

The Highland Licensing Board

Meeting – 1 December 2020

| | |
|-------------|------------|
| Agenda Item | 6 |
| Report No | HLB/074/20 |

The Highland Licensing Board Annual Financial Report 2019-20

Report by the Clerk to the Licensing Board

Summary

This Report invites the Board to approve the Board's fourth annual Financial Report for publication in accordance with section 9B of the Licensing (Scotland) Act 2005.

1. Background

1.1 The Air Weapons and Licensing (Scotland) Act 2015 amended the Licensing (Scotland) Act 2005 (the "2005 Act") to introduce a requirement that Licensing Boards produce and publish annual financial reports.

1.2 Section 9B of the 2005 Act states that the Board's annual finance report must be prepared and published not later than 3 months after the end of each financial year. This means that the Board's report for the financial year 2019-20 normally must be published no later than the end of June 2020.

However, Schedule 5 of the Coronavirus (Scotland) Act 2020 inserted an additional clause into the 2005 Act providing the Board with a further 6 months if they were unable to publish their annual functions report by the end of June, due to a reason relating to coronavirus.

1.3 The financial report must include-

(a) a statement of-

(i) the amount of relevant income received by the Licensing Board during the financial year, and

(ii) the amount of relevant expenditure incurred in respect of the Board's area during the year, and

(b) an explanation of how the amounts in the statement were calculated.

1.4 In this context, "relevant income" means income received by the Board in connection with the exercise of the Board's functions under or by virtue of the 2005 Act. This involves a relatively straightforward tally of all of the fee income generated by 2005 Act licence applications received in the course of the financial year.

- 1.5 “Relevant expenditure” means any expenditure-
- (a) which is attributable to the exercise of the Board’s functions under or by virtue of the 2005 Act, and
 - (b) which is incurred by the Board, the Council or the Licensing Standards Officers for the Board’s area.
- 1.6 Calculation of relevant expenditure is a less straightforward exercise and of necessity involves producing a number of figures based on allocations and estimations.
- 1.7 For example, the calculation of direct staff costs involves estimating the time which licensing staff spend dealing with 2005 Act licence applications (as opposed to time they spend on dealing with other types of licence applications) in the relevant financial year, and estimating other staff time spent in supporting the Board in that financial year.
- 1.8 Further difficulty arises in calculating indirect expenditure specifically incurred by the Council in supporting the Board’s functions under the 2005 Act. This includes expenditure such as the cost of ICT, accommodation, financial services support, corporate communications support and Service Point involvement. The Council’s internal accounting system for licensing expenditure (particularly indirect expenditure) is not set up to separately record expenditure in connection with the Board’s functions under the 2005 Act so as to distinguish it from all other direct or indirect expenditure in connection with the Board’s and the Council’s various other licensing functions under other legislation.
- 1.9 Despite the inherent difficulties involved, a calculation of relevant income and expenditure for the financial year 2019-20 has nonetheless now been prepared by the Council’s Finance service and is set out in the draft Financial Report 2019-20 attached as **Appendix 1**.
- 1.10 However, for the reasons given above, the Financial Report relies on best estimates and should not be read as a precise statement of income and expenditure relative to the exercise of the Highland Licensing Board’s functions under the Licensing (Scotland) Act 2005 for the financial year 2019-20.
- 1.11 The purpose of these financial reports is primarily to ensure greater transparency in Boards’ financial affairs. However, the Scottish Government have advised that they also intend using these reports over the next few years to inform a review of the 2005 Act licence fees fixed in The Licensing (Fees) (Scotland) Regulations 2007 (the “Regulations”). These Regulations have not been updated since coming into effect in February 2008.
- 1.12 Depending on the type of licence application, the Regulations currently set either fixed fees or a maximum cap on the fees which can be charged. The fees which Boards’ have discretion to fix (subject to the maximum cap set in

the Regulations) are the fees for applications for new premises licences, major variations to existing premises licences and the annual fee payable in respect of granted premises licences.

