

Decision Making & Delegation

The Boards will deal with all of their business in an open and transparent way. Information and assistance will be made available to those who wish to apply for a licence, to make representations or to object to an application.

Please note that it is a criminal offence to make a false statement in or in connection with or in any licence application.

Consideration of premises licence applications

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

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

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

Consideration of Personal Licence Applications

The Boards will consider applications for personal licences from individuals living in Central and South Aberdeenshire or from individuals who are not ordinarily resident in the area of any licensing Board. When considering an application for a personal licence, the Boards will work closely with the Police to establish whether the applicant has been convicted of any relevant offence (which will be set out in Regulations).

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

It is the Boards' aim to provide an efficient and cost effective service to all those who are involved in the licensing process. Therefore, the Boards have adopted a Scheme of Delegation to ensure that decisions can be made in a way which is consistent with this aim. This Scheme will in particular set out the decisions which may be made by the Clerk to the Board or her staff. The Boards' Scheme of Delegation is detailed below:-

ABERDEENSHIRE LICENSING BOARD

Central and South Divisions

Scheme of Delegation

This Scheme of Delegation covers the powers of the Licensing Boards, in terms of the following legislation, as from 12th January 2011 (for the Central Board) and 2nd February 2011 (for the South Board).

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

Licensing (Scotland) Act 2005

1. Reserved to the Licensing Board

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

- 1.1. determining the Licensing Board's policy for the purposes of a Licensing Policy Statement or any Supplementary Licensing Policy Statement;
- 1.2. determining, for the purposes of any such statement, whether there is overprovision of licensed premises, or licensed premises of any particular description, in any locality;
- 1.3. determining a premises licence application;
- 1.4. determining a premises licence variation application where the variation sought is not a minor variation;
- 1.5. determining an application for the transfer of a premises licence where the applicant has been convicted of a relevant or foreign offence;

- 1.6. determining a personal licence application, or a personal licence renewal application where the applicant has been convicted of a relevant or foreign offence;
- 1.7. conducting a hearing under the Act, including taking any of the following steps:
 - 1.7.1 At a review hearing in respect of a premises licence -
 - (i) issuing a written warning to the licence holder; or
 - (ii) revoking or suspending the licence; or
 - (iii) making a variation of the licence;
 - 1.7.2 At a hearing on a personal licence, making an order revoking, suspending or endorsing a personal licence:

(such hearings will be conducted by means of written submissions in the first instance, where it is appropriate to do so).
- 1.8. making a Closure Order;
- 1.9. refusing an application for confirmation of a provisional licence.
- 1.10. the determination in terms of Section 59(4) or 70(2) of the Act as to whether or not the Licensing Board will hold a hearing to determine an application for an occasional licence or for extended hours where an objection, representation or a notice recommending refusal from the Chief Constable or a report from the Licensing Standards Officer recommending refusal has been received;
- 1.11. where a decision has been taken not to hold a hearing in terms of section 59(4) or 70(2) of the Act, the determination of the application;
- 1.12. determining to reject a notice of objection or representation received by the Board where the Board considers the objection or representation to be frivolous or vexatious.

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

Decisions on the following matters are delegated to the Clerk or the Depute Clerks to the Licensing Board or person(s) appointed to assist the Clerk (where stated):

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

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- 2.1. any application for a minor variation of premises licences (Section 29);
- 2.2. any application for variation to substitute a new Premises Manager (Section 31);
- 2.3. determining whether to cite an Applicant to a hearing for a premises licence application or a variation application where the variation is not a minor variation;
- 2.4. any application to transfer a premises licence – where the transferee has NOT been convicted of any relevant or foreign offence (Sections 33 to 35);
- 2.5. any application for confirmation of a provisional premises licence - where no variation (other than a minor variation) has been made to the operating plan or layout plan for the premises to which the licence relates since the provisional licence was issued or since a variation of the provisional premises licence was granted (Section 46);
- 2.6. any application for an occasional licence - where no objections or representations have been received, nor a notice recommending refusal from the Chief Constable or any report from the Licensing Standards Officer recommending refusal (Sections 56 - 61). As amended by the Criminal Justice and Licensing (Scotland) Act 2010.
- 2.7. any application for extended hours - where no objections or representations have been received, nor a notice recommending refusal from the Chief Constable or any report from the Licensing Standards Officer recommending refusal (Sections 68 - 70).
- 2.8. any application for a personal licence or renewal of a personal licence where the applicant has NOT been convicted of a relevant or foreign offence (Section 74);

3. Other Matters

3.1 Occasional Licence Applications/Extended Hours Applications

Any application for an occasional licence or extended hours which has attracted representations shall be determined by the Convener and one other Member of the Board, in conjunction with the Depute Clerk, in the first instance. If there is no consensus then a third member can be consulted.

3.2 Pool Table, Dart Board & Gaming Machine Submissions

Written submissions (including photographs) regarding children's access to areas containing pool tables, dart boards or gaming machines (per Appendix 9 of the Policy Statement) in respect of an Application for Premises Licence or Major Variation shall be considered by the Convener in conjunction with the Depute Clerk in the first instance. If the Convener is not satisfied with the submissions, then the application will be determined by the Board.

3.3 Relevant Offences

Written submissions regarding relevant offences in connection with a premises licence application or transfer of premises licence application will be considered by the Convener in conjunction with the Depute Clerk in the first instance. If satisfied with the submission, then the Convener may determine whether or not to cite the applicant to attend the Board Hearing.

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