

# **The Licensing (Scotland) Act 2005**

## **Aberdeenshire Licensing Boards**

### **North Divisional Licensing Board**

#### **Statement of Licensing Policy**

**30<sup>th</sup> November 2007 -29<sup>th</sup> November 2010**

# 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 Appendix 1 to this Policy Statement.

### Preparation of Policy Statement

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

The Board has consulted with the persons and organisations listed in Appendix 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.

As of 1 September 2009, the Board will publish a Supplementary Policy Statement, which will form Appendix 4 to this 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.

In the meantime, the Board will be gathering evidence on its own behalf, from the Local Licensing Forum, Planning Services, Building Standards and from any other interested parties, as to relevant "localities", how they are provided for at the moment, and the circumstances under which the grant of an additional premises licence would constitute overprovision.

## **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.

More detailed guidance is provided in the Supplementary Policy Statement attached as Appendix 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 the Supplementary Policy Statement attached as Appendix 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 will be provided in a future Supplementary Policy Statement, which will form Appendix 7 to this Policy Statement.

## **TOURISM, PLANNING AND BUILDING CONTROL**

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 will be

provided in a future Supplementary Policy Statement, which will form Appendix 8 to this Policy Statement.

Guidance also indicates that planning, building control and licensing regimes will be properly managed to avoid duplication and inefficiency. This has been covered in Appendix 6 to this Policy Statement. [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 the Supplementary Policy Statement which forms Appendix 9 to this Statement.

## **LICENSING STANDARDS OFFICERS**

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

Licensing Standards Officers will 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.

At the time of drafting this policy, the matter of the number of Officers to be employed is still under consideration.

## **BOARD PROCEDURES**

The Board's Procedures and Scheme of Delegation will be set out in a Future Supplementary Policy which will form Schedule 3 of Appendix 10 to this Statement.

## **INFORMATION ON MEMBERS CLUBS**

Information relating to Members Clubs is set out in the Supplementary Policy which forms Appendix 11 to this Statement.

## **INFORMATION ON EXCLUDED PREMISES**

Information relating to excluded premises is set out in the Supplementary Policy which forms Appendix 12 to this 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 (which will be 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 15<sup>th</sup> August and 9<sup>th</sup> November 2007. The Policy was published on 30<sup>th</sup> November 2007 and will be applied during the 3-year period until November 2010. 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 the Supplementary Policy Statement on Consultation attached as Appendix 3 to this Policy Statement 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)