- 1.13 In Highland, some of these discretionary fees are currently set below the maximum permitted in the Regulations but at a level which, as far as can be predicted, will ensure full cost recovery.
- 1.14 The legislation provides that, in determining discretionary fees, Boards must have regard to the desirability of ensuring that the total fees payable to the Board under the 2005 Act in respect of any period are likely to be broadly equivalent to the expenses incurred by the Board and the Council, in administering the 2005 Act generally during that period.
- 1.15 It is probable therefore that the Scottish Government anticipate that Licensing Board's themselves will be able to use their own annual financial reports to assist them in meeting this statutory duty by helping to identify any need to adjust the discretionary fees to either further below, or further towards, the statutory maximum.
- 1.16 However, in addition to the difficulties explained above in producing precise figures for expenditure associated with the Board's functions, compliance with the statutory duty is made all the more complex by the fact that income each year can vary significantly depending on the number and type of licence applications received. It is not possible to accurately forecast application numbers and resultant fee income when fixing the discretionary fees. Consequently, there is likely always to be a disparity between income and expenditure at the end of each financial year.
- 1.17 Moreover, an assessment of compliance with the statutory duty based on financial reports over the next few years has been further complicated by the need to assess the effects of the recent changes to the rateable values of various licensed premises. These changes in rateable values will have an effect on fee income over this financial year and further financial years, as all fees chargeable for applications for premises licences and major variations thereto, and the annual fees chargeable for existing premises licences, are based upon the rateable value of the premises.

This financial year also coincides with the largest batch of personal licence renewal applications. The 2005 Act came into full effect on September 2009. Personal licence holders must apply to renew their licences every ten years. As such, personal licence holders who first obtained their licence at the introduction of the existing regime were required to renew their personal licence for the first time. 1103 personal licence applications were granted in the 2019-20 financial year. This is compared with 542 personal licence applications granted in the 2018-19 financial year.

Recommendation

The Board is invited to approve the draft Financial Report 2019-20 attached at Appendix 1 for publication in accordance with section 9B of the 2005 Act, with the caveat contained therein that it is not to be relied upon as a precise statement of income and expenditure in that financial year.

Date: 4 November 2020

Author: Claire McArthur

Appendices: Appendix 1 – Draft Annual Financial Report 2019-20

Appendix 2 – Table of current fees charged

Background Papers: Licensing (Scotland) Act 2005

The Licensing (Fees) (Scotland) Regulations 2007

Licensing (Scotland) Act 2005

Highland Licensing Board Financial Report

Financial Year: 2019-20

From 15 May 2017, the Highland Licensing Board has been required under section 9B of the Licensing (Scotland) Act 2005 (the "2005 Act") to publish an annual financial report. The report must set out the income received and expenditure incurred in connection with the exercise of the Board's functions under the 2005 Act.

The Highland Council's internal accounting system for licensing expenditure (particularly indirect expenditure) is not set up to separately record expenditure in connection with the Board's functions under the 2005 Act so as to distinguish it from all other direct or indirect expenditure in connection with the Board's and the Council's licensing functions under other legislation.

Consequently, while this report has been prepared using financial data taken for the year ending 31 March 2020, in order to provide a figure for total expenditure the figures in this report also include a number of allocations and estimations. **The report accordingly relies on best estimates and should not be read as a precise statement of income and expenditure relative to the exercise of the Highland Licensing Board's functions under the 2005 Act for the financial year 2019-20.**

The financial statement for 2019-20 is as follows:

| | |
|--|-----------------|
| Income¹: | 2019-20 |
| Premises Licence | £24,346 |
| Provisional Premises Licence | £4,000 |
| Temporary Premises Licence | £257 |
| Annual Fees | £402,278 |
| Transfers | £22,668 |
| Minor Variations | £1,904 |
| Major Variations | £15,428 |
| Extended Hours & Occasional Licence | £15,820 |
| Personal Licence | £53,281 |
| Other ² | £13,254 |
| Total | £553,236 |
| | |
| Direct Staff Costs³: | |
| Licensing Standards Officers | £77,077 |
| Legal Services | £40,202 |
| Administrative Support | £141,799 |
| Management | £3,108 |
| Councillors | £6,612 |
| Total | £268,798 |
| | |

| | |
|--|-----------------|
| Other Direct Costs⁴: | |
| Training and Development | £1,580 |
| Stationery and postages | £3,563 |
| Supplies and Services | £6,772 |
| Catering and subsistence | £1,501 |
| Travel Costs | £5,760 |
| Legal Expenses | £95 |
| Total: | £19,271 |
| | |
| Indirect Costs⁵: | |
| ICT | £12,716 |
| Accommodation | £37,208 |
| Financial Services | £5,646 |
| Media | £9,150 |
| Service Points | £33,976 |
| Other support costs | £119 |
| Total: | £98,815 |
| | |
| Total Expenditure | £386,884 |
| | |
| Net Income | £166,352 |

