

Moray Licensing Board
Annual Functions Report

1 April 2023 - 31 March 2024

In accordance with the
Licensing (Scotland) Act 2005
(as amended by the Air Weapons and Licensing (Scotland) Act 2015)

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About Moray

With a population of around 95,500, Moray nestles between the rugged and spectacular Highlands and the flat, fertile farmlands of the north-east and although it belongs to neither, it shares the best elements of both – from the snow-capped peaks of the Cairngorms to the unspoiled coastline of the Moray Firth.

Local industry is as diverse as the landscape in which it is located and makes a major contribution to the area's buoyant economy. Moray is the heartland of the Scotch whisky industry and is home to more than 45 distilleries whose brands are savoured in just about every corner of the world. Whatever country you're in, you'll find a bottle of Speyside Malt for sale.

In the spirit of celebration, music plays a vital role in the Moray community. There are major music festivals every year, including MacMoray, the traditional Speyfest and the Spirit of Speyside, the latter linked to the whisky industry. Venues for the performing arts thrive in the area, and each town sustains a lively artistic culture. Two thriving arts and performance centres exist in Findhorn alone.

Traditional industries - farming, fishing and forestry - play an important part in the area's culture whilst underpinning the economy. In addition, two internationally renowned food producers, Baxters of Speyside and Walkers of Aberlour, have put Moray firmly on the international map. The area's biggest town and administrative capital is Elgin, which is also Moray's principal shopping centre. Many leading national retailers are represented alongside long-established local outlets. Other main towns include Forres, well known for its successes in national floral competitions; Buckie, with its fishing and commercial harbour; and Keith, built on a once-thriving textiles industry.

Introduction

Moray Licensing Board ("the Board") is the licensing authority for the purposes of alcohol and gambling in Moray.

The current Board was formed in May 2022 and comprises of eight members who are elected members of Moray Council. Current membership of the Board can be viewed here:

http://www.moray.gov.uk/moray_standard/page_67620.html

These members form part of an independent Board which are responsible for considering applications and objections in relation to regulating the sale of alcohol and for regulating licensed premises and other premises on which alcohol is sold in accordance with the Licensing (Scotland) Act 2005 as amended.

Under the ("the Act"), the Licensing Board are responsible for considering applications for:-

- 1.1 Provisional premises licences including confirmations
- 1.2 Premises licences including transfers and variations
- 1.3 Reviews of licences
- 1.4 Temporary licences
- 1.5 Occasional licences and extended hours
- 1.6 Personal licences including training updates and renewal of personal licences

The Licensing Objectives

Section 4 of the Act sets out the following five licensing objectives

- (a) preventing crime and disorder;
- (b) securing public safety;
- (c) preventing public nuisance;
- (d) protecting and improving public health; and
- (e) protecting children and young persons from harm.

The licensing objectives are central to the licensing system and provide a basis for the administration of the licensing regime. The licensing objectives can also provide the basis for refusing an application for the grant of a premise or occasional licence. The breach of the objectives may form a competent ground for the review of a premises licence and the objectives can also provide a basis for the attachment of conditions to a premise or occasional licence.

In exercising its functions under the Act, the Board is required to have regard to the licensing objectives.

Annual Functions Report

From 1 April 2023 to 31 March 2024, the Board met on an approximate eight week cycle on the following dates:

- (a) 3 May 2023
- (b) 21 June 2023
- (c) 6 September 2023
- (d) 15 November 2023
- (e) 7 February 2024

Meetings were held by a mixture of in person and remote connection which worked well and facilitated the easy attendance of all parties, including those from outside Moray. Going forward meetings are being offered on the same hybrid basis and so this facility will remain available to licence applicants.

Applications before the Board were dealt with in an open and transparent manner in accordance with licensing legislation and the Board's policy. A copy of the Board's statement of licensing policy, incorporating hearing procedures, can be found at this link:

<http://www.moray.gov.uk/downloads/file68385.pdf>

A full review of the statement of licensing policy was completed during this period.

Information and assistance is always available to persons wishing to apply for a licence or respond to an application. The board has published guidance documents and licensing staff are on hand to answer queries.

Board meetings are as informal as possible whilst maintaining a fair process. The majority of applicants before the Moray Board are willing and able to represent themselves.

Decisions of the Board

Each application, received by the Licensing Board is considered on its individual merits. All licence applications that are received must be weighed-up in accordance with the Licensing (Scotland) Act 2005 and in particular in cognisance of the licensing objectives. The Board must also consider the licence application in line with the Board's policy statement. Attached

to this report at Appendix 1 are details of application numbers and decisions made by the Moray Board.

The majority of applications are dealt with by way of delegated authority to a sub group of the Board or officers appointed to assist the Board. The sub group or officers can only grant such a licence where the application is not contrary to the Licensing Policy and no objections have been received. A copy of the Board's scheme of delegation can be found here:

<http://www.moray.gov.uk/downloads/file70892.pdf>

In considering the applications, the Licensing Board considered a number of different sources of information to enable them to reach decisions. These sources include applicants themselves, council services (including planning, building standards and environmental health), reports from Community Councils, Local Residents, the Local Licensing Forum, the Licensing Standards Officer (LSO), Police Scotland and the NHS.

Tourism and Industry continue to play an important role in parts of Moray. Moray Council has set out a number of community planning priorities including healthier citizens, a growing and diverse economy and safer communities. Licensing plays an important role in all of these and decisions of the Licensing Board also have regard to these community planning priorities.

Licence Applications

During the course of the year, the Board received applications for 558 occasional licences, another increase from the previous period by approx. 40.

