

HIGHLAND LICENSING BOARD PUBLICATION SCHEME

INTRODUCTION

The Freedom of Information (Scotland) Act 2003 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 all appointed by 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 the sale of liquor by retail, within Scotland. This covers most points of sale involving the distribution of alcohol to the general public.
- 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 1976. Although, as stated above, there is a Highland

Licensing Board with a clerk, responsibility for operating the Licensing Administration System is devolved to eight Divisional Licensing Boards based on the geographical boundaries found within the administrative area of The Highland Council, the outer boundaries of which also form the geographical boundaries of the operation of the Highland Licensing Board.

- 2.4 The Divisional Boards are: -
- **Caithness, Sutherland & Easter Ross**
 - **Inverness, Nairn, Badenoch and Strathspey**
 - **Ross, Skye & Lochaber**
- 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. See Classes of Information at 13.1
- 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, the extension of the hours in which alcoholic liquor may be sold, the grant of special licences such as Occasional Licences and Occasional Permissions (which allow Licensees and voluntary organisation (respectively) to sell alcohol at specific events such as Highland Games and fundraising events).
- 2.8 Additionally, if a Licensee breaches the law, in relation to the operation of the Licensed Premises, or personally, then certain classes of people are entitled to 'complain' to the relevant Divisional Licensing Board, if they believe a particular Licensed Premises are being operated in an inappropriate manner or, that a Licensee is no longer a fit and proper person to hold a licence.
- 2.9 Certain decisions are required by law, to be taken at 'Statutory Quarterly Meetings'. These meetings are held in January, March, June and October of each year, and are open to members of the public. Although Licensing Board Members may retire to consider advice from their Clerk, privately, all decisions of the Board are taken in public.
- 2.10 The following decisions must be taken at a full Meeting:-
- Applications for the grant, including the provisional grant of a new licence
 - Applications for the renewal of a licence where a competent Objection has been lodged
 - The refusal to grant a licence
 - The applications for the permanent transfer of a licence
 - Applications for the regular extension of permitted hours
 - Making a decision on the restriction of the terminal permitted hour

- Decisions on applications for restoration of restricted hours
 - Deciding on whether or not to suspend a licence, or to make a closure order (these are used only in the event of a ‘complaint’ being made as described above).
- 2.11 A full description of the above functions can be found in section 5(2) of the Licensing (Scotland) Act 1976. In general, the remaining functions in relation to the management of Licensed Premises which includes authorisation to alter them, is carried out by the Depute Clerk, in some cases acting alone, in others with consent of at least one Licensing Board Member.
- 2.12 Once a licence is granted (unless it is an Occasional Licence or Permission), it lasts for a period of three years from the date of grant. There are different types of licences and what type of licence is applied for depends very much on the type of premises to be licensed. The main licensing categories are:-

HOTEL
PUBLIC HOUSE
RESTRICTED HOTEL
RESTAURANT
ENTERTAINMENT
REFRESHMENT
OFF-SALE

- 2.13 Persons wishing to operate bars usually apply for a Public House Licence which allows for the sale or supply of alcoholic liquor for the consumption either off or on the premises. Whereas an Off-Sale Licence (normally applied for by those wishing to operate retail shops selling alcohol) restricts the sale of alcohol to consumption off the premises only. There are one or two other types of licence, if you are interested for further details do not hesitate to contact the Depute Clerk at you local Divisional Board.
- 2.14 The information relating to the operation of Licensed Premises is held within the data bases 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 Councils Internet site:

http://www.highland.gov.uk/landaintra/corporate_services/licensing/liquor/index.htm

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 enquirers.
- 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.

FORMULATING THE SCHEME

- 3.1 Through the devolvement of authority via the Divisional Boards structure, much information in relation to the design of this scheme was already available to the Clerk, Donald Somerville, who also acts as the Clerk to the Inverness Divisional Licensing Board. However, an advert was placed in the Press and Journal, being a paper published across the Highlands, giving the public twenty one days in which to comment on the terms of the Scheme, copies of which were left at the Councils Service Points, located throughout the Highlands.

RESPONSIBILITY FOR THE PUBLICATION SCHEME

- 4.1 Management for this Scheme is under the guidance of the Depute Clerk, David M Haas, who can be contacted at the address for the Divisional Licensing Board at Kingussie.

