

**ABERDEEN CITY LICENSING BOARD**  
**STATEMENT OF LICENSING POLICY**  
**November 2018**

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## **Introduction**

Introductory paragraph/foreword from Convenor

## **Preventing Crime & Disorder**

The Board is committed to improving the quality of life for the people of the city by adopting and enforcing policies designed to increase community safety and reduce the threats of crime and disorder.

In terms of this licensing objective the Board considers there to be a number of factors including, but not limited to:

- Underage drinking
- Drunkenness
- Illegal substances
- Violent behaviour
- Anti-social behaviour
- Vulnerability

In order to combat the risks inherent with the sale of alcohol the Board will seek to operate a partnership approach with licence holders, applicants and partner agencies.

### **What the Board Will Do:**

- Apply appropriate conditions to licences to mitigate the risk of potential crime or disorder.
- Ensure all policies are up to date and fit for purpose.
- Work closely with all stakeholders to ensure all relevant information is kept up to date and accessible.
- Endorse initiatives designed to prevent crime and disorder.
- Consider the review of licences where a breach of the licensing objective cannot be rectified by other means.

### **What the Board Will Expect of Licence Holders**

- Effective and responsible management of premises.
- Up to date training and supervision of staff.
- Provision of effective CCTV in and around premises.
- Provision of external lighting and security measures.

- Employment of SIA registered door supervisors when appropriate.
- Use of radiolink or other such scheme.
- Adherence to the Board's Drugs Policy.
- Enforcement of Challenge 25.
- Adoption of best practice guidance where available.
- Evidence of a relevant dispersal policy where appropriate.
- Co-operation with police and Licensing Standards Officers.

#### What the Board Will Expect of Partner Agencies

- Provision of all relevant up to date information as the Board requires.
- Involvement in mediation/intervention procedures to rectify any problem areas.
- Involvement in Premises Licence Review as a last resort.

## **Securing Public Safety**

The Board is committed to ensuring the safety of persons within licensed premises as well as those in the surrounding areas.

When considering this licensing objective, a number of factors should be considered including, but not limited to:

- Capacity – this will be assessed by the Council's Building Standards department to establish a maximum safe capacity figure in terms of the regulations. Please note the safe maximum operating figure may be smaller than the technical figure.
- Maintenance of premises.
- Fire safety.
- Suitability of glassware or alternatives to glass.
- Disabled access and facilities.
- Nature of activities to be carried out on the premises.
- Vulnerability of patrons.

Again, the Board will look to operate a partnership approach with all stakeholders in order to ensure that public safety is not compromised by the operation of licensed premises.

### **What the Board Will Do:**

- Promote education and awareness of potential risks.
- Apply additional licence conditions where appropriate for the purposes of this licensing objective.
- Facilitate effective communication between all relevant parties.
- Disseminate relevant information from partner agencies as widely as possible.
- Review licences as a last resort.

### **What the Board Will Expect of Licence Holders/Applicants:**

- High standards of maintenance of premises.
- Membership of schemes to secure public safety such as radiolink and pubwatch.
- Glassware frequently cleared.

- Accurate disability access statements. Although these are only required for new applications the Board would encourage all existing premises to consider the preparation of an appropriate statement for publication.
- Clear and accurate signage in and around premises.
- Fully completed risk assessments where appropriate, for both premises and proposed activities to be carried out.
- Policies on crowd management and dispersal, both in the ordinary course of operation and in an emergency.
- Regular maintenance and testing of security and operating systems.
- Designation of a “safe space” within the premises in which vulnerable persons can be provided with assistance.

What the Board Will Expect of Partner Agencies:

- Co-operative approach.
- Effective communication and the sharing of up to date relevant information.
- Involvement in a licence review as a last resort.

## **Preventing Public Nuisance**

The Board believes that licensed premises have the potential to have a significant impact on communities. It wishes to maintain and protect the amenity of the surrounding neighbourhoods whilst recognising the valuable cultural and social aspects of such premises.

Whilst licensing powers are not the main statutory mechanism for dealing with public nuisance in general the Board will interpret public nuisance in a wider sense where it relates to the operation of licensed premises, and in particular issues such as noise and litter.

