

# ABERDEEN CITY LICENSING BOARD

## Licensing (Scotland) Act 2005

### SCHEME OF DELEGATION

This Scheme of Delegation details the powers of the Licensing Board for Aberdeen City in terms of the Licensing (Scotland) Act 2005. This Scheme of Delegation was approved by the Board on [XXXX].

The Board recognises that any application should only be determined by the Board where necessary and any straightforward matters should be considered by the Clerk or any member of the Clerk's staff having authority to do so, to save resources and to create as little inconvenience to applicants as possible.

The Board therefore agrees that only those applications and matters which by statute are required to be considered by the Board will be submitted to them for determination and other applications will be determined by the Clerk (or Depute Clerk or persons appointed to assist them) in accordance with the following Scheme of Delegation.

<b>1. MATTERS RESERVED TO THE LICENSING BOARD</b>			
	<b>Nature of Function/ Application</b>	<b>Relevant Provision in Licensing (Scotland) Act 2005</b>	<b>Function</b>
1.1	Determination of Licensing Board Policy	s.6 and Sch.1 para 10(2)(a)	Determining the Board's policy for the purposes of a Licensing Policy Statement or any Supplementary Licensing Policy Statement;
1.2	Determination of Overprovision of Licensed Premises	s.7 and Sch.1 para 10(2)(b)	Determining, for the purposes of any such statement, whether there is overprovision of licensed premises, or licensed premises of any particular description, in any locality;
1.3	Premises Licence Application	s.23 and Sch.1 para 10(2)(c)	Determining a premises licence application;
1.4	Premises Licence Major Variation Application	s.30 and Sch.1 para 10(2)(d)	Determining a premises licence variation application where the variation sought is not a minor variation;

1.5	Premises Licence Transfer Application (Conviction)	s.33, s.34 and Sch.1 para 10(2)(e)	Determining an application for the transfer of a premises licence where the applicant has been convicted of a relevant or foreign offence;
1.6	Provisional Premises Licence Confirmation (Refusal)	s.46 and Sch.1 para 10(2)(i)	Refusing an application for confirmation of a provisional premises licence;
1.7	Temporary Premises Licence	s.47	Determining a temporary premises licence application;
1.8	Personal Licence (Conviction)	s.74 and Sch.1 para 10(2)(f)	Determining a personal licence application, or a personal licence renewal application where the applicant has been convicted of a relevant or foreign offence;
1.9	Conducting a Hearing	s.39, s83(7) s.84 and Sch.1 para 10(2)(g)	Conducting a hearing under the Act, including taking any of the following steps: At a review hearing in respect of a premises licence where necessary in terms of the licensing objectives flowing from the sale of alcohol: (i) Issuing a written warning to the premises licence holder; (ii) Revoking or suspending the premises licence; or (iii) Making a variation of the premises licence; or (iv) Making an order revoking, suspending or endorsing a personal licence.
1.10	Closure Order	s.97 and Sch.1 para 10(2)(h)	Making a Closure Order;

<b>2. MATTERS DELEGATED TO THE CONVENOR/SUB-COMMITTEE</b>			
	<b>Nature of Function/ Application</b>	<b>Relevant Provision in Licensing (Scotland) Act 2005</b>	<b>Function</b>
2.1	Notice of Convictions	s44(7A), s83(7A)	Determining whether to hold a licence review hearing or to take no further action upon receipt of a notice from the Chief Constable which does not contain a recommendation to vary, suspend, revoke or endorse the licence in question
2.2	Occasional Licence or Extended Hours ("Fast Track")	ss.57(4) and 69(4) and Sch.1 para 10(1)	Determining whether an application for an occasional licence or occasional extension requires to be dealt quickly.
2.3	Occasional Licence (Objection/ Contrary to Policy)	s.59 and Sch.1 para 10(1)	Determining whether or not the Licensing Board will hold a hearing to determine an application for an

			occasional licence where an objection, representation or a notice recommending refusal from the Chief Constable or Licensing Standards Officer or where the application is contrary to the terms of the Board's Policy;
2.4	Occasional Licence (Objection)	s.59 and Sch.1 para 10(1)	Where a decision has been taken by the Convenor/Sub-Committee not to hold a hearing in terms of section 59(4) of the Act, the determination of the application following an opportunity for the applicant to comment on the representation in terms of section 59(5);
2.5	Extended Hours Application (Objection/Contrary to Policy)	s.70 and Sch.1 para 10(1)	Determining whether or not the Board will hold a hearing to determine an application for extended hours where an objection, representation or a notice recommending refusal from the Chief Constable or Licensing Standards Officer or where the application is contrary to the terms of the Board's Policy;
2.6	Extended Hours Application (Objection)	s.70 and Sch.1 para 10(1)	Where a decision has been taken by the Convenor/Sub-Committee not to hold a hearing in terms of section 70 (2) of the Act, the determination of the application following an opportunity for the applicant to comment on the representation in terms of section 70(3);
2.7	Personal Licence (Licence Previously Surrendered – Hearing)	s.74(7)	Where the applicant has surrendered a personal licence within the period of 3 years prior to an application for a further personal licence being made by that person to decide whether the reasons for surrender of the previous personal licence warrant consideration of the application by the relevant Board;
2.8	Power to Relieve Procedural Errors	s.135 and Sch.1 para 10(1)	To relieve any applicant or other party to proceedings before the Board of any failure to comply with any procedural provision if the failure is due to a mistake, oversight or other excusable cause, and it is considered appropriate in all of the circumstances to relieve the failure.
2.9	Rejection of Frivolous or Vexatious Objections	s.22(4), s.36(6), s.58(3)	Determining whether to reject a notice of objection or representation or request for a premises licence review received by the Board where they consider it to be frivolous or vexatious;

