

# **HIGHLAND LICENSING BOARD PUBLICATION SCHEME**

## **INTRODUCTION**

The Freedom of Information (Scotland) 2002 provides for a duty to be placed on Public Authorities (of which the Licensing Board is one) to set out:-

### **The basic structure of the Licensing Board and how it is administered**

#### **Both the type of information available to the public and how it can be extracted.**

- 1.1. The Highland Licensing Board is split into three Divisional Boards, each having their own statutory authority for their geographical area. The Divisional Boards do not employ staff, these being employed by The Highland Council who are obligated under statute to manage the Liquor Licensing Regime. Members of the Divisional Board are all democratically elected Councillors who form The Highland Council with its headquarters in Inverness. They are appointed by The Highland Council at one of the first council meetings to be held after each general election to the Council.
- 1.2. A primary concern of each Divisional Board is that it is seen to act at all times, in the public interest by discharging its responsibilities under governing legislation. This includes the regard it has to the importance of information that it holds. Care is taken to ensure that the Divisional Boards meet their obligations under the Freedom of Information (Scotland) Act 2002 which by definition, includes this importance being placed on the drawing up of this Publication Scheme.
- 1.3. In summary, great emphasis is placed on openness and transparency whilst recognising the frictions placed on these issues by the legal parameters within which the Boards operate.
- 1.4. The purpose of the Scheme is to provide the public with a basic understanding of the function of the Board, what information is held, who has access to it and how, and in what form it can be obtained.

## **THE FUNCTIONS OF THE BOARD AND HOW IT WORKS**

- 2.1. Licensing Boards operate in order to administer the system of licensing within the context of the Licensing (Scotland) Act 2005. This covers the issue of premises licences and personal licences required by the Act to operate licensed premises.
- 2.2. Managing these licences also involves exercising control over the operation of 'Licensed Premises', which can include the use of sanctions such as suspension of licence, where a Licensee has failed to observe the law or the licensing conditions.
- 2.3. The Licensing Scheme of Administration takes its authority from the Licensing (Scotland) Act 2005. Although, as stated above, there is a Highland Licensing Board with a Clerk, responsibility for operating the Licensing Administration System is devolved to three Divisional Licensing Boards based on the geographical boundaries found within the administrative area of The Highland Council, the outer boundaries of

- 2.4. The Divisional Boards are:
- \* **Caithness, Sutherland & Easter Ross: Depute Clerk, Council Offices, Market Square, Wick, Caithness, KW1 4AB. Tel: (01955) 607708**
  - \* **Inverness, Nairn, Badenoch and Strathspey: Clerk, The Town House, Inverness, IV1 1JJ. Tel: (01463) 724210**
  - \* **Ross, Skye & Lochaber: Depute Clerk, Tigh Na Sgire, Park Lane, Portree, Isle of Skye, IV51 9EP. Tel: (01479) 613 826**
- 2.5. Each Divisional Board is managed by a Depute Clerk. The Members of each Divisional Board are made up of Highland Councillors whose constituencies fall within the geographical boundaries of the relevant Divisional Board.
- 2.6. If any member of the public, whether in person or through a Company, wishes to sell alcohol by retail, then prior to doing so they must obtain a licence for the premises that they intend to sell alcohol from. They do this by making an application for an appropriate licence to the Depute Clerk based at the relevant Office of the Divisional Licensing Board within which the premises are to be located. Every premises requires a Premises Manager who must hold a personal licence.
- 2.7. The Licensing Boards do not just make decisions about the grant of a new licence, they also regulate the transfer of licences to new owners, variations of premises operating plans, the grant of special licences such as Occasional Licences and Occasional Permissions (which allow Licensees and Voluntary Organisations (respectively) to sell alcohol at specific events such as the Highland Games and fundraising events).
- 2.8. Additionally, if a Licensee breaches the law, in relation to the operation of the Licensed Premises, anyone is entitled to object or make representation to the relevant Divisional Licensing Board, if they believe a particular Licensed Premises are being operated in an inappropriate manner, or are breaching a condition of their licence. Complaints can be either in the form of objections or representation. Guidance on utilising these procedures is published on the Highland Council website under the Liquor Licensing directory.
- 2.9. The Licensing Boards hold meetings as required, the dates and venues of meetings are advertised on The Highland Council website and are open to members of the public.
- 2.10. All major decisions relating to the Licensing Board's functions are made at meetings of the Board, but a number of non-contentious decisions are delegated to the Clerk to the Board. Information about decisions is contained within Minutes of meetings of the Board, the register of decisions and statements of reasons. (NB: statement of reasons are issued only in a limited number of cases where specifically requested by an applicant).