Again, a number of factors should be considered including, but not limited to:

- Location of premises. In particular the proximity to residential or noise sensitive premises such as medical facilities, sheltered housing, schools, places of worship, nurseries and suchlike.
- Hours of operation. Closely related to the location of the premises, the hours of operation should reflect what is appropriate for the surrounding neighbourhood.
- Nature of activities. Any activities carried on in the licensed premises should not be detrimental to the ambience of the locality.
- Outdoor areas. The Board will include a Supplementary Policy on this issue, but applicants will require to ensure that the inclusion of an outdoor licensed area in any premises is appropriate and will not contravene the licensing objective of preventing public nuisance.
- Smoking areas. These should be designed to minimise public nuisance and regularly monitored to cut down on noise and litter.
- Noise from patrons entering and exiting the premises.

### **What the Board Will Do:**

- Consider the proximity of proposed licensed premises to noise sensitive premises when considering applications.
- Ensure that licensed hours and activities are appropriate for the type of premises and locality.
- Improve communication between the trade, partners and local communities.
- Impose additional licence conditions where appropriate to prevent public nuisance.
- Highlight best practice where available and increase awareness and education on potential areas of risk.

### **What the Board Will Expect of Licence Holders/Applicants:**

- Take a proactive approach to public nuisance with a risk-based approach.
- Be mindful of the location of the premises, hours of operation and activities.



- Comply with all conditions of the premises licence.
- Ensure appropriate control measures are in place and staff training is up to date and relevant.
- Consider public nuisance when establishing the design and layout of the premises.
- Adequate supervision of any outdoor area, smoking area and patrons entering/exiting the premises.
- Sharing of best practice via trade groups.
- Participation in communication to resolve any issues that may arise.

What the Board Will Expect of Partners:

- Enforcement of other statutory powers where appropriate.
- Sharing of relevant information.
- Participation in dialogue to resolve potential issues.

## **Protecting and Improving Public Health**

The Board recognise that excessive consumption of alcohol can cause or exacerbate a number of health problems. All applicants will be expected to demonstrate measures to be taken to protect public health, and all licence holders will be expected to maintain those standards and take all necessary steps to prevent excessive consumption.

Whilst licensing is an important tool in the protection of public health it will not be sufficient in isolation and accordingly the Board will be interested in hearing from and working alongside relevant partners and interested parties where appropriate.

Factors to be considered in connection with this particular licensing objective include, but are not limited to:

- Access to alcohol by vulnerable persons
- Excessive consumption
- Irresponsible promotion of alcohol
- Education of unit strength of alcohol

### **What the Board Will Do:**

- Utilise local conditions on licences where appropriate.
- Liaise with public health organisation, the local licensing forum and other relevant parties.
- Monitor the number and capacity of premises, public health data and overprovision policies.
- Contribute to raising awareness of the licensing system.

### **What the Board Will Expect of Licence Holders/Applicants**

- Proactive layout of off-sales premises to discourage impulse buying.
- Adequate staff training, including refusals policy and incident recording.
- Availability of low/non-alcoholic products and soft drinks.
- Licensed hours reflective of operating hours.
- Awareness of irresponsible promotions.

### **What the Board Will Expect of Partner Agencies:**

- Effective communication of relevant trends and information.

- Provision of accurate statistics to assist with Board policy and decision making.
- Participation in efforts to increase public awareness of initiatives to protect and improve public health.

## **Protecting Children and Young Persons from Harm**

The Board recognises that the question of access to licensed premises by children and young persons is not one that can be answered with a one size fits all type of approach. The suitability of premises will depend on a number of factors including layout of the premises, activities or services available, and typical customer demographic.

Applicants and licence holders should also be aware that access for children and young persons will bring with it additional responsibilities and may result in additional conditions being attached to the licence.

### **What the Board Will Do:**

- Assess all applications for suitability of access for children and young persons.
- Impose additional conditions where necessary to protect children and young persons from harm.
- Limit the hours during which children and young persons have access if appropriate.
- Limit activities which may take place on the licensed premises during hours in which children and young persons have access if appropriate.

### **What the Board Will Expect of Licence Holders/Applicants**

- Consider the ambience of premises and what is appropriate in terms of children and young persons' access.
- Ensure facilities are appropriate to the areas of the premises to which children and young persons are to be afforded access.
- Vigilance against underage drinking and proxy purchasing.
- Strict enforcement of Challenge 25.
- Comprehensive and up to date staff training.
- Restrict access for children and young persons to appropriate hours and parts of the premises.

