

Freedom of Information (Scotland) Act 2002

Publication Scheme for Aberdeenshire Licensing Board (Central Division)

If you require a copy of this Publication Scheme in large print or audio please contact us.

*If you need a copy of this Publication Scheme, or your response to a request, in a language other than English please contact us.*

**(This statement will be in Arabic, Bengali, Chinese & Urdu)**

Contact: Alison Stone,  
Depute Clerk,  
Gordon House,  
Blackhall Road,  
Inverurie, AB51 3WA;

Tel 01467 628205

FAX 01467 623329

E-mail: [licensing@aberdeenshire.gov.uk](mailto:licensing@aberdeenshire.gov.uk) (please include  
"Freedom of Information" in the subject line)

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## 1 INTRODUCTION

This is the Publication Scheme which the Licensing Board for the Central Division of Aberdeenshire must adopt and maintain under Section 23 of the Freedom of Information (Scotland) Act 2002.

The Scheme relates to the publication of information by the Board and specifies:-

- (a) classes of information which the Board publishes or intends to publish;
- (b) the manner in which information of each class is, or is intended to be, published; and
- (c) whether the published information is, or is intended to be, available to the public free of charge or on payment.

In adopting or reviewing its publication scheme the Board has regard to the public interest in-

- (a) allowing public access to information held by it and in particular to information which-
  - (i) relates to the provision of services by it, the cost to it of providing them or the standards attained by services so provided; or
  - (ii) consists of facts, or analyses, on the basis of which decisions of importance to the public have been made by it;
- (b) the publication of reasons for decisions made by it.

Whilst the Board has regard to the public interest in the information it holds, and to the value of openness and transparency, it also has regard to:

- the quasi-judicial nature of its function, and
- the necessity of distancing the licensing function from the political forum.

## 2. ABOUT THE LICENSING BOARD

The Licensing Board is a Scottish public authority as defined in Part 3 of Schedule 1 to the Freedom of Information (Scotland) Act. The Board is elected by Aberdeenshire Council from its Elected Members. The Clerk to the Licensing Board is the Council's Director of Law and Administration. Nevertheless, the Board is a completely separate legal entity.

The Licensing Board administers licensing of pubs, hotels, restaurants etc. under the Licensing (Scotland) Act 1976, as well as bookmakers and betting offices in the geographic division of Aberdeenshire comprising the following Areas/Electoral Wards of Aberdeenshire:

- the Formartine Area, excepting the Fyvie-Methlick, Turriff East, Turriff West and Upper Ythan wards.

- the Garioch Area and,
- in the Marr Area, the Huntly East and West wards.

The Licensing Board decides licensing applications at Quarterly Meetings which are held in Inverurie. All administration takes place at Gordon House (contact details as above).

Certain non-contentious decisions are delegated to the Clerk under the Licensing Board's regulations.

Under the Licensing (Scotland) Act, the Licensing Board is completely supported by Aberdeenshire Council. The most recent budget figures for Liquor Licensing (i.e. this includes all three Divisional Boards in Aberdeenshire) are shown in the following Table. Please note that these pre-date the Budget decisions taken by Aberdeenshire Council in February 2004.

	2003/04	2004/05	2005/06
<b>Administration Costs</b>			
1 Printing, Stationery & Postages	£1,000.00	£1,000.00	£1,000.00
2 Other Administration Costs	£20,000.00	£20,000.00	£20,000.00
	<b>£21,000.00</b>	<b>£21,000.00</b>	<b>£21,000.00</b>
3 Central Admin. Recharge	£0.00	£0.00	£0.00
<b>Gross Expenditure</b>	<b>£21,000.00</b>	<b>£21,000.00</b>	<b>£21,000.00</b>
<b>Income</b>			
4 Fees & Charges	£115,000.00	£117,000.00	£119,000.00
<b>Total Income</b>	<b>£115,000.00</b>	<b>£117,000.00</b>	<b>£119,000.00</b>
<b>Net Expenditure</b>	<b>-£94,000.00</b>	<b>-£96,000.00</b>	<b>-£98,000.00</b>

### 3. FORMULATING THE SCHEME

This publication scheme plays a part in meeting the Board's obligations under the Freedom of Information (Scotland) Act 2002.