2.11. The work of the Board(s) is subject to statutory time limits and the Board meets those time limits on all occasions.

2.12. Once a premises licence is granted it remains in force as long as the premises trade as such. There is only one category or licence, namely a 'Premises Licence' which incorporates an Operating Plan which sets out;

- \* on and off sales hours
- \* seasonal variations
- \* activities which are carried on
- \* children's policy
- \* capacity
- \* premises manager

and is unique to the running of each individual premises.

2.13. In order to operate for the sale or supply of alcohol, each premises will require a named Premises Manager, who must also be a personal licence holder. Premises can have more than one personal licence holder, dependent on the scale and hours of their operation. A personal licence lasts for 10 years, but there is mandatory refresher training after 5 years.

2.14. The information relating to the operation of licensed premises is held within the data basis found in the local office relevant to the geographical location of the Licensed Premises. Enquiry can be made with a Depute Clerk at that office. Some information is held on manual databases, however much is also held on computerised databases. Each office will hold a list of Licensed Premises which are administered by that office. Further, The Highland Council Internet site: <http://www.highland.gov.uk/landaintra/licensing/liquor> is regularly updated and does contain some detail on the Policies (these are documents which give guidance to the public as to the criteria which the relevant Divisional Board uses when making certain major decisions) as well as regulations which include details on the fees to be applied. The level of fees are set centrally by the Scottish Executive. The website also contains application forms, which can be downloaded.

2.15. The Divisional Boards do not sell copies of registers on to trade enquiries.

2.16. In addition to administering the sale of alcohol, the Board also has involvement in licensing the location of amusement with prizes machines within certain Licensed Premises (namely pubs and hotel bar areas) under the Gaming and Betting Acts; Track Betting Licences, Betting Offices and Permits and Bingo Licences.

### **RESPONSIBILITY FOR THE PUBLICATION SCHEME**

3.1. Management for this Scheme is under the guidance of the Clerk to the Inverness, Nairn, Badenoch and Strathspey Board, Mr Donald Somerville.

## EXEMPTIONS

4.1. There are four categories of information held by the Divisional Boards, these being:-

- \* Applications under the Licensing (Scotland) Act 2005
- \* Applications for the Betting and Gaming Acts
- \* Applications for amusement with prizes machines
- \* Applications for Bingo Licences

As stated previously, these relate to the licensing of certain amusements with prizes machines within alcohol Licensed Premises.

The Board is under a duty to disclose the location of the relevant Licensed Premises and the name of the premises licence holder. However, in order to protect the personal data of individuals, personal details which may have been made available to the Divisional Boards relating to the place of residence and/or the personal history of the licensee will not be disclosed to the public. Indeed, as stated earlier, all the Board decisions are taken in public and the Board treats all applications on their individual merits. However, whilst we will withhold the information, and indicate why the information is being withheld, if you wish to complain about this you may do so by contacting the Depute Clerk for the relevant Divisional Board, or completing a complaint form as details in The Highland Council's website:-

<http://www.highland.gov.uk/cx/policies/complain.htm>

## ARCHIVING POLICY

5.1. In general, information relating to the licensing history of individual premises is held from the date they were first licensed under the Licensing (Scotland) Act 1976 and Lottery under the Licensing (Scotland) Act 2005 through its registers and that of its predecessors' registers. Clearly it is not possible to guarantee that all historical information will be available, however the Divisional Boards will use their best endeavours to maintain a clear and detailed record.

