

The Highland Licensing Board

Meeting – 20 June 2022

Agenda Item	6
Report No	HLB/045/22

The Highland Licensing Board Financial Report 2021-22

Report by the Clerk to the Licensing Board

Summary

This Report invites the Board to approve the Board's sixth 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 The Board's annual financial report must normally 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 2021-22 must normally be published by no later than the end of June 2022.
- 1.3 Schedule 5 of the Coronavirus (Scotland) Act 2020, however, 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.
- 1.4 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.
- 1.5 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.

- 1.6 “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.
- 1.7 Calculation of relevant expenditure is a less straightforward exercise and of necessity involves producing a number of figures based on allocations and estimations.
- 1.8 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.
- 1.9 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.
- 1.10 Despite the inherent difficulties involved, a calculation of relevant income and expenditure for the financial year 2021/22 now been prepared by the Council’s Finance service and is set out in the draft Financial Report 2021/22 attached as **Appendix 1**.
- 1.11 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 2021-22.
- 1.12 The purpose of these financial reports is primarily to ensure greater transparency in Boards’ financial affairs. However, 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.
- 1.13 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 and major variations to existing premises licences and the annual fee payable in respect of granted premises licences.

- 1.14 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.
- 1.15 The legislation provides that, in determining these 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.
- 1.16 It is probable therefore that 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.
- 1.17 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.
- 1.18 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 likely affect fee income in this financial year and beyond, 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.

Recommendation

The Board is invited to approve the draft Financial Report 2021-22 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: 8 June 2022

Author: Claire McArthur

Appendices: Appendix 1 – Draft Annual Financial Report 2021-22
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: 2021-22

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 2022, 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 2021-22.**

The financial statement for 2021-22 is as follows:

Income¹:	2021-22
Premises Licence	£20,737
Provisional Premises Licence	£4,200
Temporary Premises Licence	£514
Annual Fees	£401,557
Transfers	£16,734
Minor Variations	£8,847
Major Variations	£20,968
Extended Hours & Occasional Licence	£17,620
Personal Licence	£21,728
Other ²	£4,825
Total	£517,731
Direct Staff Costs³:	
Licensing Standards Officers	£82,566
Legal Services	£62,666
Administrative Support	£160,391
Management	£3,426
Councillors	£3,409
Total	£312,457

Other Direct Costs⁴:	
Training and Development	£1,260
Stationery and postages	£1,134
Supplies and Services	£4,122
Catering and subsistence	£14
Travel Costs	£1,539
Legal Expenses	£0
Total:	£8,069
Indirect Costs⁵:	
ICT	£16,768
Accommodation	£36,528
Financial Services	£3,533
Media	£8,646
Service Points	£24,628
Other support costs	£121
Total:	£90,224
Total Expenditure	£410,750
Net Income	£106,980

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
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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