In considering what information should be included in this publication scheme, the Board took account of:-

- Consultation with the local licensed trade;
- Feedback from local solicitors who practice in liquor licensing law;
- The pattern of requests for information directed to the Clerk to the Board, particularly via Aberdeenshire Council's website.
- Benchmarking and networking with other Scottish public authorities.

#### **4. RESPONSIBILITY FOR THE PUBLICATION SCHEME**

The person responsible for the overall operation of this publication scheme is Neil McDowall, the Clerk to the Licensing Board (contact details under “complaints” section below). Alison Stone, the Depute Clerk, has day-to-day responsibility. Her details are given on the Front Page, and all contact should be with her in the first instance.

#### **5. EXEMPTIONS**

The public’s right to information is twofold:

- (a) Access to information under this Scheme is automatic (subject to the exemptions discussed in this section).
- (b) From 1 January 2005, the general entitlement to information under section 1 of the Freedom of Information (Scotland) Act will enable any member of the public to make a request for information that is not in this Scheme.

The Board aims to be as open as possible. However, it may withhold information from any of the classes of information listed below where it considers that disclosure may seriously prejudice law enforcement, legal proceedings or the Board’s regulatory or quasi-judicial function or where the disclosure is otherwise prohibited by law. Where possible, specific instances of how this is to operate in practice are included in the Classes of Information at Section 11 below, but in general it should be noted that even if a document is in a Class of Information, it, or parts of it, may be held back because exemptions apply. Even where an exemption exists, it may nevertheless be possible to provide copies with the exempted information edited-out.

The Board may also withhold information:-

- which is confidential – see Section 36 of the Freedom of Information (Scotland) Act; or
- which is personal information under the Data Protection Act 1998.

For the avoidance of doubt, contact details for Board Members will not be disclosed under this scheme. This is because it is a criminal offence under section 19 of the Licensing (Scotland) Act 1976 to attempt to influence a member of a licensing board to support an application. Additionally, such an approach would put a member at risk of contravening the Code of Conduct for Councillors under the Ethical Standards in Public Life (Scotland) Act 2000

If you wish to complain about information which is being withheld from you, please see the “complaints” section below.

## 6. ARCHIVING POLICY

The Board's archiving policy is contained within the Director of Law and Administration's document retention policy as follows:

Type of Document	Retention Period
Licensing Board (General)	10 Years
Licensing Board (Premises files, including applications and plans)	20 Years

Lists of current licence holders are updated quarterly, when the previous lists are destroyed.

## 7. COPYRIGHT

Unless otherwise stated, the Board reserves copyright in all information available under this publication scheme, whether that information is in electronic or hard-copy format, text or graphics, and regardless of whether the copyright (©) symbol appears. The right to information under this scheme does not include permission to reproduce that information. Such use may infringe copyright, and consent of the copyright holder should always be sought.

## 8. ACCESSING INFORMATION UNDER THE PUBLICATION SCHEME

Online. Where appropriate, all information available under this publication scheme will be downloadable online at [www.aberdeenshire.gov.uk](http://www.aberdeenshire.gov.uk). Click the "Business" tab on the homepage; under the "Business Options are..." menu, select "Licensing".

E-mail. It may be possible to send electronic copies by e-mail, on request to the above address (please remember to include "Freedom of Information" in the subject line).

Otherwise: please communicate your request to the contact address at the top of this scheme. The Depute Clerk will be pleased to help.

Please note that the Depute Clerk is unable to provide you with legal advice.

## 9. CHARGING POLICY

Fees and other charges for accessing information under this Scheme are set out under the Classes of Information at par. 11 below.

These should not be confused with the statutory fees for licensing applications, which are set by the government.

