

**The Licensing (Scotland) Act 2005**

**Aberdeenshire Licensing Boards**

**North Divisional Licensing Board**

**Statement of Licensing Policy**

**30<sup>th</sup> November 2010 -29<sup>th</sup> November 2013**

# LICENSING OBJECTIVES

The 5 core objectives underpinning the Licensing (Scotland) Act 2005 are:-

- 1. Preventing crime and disorder**
- 2. Securing public safety**
- 3. Preventing public nuisance**
- 4. Protecting and improving public health**
- 5. Protecting children from harm**

"We wish to propose that certain principles should be specifically enshrined in statute as principles which should at all times guide the Licensing Boards and other in the exercise of their functions."

*The Nicholson Committee: Review of Liquor Licensing Law in Scotland, Paragraph 2.23*

## LICENSING POLICY STATEMENT

### Introduction

Section 6 of the Licensing (Scotland) Act 2005 ("the Act") requires every licensing board to prepare and publish a statement of their policy to assist in the implementation and administration of the licensing of the sale and supply of alcohol within their area and to outline the way they intend to exercise their functions under the Act.

The primary purpose of the policy statement is to ensure that, in exercising its functions, the Board promotes the licensing objectives, as shown on the previous page.

To that end, this Policy Statement sets out the North Aberdeenshire Divisional Licensing Board's ("the Board") general approach to decision-making under the Act.

Where it is necessary to provide more detailed guidance, Supplementary Statements will be issued.

### General Principles

In exercising its functions under the Act the Board is required to have regard to this Policy Statement.

**The Board will consider all applications on their merits within the context of this Policy Statement. In particular, the Board will give due consideration to an application whether or not it conforms to any requirements set out in this Policy Statement, however, applicants wishing to persuade the Board to depart from this Policy Statement will need to demonstrate, by means of evidence, good reason for so doing.**

The Board expects all applicants to show how they will conform to the licensing objectives and, in particular, how they will do so in the context of the circumstances pertaining to the locality of the application premises.

The Board acknowledges that its licensing powers are not the main statutory mechanism for dealing with anti-social behaviour and nuisance and will pay due regard to any other statutory or other systems of control which can be more appropriately applied in the circumstances.

### Context - North Aberdeenshire

A profile of North Aberdeenshire is contained in **Supplementary Policy Statement 1** to this Policy Statement.

### Preparation of Policy Statement

This Policy Statement has been prepared having regard to the documents listed in **Supplementary Policy Statement 2** to this Policy Statement.

The Board has consulted with the persons and organisations listed in **Supplementary Policy Statement 3** to this Policy Statement.

## **THE LICENSING OBJECTIVES**

In general terms the Board will seek to promote the licensing objectives as follows:

### Preventing Crime and Disorder

The Board supports a strategy aimed at making the area a safe place to live in and visit. The Board is committed to improving the quality of life for the people in the area by ensuring that licensed premises are run in such a way as not to contribute to crime and disorder. Applicants should be able to demonstrate that they will address the problems of -

- Underage drinking
- Drunkenness on premises
- Public drunkenness
- Illegal possession and/or use of drugs
- Violent behaviour
- Anti-social behaviour
- Litter

### Securing Public Safety

The Board is committed to ensuring that the safety of any person visiting or working on or in the vicinity of licensed premises is not compromised.

### Preventing Public Nuisance

The Board wishes to protect and maintain the amenity of residents and occupiers of other businesses from any adverse consequences of the operation of licensed premises whilst at the same time recognising the valuable, cultural, social and business importance that such premises provide.

### Protecting and Improving Public Health

The Board is concerned about the link between the consumption of alcohol and public health. The Board wishes to see premises thriving in the area, but this cannot be at the expense of patrons' health and wellbeing. The Board will have regard to the views of the relevant bodies responsible for, and interested in, the protection and improvement of public health in the area. It will take advice from those relevant bodies.

### Protecting Children From Harm

The Board wishes to see family-friendly premises thriving in the area. Where applicants wish to operate such premises, the Board expects them to appreciate that this places additional responsibilities upon them, at the same time, recognising that parents and other adults accompanying children also have responsibilities.

The Board also takes very seriously the issue of under-age drinking and wishes to remind licensees that they and their staff must comply with all other legislation in relation to children and young persons, including not selling or allowing the sale of alcohol to children and young persons.

## **OVERPROVISION**

The Board believes that business success is the reward of hard work and good management in an atmosphere of fair competition: it cannot be driven by artificial manipulation of market forces.

While restraint of trade is anti-competitive, an open-market, free-for-all, is blatantly contrary to the Licensing Objectives. The Board's duty to assess overprovision is the fulcrum which balances those two extremes.