### **What the Board Will Expect of Partner Agencies:**

- Communication of relevant information.
- Sharing of best practice or initiatives designed to improve standards.
- Participation in mediation in the event of issues or licence review hearings as a last resort.

## **Supplementary Policy – Licensed Hours**

Whilst all applications will be dealt with on their own merits the Board considers it necessary for the promotion of the licensing objectives to set parameters with respect to licensed hours. Any application seeking hours outwith those detailed below will be expected to satisfy the Board that there are legitimate grounds for departing from policy and demonstrate that the granting of such hours would not be contrary to the licensing objectives.

### **Off-Sale Premises**

Maximum trading hours for off-sale premises are set by statute. The Board have no power to grant off-sales hours prior to 1000 or after 2200 hours. It should be noted that these are the maximum permitted hours and the Board may restrict these hours if it can be shown to be necessary for the promotion of the licensing objectives.

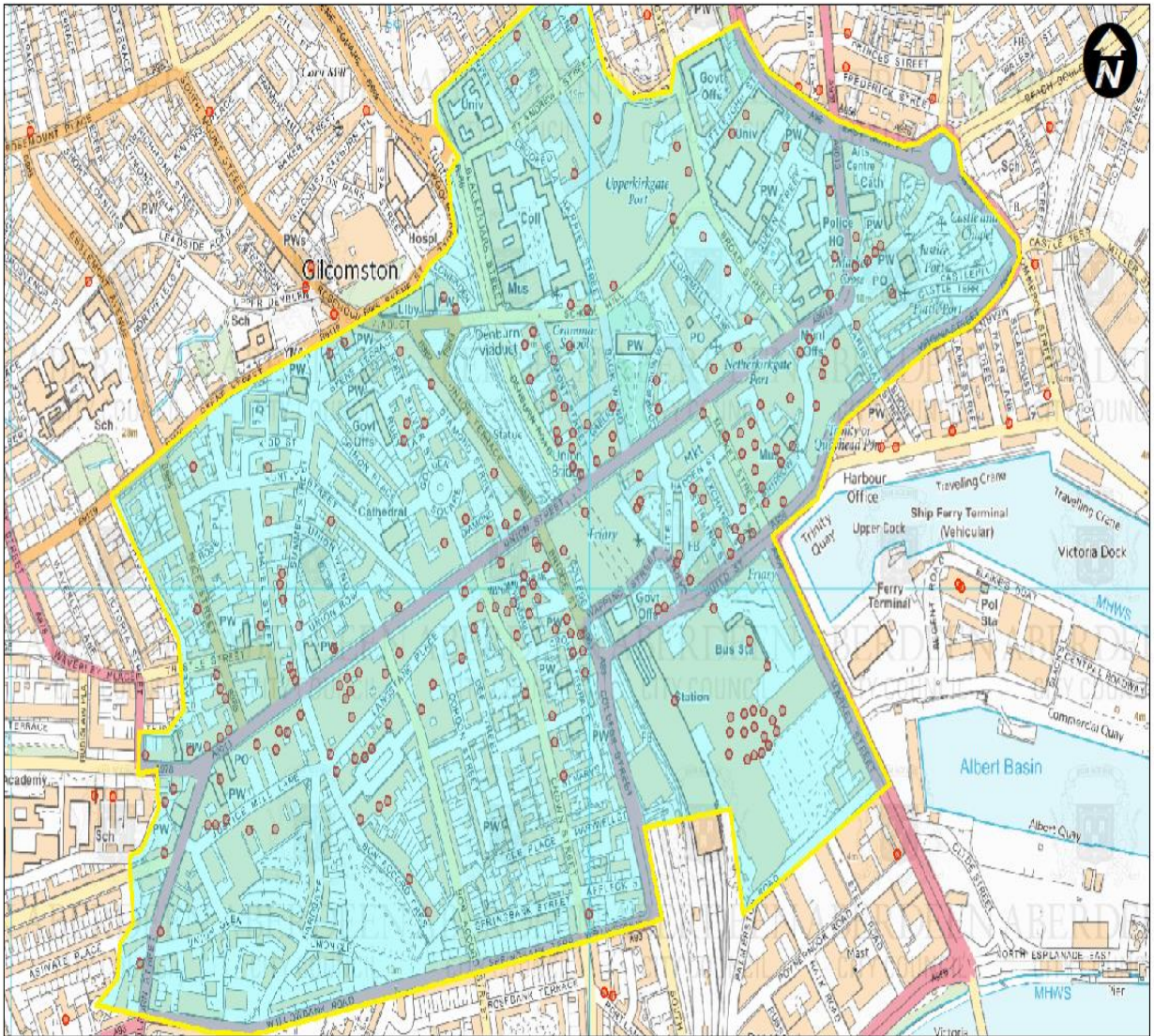
	<u>Earliest Opening Hour</u>	<u>Latest Terminal Hour</u>
All off-sales premises	1000	2200