## 10. COMPLAINTS and FEEDBACK

Feedback, including complaints about this publication scheme, should be directed to:-

Neil W McDowall  
Clerk to the Licensing Board  
Woodhill House  
Westburn Road  
Aberdeen AB16 5GB

Tel 01224 665430

Fax 01224 665445

e-mail [neil.mcdowall@aberdeenshire.gov.uk](mailto:neil.mcdowall@aberdeenshire.gov.uk)

If we are unable to resolve any complaint, you can complain to the Scottish Information Commissioner, at

Kinburn Castle,  
Doubledykes Road,  
St Andrews, Fife  
KY16 9DS  
Telephone: 01334 464610

Fax: 01334 464611

e-mail: [enquiries@itspublicknowledge.info](mailto:enquiries@itspublicknowledge.info)

The Commissioner oversees the Freedom of Information (Scotland) Act. From 1 January 2005, when the general right of access comes into force, there will be a formal appeal mechanism when information is withheld. Further details on this will be available on the Commissioner's website: [www.itspublicknowledge.info](http://www.itspublicknowledge.info).

## 11. CLASSES OF INFORMATION

### Class 1 Licensing Board decisions

<i>information</i>	<i>manner in which the information is published</i>	<i>charges</i>
Minutes of Board meetings – from 1977 to the last quarter	<ul style="list-style-type: none"> <li>▪ Available at Gordon House (contact details as shown in the Heading of this Scheme)</li> </ul>	No charge for inspection; photocopies charged @ 20p per A4 side
Appeal Decisions within the past two years	<ul style="list-style-type: none"> <li>▪ Available at Gordon House</li> </ul>	No charge for inspection; photocopies charged @ 20p per A4 side
<p>Statements of Reasons requested by applicants/objectors /complainers explaining the reasoning behind Board decisions –</p> <p><u>EXCEPT</u> any statements issued during the current quarter (that is, issued following the previous January, March, June or October, whichever is the most recent) or which are the subject of an appeal</p>	<ul style="list-style-type: none"> <li>▪ Available at Gordon House</li> </ul> <p><i>Excepted items are, or have the potential to be, produced in Court.</i></p>	No charge for inspection; photocopies charged @ 20p per A4 side
<p>Reports by the Clerk to the Board on Board policy, training etc.</p> <p><u>EXCEPT</u>:- reports to the current quarterly meeting on live applications, complaints, etc., which could be appealed.</p>	<ul style="list-style-type: none"> <li>▪ Available at Gordon House</li> </ul> <p><i>Excepted reports have the potential to be produced in any subsequent court appeal – however, any decision to except a report from this category will be made on a case-by-case basis.</i></p>	No charge for inspection; photocopies charged @ 20p per A4 side

## Class 2 Application Processes

<i>information</i>	<i>manner in which the information is published</i>	<i>charges</i>
Application forms	<ul style="list-style-type: none"> <li>▪ Available from Gordon House (contact details as shown in the Heading of this Scheme)</li> <li>▪ Downloadable from website:- <a href="http://www.aberdeenshire.gov.uk">www.aberdeenshire.gov.uk</a></li> </ul>	No charge for the application form; statutory fees for licensing applications apply, as set by the Scottish Executive (details available from Gordon House).
Policy Statements	<ul style="list-style-type: none"> <li>▪ Available from Gordon House</li> <li>▪ Downloadable from website.</li> </ul>	No charge
Application Criteria and Guidelines	<ul style="list-style-type: none"> <li>▪ Normally included with application forms.</li> <li>▪ Otherwise available from Gordon House</li> <li>▪ Downloadable from website.</li> </ul>	No charge
The Board's Regulations	<ul style="list-style-type: none"> <li>▪ Available from Gordon House</li> <li>▪ Downloadable from website.</li> </ul>	No charge

## Class 3 Public Registers

<i>information</i>	<i>manner in which the information is published</i>	<i>charges</i>
Statutory Registers	<ul style="list-style-type: none"> <li>▪ Available for inspection in Gordon House (contact details as shown in the Heading of this Scheme)</li> </ul>	No charge for inspection; photocopies charged @ 20p per A4 side
Lists of current licence-holders	<ul style="list-style-type: none"> <li>▪ Available from Gordon House</li> <li>▪ Downloadable from website.</li> </ul>	£10 for paper copy.

### And finally...

Remember that from 1 January 2005, the public will be able to seek information not included in this Publication Scheme. This right is conferred by Section 1 of the Freedom of Information (Scotland) Act 2002, and is fully retrospective.