The Board has published **Supplementary Policy Statement 4** to this Policy Statement, setting out the extent to which it considers there to be overprovision of licensed premises (or licensed premises of a particular description) in any locality within the Board's area.

## **OPERATING HOURS**

Other than for off-sales premises, the Act has done away with the general scheme of set "permitted hours". Trading hours now require to be set out in the operating plan of every premises.

The Act also makes it very clear that routine, 24-hour opening, will NOT be allowed.

Operating hours will be made up of core hours and regular seasonal variations. The Board expects Applicants to be able to anticipate all such regular variations.

The Board considers that the operating hours set out in this Supplementary Policy Statement meet the needs of businesses to routinely trade, while, at the same time, not impacting on the needs of the community in such a way that would be detrimental to compliance with the five licensing objectives. More detailed guidance is provided in the Supplementary Policy Statement attached as **Supplementary Policy Statement 5** to this Policy Statement.

## **RELATIONSHIP WITH OTHER REGIMES**

Guidance indicates that the Board should provide clear indications of how the Board will take into account other matters relating to alcohol.

Detailed guidance is provided in **Supplementary Policy Statement 6** to this Policy Statement.

## **TRANSPORT**

Guidance requires this policy statement to identify any arrangements between the Licensing Standards Officer and the Police for reporting views/concerns to the local Transport Committee. Detailed information is provided in **Supplementary Policy Statement 7** to this Policy Statement.

## **TOURISM, PLANNING AND BUILDING STANDARDS**

Guidance requires this policy statement to identify any arrangements between Visit Scotland and the Board, regarding reports on the needs of the local tourist economy. Detailed information is provided in **Supplementary Policy Statement 8** to this Policy Statement.

Guidance also indicates that planning, building standards and licensing regimes will be properly managed to avoid duplication and inefficiency. This has been covered in **Supplementary Policy Statement 6**. [See above paragraph on Relationships with other Regimes].

## **DUPLICATION**

The Board is committed to avoiding duplication with other regulatory regimes in so far as it is reasonably practicable for them to do so.

## **DISCRETIONARY CONDITIONS/MANAGEMENT OF PREMISES**

The Board has a discretion to apply conditions to a premises licence. In doing so, the Board must have regard to how additional conditions relate to the mandatory conditions set out in the Act, Regulations, Orders, and any other Instruments set out in terms of the Act.

Detailed Guidance as to how the Board expects Applicants to manage their premises and the situations in which the Board might attach additional conditions are set out in **Supplementary Policy Statement 9** to this Policy Statement.

## **LICENSING STANDARDS OFFICERS**

Licensing Standards Officers ("LSOs") are employed by Aberdeenshire Council and have the functions set out in the Act. Their role is threefold – guidance, mediation and compliance. They are also members of the local Licensing Forum for North Aberdeenshire.

Licensing Standards Officers work with the Public, the Council's partners and the business community in seeking to promote the licensing objectives and ensuring compliance with the law.

Four Licensing Standards Officers are employed within Aberdeenshire. They are based in Banff, Peterhead, Inverurie and Stonehaven and are authorised to work in all Board areas.

## **BOARD PROCEDURES**

Information on the Board's Procedures and Scheme of Delegation can be found in **Supplementary Policy Statement 9** to this Policy Statement.

## **INFORMATION ON MEMBERS CLUBS**

Information relating to Members Clubs is set out in **Supplementary Policy Statement 10** to this Policy Statement.

## **INFORMATION ON EXCLUDED PREMISES**

Information relating to excluded premises is set out in **Supplementary Policy Statement 11** to this Policy Statement.

## **INFORMATION ON PERSONAL LICENCES**

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

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

## **HOW TO MAKE COMMENT ON THIS DOCUMENT**

Consultation on this document took place between 16<sup>th</sup> April 2010 and 13<sup>th</sup> August 2010. The Policy was published on 30<sup>th</sup> November 2010 and will be applied during the 3-year period until November 2013. It will be kept under review and revised, if appropriate, by the issue of supplementary Policy Statements that will apply to the end of the 3-year period.

Please see **Supplementary Policy Statement 3** for details on how to make comments.

## **PUBLICATION**

Copies of this Policy Statement will be available for public inspection, during normal office hours, free of charge at –

**St. Leonards  
Sandyill Road  
Banff  
AB45 1BH**

The office is open to the public between 9.00a.m. and 5.00p.m. Mondays to Fridays

Copies of this Policy Statement will also be available in .pdf format on Aberdeenshire Council's website at –

[www.aberdeenshire.gov.uk](http://www.aberdeenshire.gov.uk)

Electronic copies are also available by contacting the Depute Clerk to the Board whose details are given in **Supplementary Policy Statement 3**.

Paper copies will be posted, free of charge, on request.