### **On-Sale Premises**

The Board considers it appropriate to distinguish hours within the city centre from outlying areas. The city centre area is that shown delineated on the undernoted map.

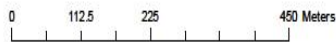
The hours stated below are the earliest acceptable opening hour and latest acceptable terminal hour, and not the maximum permissible hours. The Board considers 15 hours continuous trading to be reasonable within any 24-hour period and so the opening or terminal hour should be adjusted accordingly to comply with this requirement.

<u>Outwith City Centre</u>	<u>Earliest Opening Hour</u>	<u>Latest Terminal Hour</u>
Sunday to Thursday	1000	0000
Friday & Saturday	1000	0100
<u>City Centre</u>	<u>Earliest Opening Hour</u>	<u>Latest Terminal Hour</u>
Sunday to Thursday	1000	0200
Friday & Saturday	1000	0300



Current City Centre Area

1:5,000



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## **Supplementary Policy – Occasional Licences and Extended Hours**

### **Occasional Licences**

In terms of the legislation only a Premises Licence holder, Personal Licence holder or a Voluntary Organisation can apply for an Occasional Licence. The Board consider Occasional Licences should only be used for one-off events and should not be used to circumvent standard licensing procedures.

Accordingly, the Board will not normally grant the following, unless there are exceptional circumstances:

- A series of Occasional Licences for the same premises where an application for a Premises Licence would be more appropriate.
- Occasional Licences for premises holding a Provisional Premises Licence where there are outstanding issues preventing an application for Confirmation from being lodged.
- Occasional Licences for child-focussed events.

Any application for an Occasional Licence must comply with the Board's Supplementary Policy on licensed hours. Additional conditions may be added to an Occasional Licence to uphold the licensing objectives covering matters including staff training, access for children and young persons, and alternatives to glassware.

Applications for Occasional Licences must be submitted at least 4 weeks in advance of the event to allow sufficient time for the applications to be processed. The Board consider that it would be difficult to justify a shorter processing period under s57(4) for any events except for funeral functions.

### **Extended Hours Applications**

The holder of a Premises Licence may apply for an extension of regular licensed hours in connection with:

- A special event or occasion to be catered for on the premises, or
- A special event of local or national significance.

The Board expect licence holders to anticipate and incorporate recurring events into the Premises Licence and only to apply for Extended Hours for one-off events that could not have reasonably been anticipated.

Any application must be submitted by the licence holder and not the Designated Premises Manager unless he or she has written authorisation from the licence holder to do so. Applications must be made at least 4 weeks in advance of the event.

### General Extensions

The Board will consider annually whether any scheduled events would justify a general direction under s67 and will publish a list of qualifying events and the degree of the extension in January each year to enable the trade and other stakeholders to plan accordingly.

Such extensions will only be available to premises whose standard hours conform to the 15 hour maximum trading specified in the Supplementary Policy on Licensed Hours.



## **Supplementary Policy – External Drinking Areas**

The Board recognises that the incorporation of outdoor areas within the licensed footprint of premises can enhance the operation of such premises but considers that it also attracts additional responsibilities on the part of the licence holder to uphold the licensing objectives.

Before an application to licence an outdoor area will be considered the area in question must benefit from the necessary planning permission and, if required, a pavement permit from the Roads Department of Aberdeen City Council.

All outdoor areas must be delineated on the layout plan forming part of the premises licence and outdoor drinking should be included as an activity within the body of the licence. The Board will expect premises who currently utilise unlicensed outdoor areas to incorporate such areas within the premises licence by way of variation.