## COPY RIGHT

6.1. Information obtained from the Publication Scheme can be copied or reproduced without formal permission provided it is copied or reproduced accurately, is not used in a misleading context and provided that the source of the material is identified and the copyright status is acknowledged. However, there is an exception in relation to plans which have been prepared by architects. Prior to these being copied, consent will be required, in writing, from the holder of the relevant copyrights.

## ACCESSING INFORMATION UNDER THE PUBLICATION SCHEME

7.1. Information can be assessed in the following ways:-

- i) **Online:** Application forms, information on some of the Divisional Boards' Policies and Agendas for meetings are available by logging onto <http://www.highland.gov.uk/liquorlicensing/forms>

- ii) **By email:** If the information you request is not available on this website but is listed in our Publication Scheme, we will endeavour to send it to you by e-mail, wherever practicable and so long as it is not a request for exempt information.
- iii) **By Phone:** Information can be requested over the telephone. Remember to contact the relevant Depute Clerk's office for the area within which the Licensed Premises are located as at Paragraph 2.4. Further, when calling, it is important to leave a contact telephone number where we can reach you should we require to pass information to you, or contact you for further details.
- iv) **By Post:** Most information is also available in paper copy form, however please be aware that we cannot provide copies of the Licensing Boards Register of Applications as this is only open for physical inspection. However, we can supply information from it. Please address your request to the relevant Depute Clerk at the address noted in Paragraph 2.4. When requesting information, please include the details of your name and address and the information or documents you want to see.
- v) **Personal visits:** As stated above, should you wish to inspect the Register then a personal visit will be required. You will need to make an appointment to view the information, and therefore again please contact the relevant Depute Clerk's office, details listed at Paragraph 2.4.

7.2. In general, if you have any difficulty determining the information you want to see, please contact either the relevant office of the Depute Clerk or the Clerk's office at Inverness, all details supplied in Paragraph 2.4.

### **CHARGING POLICY**

8.1. In general, information will be supplied free of charge. However please be aware that should you wish to apply for a licence then the statutory fees will apply, these can be found either by logging onto The Highland Council website <http://www.highland.gov.uk/businessinformation/licensing/liquorlicensing> or by contacting the relevant Depute Clerk's office.

### **COMPLAINTS**

9.1. Whilst The Highland Council has a complaints procedure with leaflets available in each of the Councils Service Points, complaints should initially be made in writing to the Clerk of the Licensing Board whose details are provided in paragraph 2.4. Details of how to make a complaint can be found on the

Council's website:

[http://www.highland.gov.uk.landaintra/corporate\\_services/licensing/objecting.pdf](http://www.highland.gov.uk.landaintra/corporate_services/licensing/objecting.pdf)

The Clerk will endeavour to investigate and respond within approximately 14 days from the date of receipt of your letter (excluding public holidays). However, it will be noted that Boards have to treat certain complaints in a certain fashion, dictated by relevant government legislative requirements. Where this occurs The Highland Council's policy on complaints will not apply and complainants advised accordingly.

From 1<sup>st</sup> January 2005, when the general right of access came into force, a formal appeal process where you can request a review of any decision to withhold information was set up. This request must be made within 40 days of the original decision. The decision to

withhold information will then be reviewed by a senior official. Their decision will be sent to you and if you are still dissatisfied there is a right of appeal to the Scottish Information Commissioner. Further details on this process will be available on the Commissioner's website at [www.itspublicknowledge.info](http://www.itspublicknowledge.info) before this date.

The Scottish Information Commissioner  
Kinburn Castle  
Doubledykes Road  
St Andrews  
Fife KY16 9DS  
Tel: (01334) 464610

### **FEEDBACK**

11.1. The Freedom of Information (Scotland) Act 2002 requires that we review our Publications Scheme from time to time. As a result we welcome feedback on how we can develop the scheme further. If you would like to comment on any aspect of the scheme, please contact us. You may for example wish to tell us about:-

- \* other information you would like to see included in the scheme.
- \* whether you found the scheme easy to use.
- \* whether you found the Publication Scheme useful.
- \* whether our staff were helpful, and
- \* other ways in which our Publication Scheme can be improved.