EXEMPTIONS

- 5.1 There are four categories of information held by the Divisional Boards, these being: -
- Applications under the Licensing (Scotland) Act 1976 (detailed above)
 - 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 hotel and public house Licensed Premises.

The Board is under a duty to disclose the location of the relevant Licensed Premises and the name of the Licensee. 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. This is in line with the Board's Policy which is to be as open as possible. Indeed, as stated earlier, all 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 detailed in The Highland Council's web site:

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

ARCHIVING POLICY

- 6.1 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 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.

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ACCESSING INFORMATION UNDER THE PUBLICATION SCHEME

- 8.1 Information can be accessed in the following ways: -
- i) **Online:** Application forms, information on some of the Divisional Boards Policies and Agendas for Statutory Quarterly Meetings are available by logging onto http://www.highland.gov.uk/landaintra/corporate_services/licensing/liquor/forms.htm
 - ii) **By e-mail:** 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. Full contact details can be found in Paragraph 12.1 Table of Information. Remember to contact the relevant Depute Clerk's Office for the area within which the Licensed Premises are located. 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 12.1 Table of Information. When requesting

information, please include the details of your name and address and the information or document 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 12.1 Table of Information.

- 8.2 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 Clerks office at Inverness, all details supplied in Paragraph 12.1 Table of Information.

CHARGING POLICY

- 9.1 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/landaintra/corporate_services/licensing/fees.htm or by contacting the relevant Depute Clerk's Office.

COMPLAINTS

- 10.1 Whilst The Highland Council has a complaints procedure with leaflets available in each of the Councils Service Points located within the eight administrative Areas of Highland Council, all complaints should initially be made in writing to the Clerk of the Licensing Board whose details are provided in Paragraph 12.1 Table of Information. 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

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 1st January 2005, when the general right of access comes into force, there will be a formal appeal process where you can request a review of any decision to withhold information. 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 before this date.

The Scottish Information Commissioner
Kinburn Castle,
Doubledykes Road,

St. Andrews,
Fife
KY16 9DS

Tel: 01334 464610

FEEDBACK

11.1 Comments are welcome on the operation of this Scheme. We are always looking for ways to improve and develop the service we offer to the public. A comments form is attached to this Publications Scheme and further copies can be found at The Highland Council's website:

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 1976,
- 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.

THE BADENOCH AND STRATHSPEY PUBLICATION SCHEME
CLASSES OF INFORMATION

CLASSES OF INFORMATION

Class 1: Licensing Board Decisions

Information	Manner in which information published	Charges
Decisions	Inspection at Service Points detailed below; print copies available on request	No charge for inspection.
Appeal Decisions within the past two years	Inspection at Service Points detailed below; print copies available on request.	No charge for inspection
Statement of Reasons (except any statements issued during the current quarter or which are the subject of an appeal)	Inspection at Service Points detailed below; print copies available on request.	No charge for inspection.
Reports to the Board (except any reports to the current quarterly meeting or reports on complaints and objections where these contain personal information protected by the Data Protection Act 1998).	Inspection at Service Points detailed below; print copies available on request.	No charge for inspection.
Excepted items in this class are confidential and/or contain personal information protected by the Data Protection Act 1998.		

Class 2: Application Processes

Information	Manner in which information published	Charges
Application forms	Available from Service Points detailed below or can be downloaded from: http://www.highland.gov.uk/landaintra/corporate_services/licensing/liquor/forms.htm	No charge for the application form; statutory fees for licensing apply, as set by the Scottish Executive
Policy statements	Available from Service Points detailed below or can be downloaded from: www.highland.gov.uk/cx/policies/	No charge

Applications criteria and any guidelines	Available from Service Points detailed below.	No charge
The Board's regulations	Available from Service Points detailed below.	No charge

Class 3: Public Registers

Information	Manner in which information published	Charges
Statutory Registers	Available from Service Points detailed below:	Inspection only- no charge

HIGHLAND SERVICE POINTS

Hard copy at Service Points or Council Office below:

Office Hours: 9.00am to 5.00pm

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

Sutherland	Area Offices, Main Street, Golspie, Sutherland KW10 6RB
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