Notes:

1. Denotes income from the categories detailed for applications and annual fees received under the Licensing (Scotland) Act 2005.
2. Denotes fee income known to relate to applications under the Licensing (Scotland) Act, but not coded to specific types of application.
3. Denotes salary, superannuation, national insurance and pension costs associated with the Clerk and other Legal Services staff, Licensing Standards Officers and other staff responsible for management, committee and administrative support under paragraph 8 of Schedule 1 to the Licensing (Scotland) Act 2005 together with an estimate of costs associated with Board Members' time dedicated to Board work.
4. Denotes the identified direct budgetary costs associated with the exercise of the Licensing Board function under each category provided.
5. Denotes the portion of central administrative costs allocated to the Licensing Board budget for each category provided.

**HIGHLAND LICENSING BOARD
LICENSING (SCOTLAND) ACT 2005
APPLICATION FEES FROM 31 AUGUST 2014**

| | |
|-----------|---|
| A. | <ul style="list-style-type: none"> • GRANT OF PREMISES LICENCE • ANNUAL PREMISES FEE • MAJOR VARIATION |
|-----------|---|

| CATEGORY | RATEABLE VALUE OF PREMISES | | APPLICATION FEES | | |
|----------|--|-----------|---------------------------|----------------------------|---|
| | | | GRANT OF PREMISES LICENCE | ANNUAL FEE (DUE 1 OCTOBER) | MAJOR VARIATION |
| 1 | <ul style="list-style-type: none"> • Premises Rated at Nil • Premises not shown in the valuation roll • Visitor Attractions • Clubs • Private Accommodation | | £200 | £157 | £72 £360 (with balance payable or refundable when rateable value known) £72 £72 £72 |
| 2 | £1 - | £11,500 | £800 | £192 | £288 |
| 3 | £11,501 - | £35,000 | £1,100 | £245 | £396 |
| 4 | £35,001 - | £70,000 | £1,300 | £438 | £469 |
| 5 | £70,001 - | £140,000 | £1,700 | £613 | £613 |
| 6 | £140,001 - | and above | £2,000 | £788 | £721 |

| B. PROVISIONAL PREMISES LICENCE | | | |
|--|--|---------------------|--|
| TYPE OF APPLICATION | | APPLICATION SECTION | APPLICATION FEE |
| Provisional Premises Licence | | Section 45 | £200 |
| Confirmation of Provisional Premises Licence | | Section 46 | Grant of Premises Licence fee, less £200 paid for <i>Provisional</i> Premises Licence Application. |

| C. TRANSFERS/SUBSTITUTION | | | |
|---|--|---------------------|-----------------|
| TYPE OF APPLICATION | | APPLICATION SECTION | APPLICATION FEE |
| Transfer by Licence Holder ¹ | | Section 33 | £283 |
| Transfer by person other than the Licence Holder ¹ | | Section 34 | £283 |
| Variation to Substitute Premises Manager | | Section 31 | £31 |

| D. MISCELLANEOUS APPLICATIONS | | | |
|---|--|---------------------|-----------------|
| TYPE OF APPLICATION | | APPLICATION SECTION | APPLICATION FEE |
| Occasional Licence | | Section 56 | £10 |
| Extended Hours | | Section 68 | £10 |
| Personal Licence | | Section 72 | £50 |
| Replacement/Amendment to Personal Licence | | Section 92 | £11 |
| Replacement Premises Licence | | Section 55 | £22 |
| Minor Variation | | Section 29 | £20 |
| Temporary Premises Licence | | Section 47 | £257 |

INTEGRA FINANCIAL REFERENCE : 10-31102-000/KC-4104

¹ Where a variation is sought with a transfer the fee will be aggregate of the transfer and variation fee