Applicants and licence holders must demonstrate that the areas will not contravene the licensing objectives, in particular with regard to noise, litter and antisocial behaviour. The areas must be regularly monitored, and glassware removed.

The Board will routinely attach additional conditions where an outdoor area is licensed including but not restricted to:

- Outdoor area to be clearly demarcated onsite.
- Use of the area to cease at 2200 hours.
- No amplified music or entertainment to take place in the outdoor area.

The terminal hour may be further restricted, and drinks may be required to be decanted into alternatives to glassware if appropriate.

## **Overprovision – On-Sales Premises**

To follow.

## **Overprovision: Off-Sales** (Already approved by Board)

In cognisance of the nature of the evidence received during previous overprovision consultations as well as the specific challenges raised by attempts to attribute meaningful evidence to smaller localised areas, the Board established the whole Board area as one locality for the purposes of off-sales overprovision only. The Board then sought evidenced views on overprovision within that locality and is grateful to all respondents who took the time to submit a viewpoint.

The Board noted the evidence provided by NHS Grampian and Alcohol Focus Scotland primarily relating to the licensing objective of Protecting and Improving Public Health. The Board recognises that there are health issues caused by the consumption of alcohol and note that the majority of alcohol is reportedly sold from off-sales premises. Additionally, the Board is concerned that hospital admissions for alcohol related causes are above the Scottish average. However, it also recognised that the evidence provided by both NHS Grampian and Alcohol Focus Scotland indicated that most people tended to travel larger distances by vehicle to purchase alcohol, and that the rise of home deliveries had also to be taken into consideration. Both agencies accepted that there was no simple method of establishing a numerical formula to assist with the calculation of any saturation point.

The Board also considered the evidence of crime statistics provided by Police Scotland. These related primarily to the licensing objectives of Preventing Crime and Disorder, Securing Public Safety and Preventing Public Nuisance. The Board found it particularly pertinent that Police Scotland believed that whilst evidence of crimes in which alcohol consumption was a significant factor could be provided, it was not able to provide a body of evidence linking crimes specifically to off-sales premises. Police Scotland also suggested it could not support the idea that were there half the number of premises there would be half the number of crimes. Again, it highlighted that there was not a simple numerical answer to this problem. The Board also noted that Police Scotland suggested that the issue may be one of alcohol consumption as opposed to the regulated sale from off-sale premises.

As well as the evidence provided by respondents to the consultation the Board also considered that it had been operating without an overprovision policy for the recent period, and that this did not appear to have resulted in any identifiable increase in the number or capacity of premises, nor indeed harm associated from the operation of those premises.

In summary, the Board recognises that there are issues of harm that correlate with the operation of off-sales premises. However, the Board considers a declaration of overprovision to be a serious undertaking that should only be taken when adequately supported by the available evidence. On balance the Board is currently of the opinion that whilst there is evidence of the correlation mentioned above that evidence falls short of establishing the causal link that is required by the regulatory framework to

justify overprovision. Accordingly, the Board has determined that currently there is not overprovision of off-sales premises within the locality.

The Board will continue to assess all applications on their merits and will expect all applicants to demonstrate compliance with the licensing objectives and all relevant parts of the Board's Statement of Licensing Policy. The Board will also work with partner agencies to keep the policy under review and ensure that it remains fit for purpose.

## **SCHEME OF DELEGATION** (Already approved by Board)

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 10 October 2017.

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: Issuing a written warning to the premises licence holder; Revoking or suspending the premises licence; or Making a variation of the premises licence; or 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;

## 2. MATTERS DELEGATED TO SUB-COMMITTEE

	Nature of Function/ Application	Relevant Provision in Licensing (Scotland) Act 2005	Function
2.1	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;
2.2	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);
2.3	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;
2.4	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);

<b>3. MATTERS DELEGATED TO THE CONVENOR</b>			
	<b>Nature of Function/ Application</b>	<b>Relevant Provision in Licensing (Scotland) Act 2005</b>	<b>Function</b>
3.1	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
3.2	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 with quickly.
3.3	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;
3.4	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.
3.5	Rejection of Frivolous or	s.22(4), s.36(6), s.58(3)	Determining whether to reject a notice of objection or representation or request for