2.10	Premises Licence Review Proposal	s.37 and Sch.1 para 10(1)	Determining whether to make a premises licence review proposal;
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<b>3. MATTERS DELEGATED TO THE CLERK OR DEPUTE CLERKS TO THE LICENSING BOARD OR ANY PERSONS APPOINTED TO ASSIST THEM</b>			
	<b>Nature of Function/ Application</b>	<b>Relevant Provision in Licensing (Scotland) Act 2005</b>	<b>Function</b>
3.1	Premises Licence Minor Variation Application	s.29 and Sch.1 para 10(1)	Determining any premises licence variation application where the variation sought is a minor variation, including for the avoidance of doubt a change of Designated Premises Manager;
3.2	Premises Licence Application or Variation Application Hearing Attendance	Sch.1 para 10(1)	Determining whether to request an Applicant to attend a hearing for a premises licence application or a variation application where there are no representations or objections and the application is not contrary to the Board's Policy;
3.3	Premises Licence Transfer Application (No Conviction)	s.33, s.34 and Sch.1 para 10(1)	Determining any application for the transfer of a premises licence where the applicant has <b>not</b> been convicted of a relevant or foreign offence;
3.4	Provisional Premises Licence Confirmation	s.46 and Sch.1 para 10(1)	Determining any application for confirmation of a provisional premises licence – where no variation (other than a minor variation) has been made to the operating plan or layout plan for the premises to which the licence relates since the provisional licence was issued or since a variation of the provisional premises licence was granted;
3.5	Obtaining Further Information for the Purposes of a Review Hearing	s.38(5) and (6), and Sch.1 para 10(1)	To exercise the powers under section 38(5) and (6) for the purposes of a review hearing to obtain further information, request any person to attend to provide information and/or request production of any document at a review hearing;
3.6	Premises Licence (Licence Production)	s.49(3) and Sch.1 para 10(1)	To require a premises licence holder to produce the premises licence;
3.7	Occasional Licence (No Objection)	s.59 and Sch.1 para 10(1)	Determining an application for an occasional licence – where no objections or representations have been received, nor a notice recommending refusal from the Chief Constable or any report from the

			Licensing Standards officer recommending refusal;
3.8	Occasional Licence Conditions	s.60 and Sch.1 para 10(1)	To impose conditions under section 60 in respect of an occasional licence as necessary or expedient for the purpose of any licensing objective;
3.9	Extended Hours Application (No Objection)	s.70 and Sch.1 para 10(1)	Determining an application for extended hours where no objections or representations have been received nor a notice recommending refusal from the Chief Constable or any report from the Licensing Standards Officer recommending refusal;
3.10	Personal Licence (No Conviction)	s.74 and Sch.1 para 10(1)	Determining a personal licence application, or a personal licence renewal application where the applicant has <b>not</b> been convicted of a relevant or foreign offence;
3.11	Personal Licence (Licence Previously Surrendered)	s.77(6)	To grant personal licences where the applicant has previously surrendered their personal licence under section 77(6) or their licence has been revoked under s.87(3);
3.12	Revocation of Personal Licence	s.87(3) and Sch.1 para 10(1)	The revocation of a personal licence where the licence holder has not complied with the requirements of Section 87(1) of the Act;

#### **4. Other Matters**

Any matters which are not the subject of a specific delegation in terms of this Scheme of Delegation and are not prescribed by the Licensing (Scotland) Act 2005 shall be determined by the Clerk (or any person appointed to assist the Clerk) as appropriate unless the nature of such matter is considered to be appropriate to be determined by the Licensing Board at a meeting arranged by the Clerk in consultation with the Convenor of the Licensing Board.

#### **5. Exercise of Delegated Power**

The Clerk, Depute Clerk and any other member of staff appointed to assist them may elect not to use their delegated powers in a particular case, in which case the matter will be referred to the Licensing Board.

## **6. Legislation**

These delegations are subject to any necessary alterations arising from amendments to Legislation, Regulations, Codes of Practice or Government Circulars. In the event of a conflict between the terms of this Scheme of Delegation and the relevant legislation, the Scheme of Delegation shall be deemed amended to accord with the provisions of the said relevant legislation.