015 – Report by the Clerk (copy attached)

CLERK:	Rhona Gunn
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THE MORAY LICENSING BOARD**SEDERUNT****COUNCILLOR J ALLAN****COUNCILLOR G COWIE****COUNCILLOR S CREE****COUNCILLOR M HOWE****COUNCILLOR B JARVIS****COUNCILLOR A MCLEAN****COUNCILLOR M McCONACHIE****COUNCILLOR R H SHEPHERD****COUNCILLOR C TUKE****CLERK TO THE BOARD: Mrs R Gunn**

APPENDIX 1

Key to Colour Coding of Applications within Appendices to the Agenda of Business for the Moray Licensing Board

All matters are to be heard by the Moray Licensing Board and the Moray Licensing Board has the final decision. However, in accordance with Government Guidance and locally agreed procedure, applications may be submitted to the Board with a general recommendation.

Please note that colour coding may be subject to change given the nature of the licensing procedure. Documents may be received and/or negotiations resolved following publication of the agenda.

RED

Indicates that the application will normally require to be heard, whether by virtue of general procedural rules or as a result of problems arising. There may be ongoing negotiations to resolve problems.

YELLOW

Indicates changing circumstances with the application. It is not ready to be granted at the time of publication but there are not normally major problems e.g. procedural issues or ongoing negotiations. Applications will normally be submitted with recommendation for grant or deferral.

GREEN

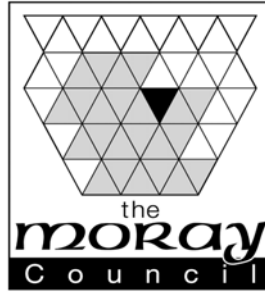
Indicates that all is in order with the application. All documents have been received and checked. All procedures have been followed. There are unlikely to be any representations, objections or problems or the same have been resolved. It is being submitted with a recommendation for grant but members are free to make enquiries as they see fit.

MORAY LICENSING BOARD

MEETING, 9 October 2014 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)	Kirkie Bar 50 Main Street New Elgin Elgin IV30 6BH	Michael Alexander Taylor	24 July 2014	To add additional beer garden, allow access to C&YP and to change core hours Sun 11:00 - 23:00 & Thu 11:00 - 00:30, from existing Sun 12:30 - 23:00 & Thu 11:00 - 23:00 Reps received Site visited Applicant cited to attend
Variation (Major)	Laichmoray Hotel Maisondieu Road Elgin IV30 1QR	Laichmoray Hotels Limited	15 August 2014	Variation to outdoor drinking areas and C & YP access. Site visited. Applicant cited to attend.
New Premises	Victoria Park South Pringle Street Buckie Moray AB56 1BJ	Buckie Thistle Football Club	29 May 2014	New premises licence. No obs/rep Planning S50 cert received Site visited Applicant cited to attend
New Premises	Philps Fine Foods 22 High Street Forres Moray IV36 1DB	Rachel Philp	28 August 2014	New premises licence application for off sales. Site visited. Applicant cited to attend. Not all s50 certs received to date.



REPORT TO: THE MORAY LICENSING BOARD 9 OCTOBER 2014

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 2015 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 2015.**

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 2015 to 31st December 2015 be as follows:

<u>Proposed Meetings</u>	
DAY	DATE
Thursday	22 nd January 2015
Thursday	5 th March 2015
Thursday	23 rd April 2015
Thursday	11 th June 2015
Thursday	20 th August 2015
Thursday	1 st October 2015
Thursday	10 th December 2015

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:

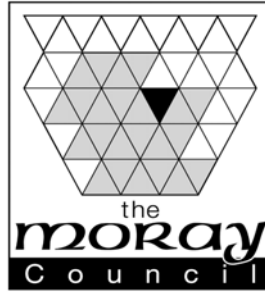
- 6.1 Consider the proposed dates and determine whether these are suitable to be fixed as the dates for the Meetings of the Board for 2015.

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

Signature

Date 1 October 2014

Designation Head of Legal and Democratic Services, Clerk to the Board
Name Rhona Gunn



REPORT TO: THE MORAY LICENSING BOARD 9 OCTOBER 2014

SUBJECT: LICENSING (SCOTLAND) ACT 2005 – CHRISTMAS/NEW YEAR ARRANGEMENTS 2014/2015

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 2014/2015.

2. Recommendations

It is recommended that the Board :-

- 2.1 **Agree the opening hours proposed for Christmas and New Year 2014/2015 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) Single Outcome Agreement / Service Improvement Plan

The licensing policy statement sets out how the Moray Licensing Board will exercise it's functions under the Licensing (Scotland) Act 2005 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, therefore, judicious employment of licensing policy statement will 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

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 2014/2015 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

Signature

Date: 1 October 2014

Designation Head of Legal and Democratic Services, Clerk to the Board
Name Rhona Gunn

Appendix I

LICENSING (SCOTLAND) ACT 2005
FESTIVE SEASON ARRANGEMENTS – 2014/2015

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 2014 – until 1:30am

Festive Period General Extension

Applicable to: All Premises
Extension: 26 December 2014 - until 1.30am
27 December 2014 - until 1.30am
28 December 2014 - until 1.30am
29 December 2014 - until 1.30am
30 December 2014 - until 1.30am

New Year General Extension

Applicable to: All Premises
Extension: 31 December 2014 - until 3.00am
1 January 2015 - until 3.00am
2 January 2015 - 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 2014 – may be submitted on one application form with a fee of only £10.00
- (2) 26 to 30 December 2014 – may be submitted on one application form with a fee of only £10.00
- (3) 31 December 2014 and 1 & 2 January 2015 – 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 2014 and 1 and 2 January 2015 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 **22 November 2014.**

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 563637
Fax – 01343 563221
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.