	Vexatious Objections		a premises licence review received by the Board where they consider it to be frivolous or vexatious;
3.6	Premises Licence Review Proposal	s.37 and Sch.1 para 10(1)	Determining whether to make a premises licence review proposal;

<b>4. 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>
4.1	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;
4.2	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;
4.3	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;
4.4	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;
4.5	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;
4.6	Premises Licence (Licence Production)	s.49(3) and Sch.1 para 10(1)	To require a premises licence holder to produce the premises licence;
4.7	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;
4.8	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;
4.9	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;

4.10	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;
4.11	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);
4.12	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;

## 5. 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.

## 6. 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.

## 7. 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.

## **Supplementary Policy – Hearing Procedures**

Where an application requires to be determined by a hearing at a meeting of the Licensing Board all parties will be provided with 14 days' notice in writing of the time and location of the hearing. The Board will endeavour to make any reasonable adjustments to cater for any additional requirements of any party to a hearing if made aware of those requirements in advance.

Where the hearing is in respect of an application the following procedure will be followed:

1. The applicant will be invited to address the Board in support of the application and make reference to any representation or objection received.
2. The person(s) making any representation or objection will be invited to address the Board in support of the representation or objection.
3. The applicant will be invited to respond to any points raised by the person(s) making the representation or objection.
4. Members will be invited to address questions to all parties.
5. The person(s) making the representation or objection will be invited to sum up. No new evidence may be introduced at this stage.
6. The applicant will be invited to sum up. No new evidence may be introduced at this stage.
7. The Board may elect to seek legal advice in private if required but must return to the public forum before any decision is made.
8. The Board will come to a decision.

Where the hearing is in respect of a review application as a result of a complaint the following procedure will be followed:

1. The complainer will be invited to address the Board in support of the complaint.
2. The Licensing Standards Officer will be invited to address the Board in support of the report required in terms of s38(4) of the Licensing (Scotland) Act 2005.
3. The licence holder will be invited to address the Board in response to the complaint.
4. The complainer will be invited to respond to any points raised by the licence holder.
5. Members will be invited to address questions to all parties.
6. The licence holder will be invited to sum up. No new evidence may be introduced at this stage.

7. The complainant will be invited to sum up. No new evidence may be introduced at this stage.
8. The Board may elect to seek legal advice in private but must return to the public forum before any decision is made.
9. The Board will come to a decision.

## **Supplementary Policy – General Licensing**

### **Alcohol Deliveries**

The Board are aware that a number of premises are keen to offer a delivery service for alcohol, particularly those that offer delivery of food. It is the view of the Board that responsibility lies with the licence holder to ensure that the delivery person has adequate training to safeguard the licensing objectives, and in particular has procedures in place to ensure that no deliveries are made to underage customers.

Additional conditions may be attached to premises licences in such cases, and deliveries of alcohol will generally only be permitted as part of a delivery of food, unless from a dedicated off-sales premises.

### **Agent of Change**

The Agent of Change principle in planning terms clearly places the responsibility for mitigating any detrimental impact of noise on neighbours with those responsible for any change in the position. For example, where a new residential or commercial property is to be developed within the vicinity of an existing licensed music venue, the responsibility for mitigating any adverse impact should sit with the developer, as the “agent of change”. Conversely, if a new music venue is proposed, or an existing venue is to be varied, that responsibility would be with the licence holder.

The Board considers it appropriate to have regard to the agent of change principle in licensing terms when determining the weight to be given to various arguments.

### **Licences Ceasing to Have Effect**

Section 28(5)(b) provides that a licence will cease to have effect where the licensed premises ceases to be used for the sale of alcohol. In order to avoid any misunderstandings, the Board expect any licence holder to notify the licensing department in writing if the premises is going to be closed for any length of time with an explanation of the reason for closure and an expectation of when the premises intends to reopen. If a premises has been closed for 6 months the licence will be referred to the next Board Meeting for review.

### **Personal Licences**

The Board considers that it is imperative that any training certificate enclosed with an application for a Personal Licence is up to date. As Personal Licence holders require to refresh training every 5 years the Board thinks it is reasonable to require any

training certificate submitted with an application for a Personal Licence to be no more than 5 years old. Where a Personal Licence has been surrendered or revoked and a subsequent application is made the Board will accept a training certificate over 5 years old only if it is accompanied by an up to date refresher training certificate.