11.2. Please send any comments or suggestions to the Clerk to the Board using the comments form found at The Highland Council website: [www.highland.gov.uk/comments](http://www.highland.gov.uk/comments)

### **CLASSES OF INFORMATION**

**Information held by the Licensing Boards relates to the following four categories:-**

- 12.1 As stated previously, information held by the Licensing Board relates to the following four categories: \_
- i) Applications made under the Licensing (Scotland) Act 2005
  - ii) Applications under the Gaming and Betting Acts for Permits to place amusements with prizes machines in licensed premises situated within hotels and public houses
  - iii) Applications for betting offices and permits
  - iv) Bingo licences under the Gaming Acts.

## APPENDIX 1

### CLASSES OF INFORMATION

#### **Class 1. Licensing Board Applications**

<b>Information</b>	<b>Manner in which information is published</b>	<b>Charges</b>
Application Forms	Available from Highland Council Service Points detailed herein. Available on the Council website: <a href="http://www.highland.gov.uk">www.highland.gov.uk</a>	No charge for the application forms; statutory fees for licensing applications apply
List of fees payable	Available from Highland Council Service Points, detailed herein. Available on the Council website: <a href="http://www.highland.gov.uk">www.highland.gov.uk</a>	No charge
Agenda's of Board Meetings	Available from Highland Council Service Points, detailed herein. Available on the Council website: <a href="http://www.highland.gov.uk">www.highland.gov.uk</a>	No charge

## Class 2. Licensing Board Decisions

Information	Manner in which information is published	Charges
List of applications	Available from Highland Council Service Points, detailed herein. Available on the Council website: <a href="http://www.highland.gov.uk">www.highland.gov.uk</a>	No charge
Minutes of Board Meetings	Available at Highland Council Service Points. Photocopies are also available.	No charge
Appeal decisions within the past 2 years	Available for inspection at Highland Council Service Points; photocopies are also available.	No charge
State of Reasons under Section (ie. written statements of the reasons for decisions of the Board) - except any statements issued during the current quarter which are subject to an appeal	Available for inspection at Highland Council Service Points; photocopies are also available.	No charge
Reports to the Board (ie. written reports relating to my matter on which the Board is making a decision)	Available for inspection at Highland Council Service Points; photocopies are also available.  <i>NB:</i> Reports containing confidential and/or personal information protected by the Data Protection Act 1998 is excepted.	No charge
Public Register of decisions	Available for inspection at Highland Council Service Points; photocopies are also available.	No charge
Policy Statements (ie. statements of any policy that has formally been adopted by the Board)	Available for inspection at Highland Council Service Points; photocopies are also available.  Available on Highland Council website at <a href="http://www.highland.gov.uk">www.highland.gov.uk</a>	No charge
Complaints, Objections and Representations	Available for inspection at Highland Council Service Points; photocopies available on request.  <i>NB:</i> Any matter containing confidential information and/or personal information protected by the Data Protection Act 1998 is excepted.	No charge.

### **Class 3. Policy Registers**

<b>Information</b>	<b>Manner in which information is published</b>	<b>Charges</b>
Statutory Registers (contain details of applications for licences)	Available for inspection at Highland Council Service Points; photocopies are available on request	No charge
List of Licensed Premises	Available for inspection at Highland Council Service Points; photocopies available on request	No charge

## **HIGHLAND SERVICE POINTS**

Hard copy at Service Points or Council Office below:  
Office House: 9.00am to 5.00pm

<b>Badenoch and Strathspey</b>	Council Offices, Ruthven Road, Kingussie, PH21 1EJ
<b>Caithness</b>	Council Offices, Market Square, Wick, Caithness, KW1 4AB
<b>Inverness</b>	Church Street, Inverness, IV1 1JJ
<b>Lochaber</b>	Lochaber House, High Street, Fort William, PH33 6EL
<b>Nairn</b>	The Courthouse, High Street, Nairn, IV12 4AU
<b>Skye and Lochalsh</b>	Tigh Na Sgìre, Park Lane, Portree, Isle of Skye, IV51 9EP
<b>Ross and Cromarty</b>	District Offices, High Street, Dingwall, IV15 9QN
<b>Sutherland</b>	Area Offices, Main Street, Golspie, Sutherland, KW10 6RB