In the last period it was reported that representatives of Moray had joined a group of officers from the Scottish Government and certain other licensing authorities to review the law controlling occasional licences. No further recommendations have yet resulted from this group.

The Board also considered and granted 88 premises related licence applications. The overall number of premises licences has fallen very slightly on the previous financial year from 339 to 337.

Personal Licence Applications and Reviews

The Board granted 125 personal licence related applications.

Premises Licence Reviews

During the period there were some premises licence reviews for non payment of fees withdrawn. No licences were suspended or revoked in the period.

Statement of Policy / Policy Matters

As stated above during the financial year, there was a full review of policy by the Board.

Licensing Hours

In granting licences, the Board recognises that licensing hours are an important part of how licensed premises function; However, the Board must continually balance the impact that licensing hours has on the wider area against the increasing growth of the local economy within Moray which continues to play a key role for investment, employment and tourism.

The Board's policy in respect of licensing hours is set out in the statement of policy. The Board's approach to hours has been generally permissive although applications tend to remain within the hours set out in the policy.

The Board has an existing practice of permitting specific hours over the Christmas / New Year festive period by way of a general extension. This is a flexible policy to allow all premises to open if they choose to do so, rather than having to apply for specific hours. This regulation

allows businesses to promote themselves and benefit from increased trade. The Board has had no complaints in respect of festive opening. The policy on festive hours is published here:

<http://www.moray.gov.uk/downloads/file107983.pdf>

Licensing Forum

The Moray Licensing Forum should form an integral part of the licensing regime in Moray. The forum membership includes the LSO, Police Scotland, representatives of the NHS, representatives of the District Licensed Trade Association and representatives of Elgin Community Council. The forum last met on the 24 May 2019 after which the Moray Alcohol and Drug Partnership was no longer able to Chair and drive the group. It is hoped the Licensing Forum can be revived and will be able to meet again soon with the Board once a year to provide valuable feedback to the Board on the community's opinion on alcohol licensing issues. The LSO is persisting in efforts to gain support for an involvement with the Forum. A meeting will be arranged if and when possible and in the meantime consultations are more public and wide in nature to reflect the notional membership of a Forum.

Gambling

The requirement for a functions report relates to the alcohol licensing legislation. For completeness in terms of the Board's remit, there is little activity in terms of gambling. The number of gambling premises are generally reducing owing to the prevalence of online gambling. Application has been made for a gambling betting shop licence for the High Street in Elgin. However most activity is in relation to monitoring of gaming machines in alcohol licensed premises.

Licensing Standards

There are two full time LSOs within the licensing service that follow the division between Licensing Board and Committee. One LSO is responsible for liquor licensing and gambling and one is responsible for all civic type licences. The LSOs offer guidance and advice to licence holders and communities to supervise the compliance of the requirements of legislation by the licence holders. The LSOs also act as an intermediary between licence holders and the general public helping to avoid and resolve any disputes or disagreements. LSOs build a rapport with the local trade and members of the public as a consistent point of contact. This ensures there is a cohesive working partnership between all persons interested in the operation of the legislation. There is a separate report from the LSO for liquor and gambling included below regarding activities that have taken place during the period in question.

Licensing Standard Officer's Report

The Liquor LSO has held the role since February 2019. The role of the LSO is to provide guidance and information regarding the Licensing (Scotland) Act 2005, to ensure compliance with the Act in terms of the licence and to provide mediation to resolve disputes.

The role of the LSO is as diverse as the licensed premises in Moray. Over the last financial year the LSO has been involved in resolving complaints regarding premises running irresponsible drinks promotions, and has investigated and mediated regarding noise complaints made about licensed premises including liaising and conducting joint visits with Environmental Health. The LSO has conducted joint enquiries with Police Scotland for premises which have been subject of repeated incidents of note which have then caused them to be monitored premises. The LSO and LEO (Police Scotland Local Enquiry Officer) have investigated a report of the unlicensed sale of alcohol and provided guidance regarding the

Licensing (Scotland) Act to premises. The LSO and LEO have also provided advice and guidance to premises following concerns being raised by licensed premises regarding the behaviour of a small minority of people staying at a licensed premises.

The LSO has been actively involved in providing advice to event organisers regarding occasional licences for both large public events such as Seafest, SpeyFest, Gordon Castle Highland Games, Keith Show, MacMoray, Friendly fest etc as well as for private events such as weddings and birthday parties including to the mobile bar operators which have started businesses in Moray in the last financial year. The LSO has taken a proactive approach in providing guidance regarding the Gambling Act for events that include an element of lotteries.

The LSO has also mediated between current and prospective licence holders on a number of occasions this year where there have been disputes between premises owners and licence holders resulting in contentious transfer applications. Following the effects of the pandemic we are still seeing a high number of people who are new to hospitality opening licensed premises and taking on already licensed premises and the LSO is providing support ensuring that they understand the requirements of their licence and are compliant with the Licensing (Scotland) Act 2005.

The LSO is proactive regarding personal licence holder refresher and renewal dates to ensure that no premises is left without designated Premises Manager due to their personal licence expiring. During the ongoing review process that the LSO introduced a couple of years ago an issue was identified with a licence holder who holds a number of premises licences across Moray whereby applications that they had been submitting had not been received, this was remedied quickly and robust measures put in place on both sides to prevent any similar issues in the future.

Following the introduction of the short term let licence type the LSO has also started to answer queries, concerns and complaints from the public regarding short term lets. Although this falls outwith the remit of the LSO for liquor and gambling this has been done to assist in the wider licensing workload which has been significant following the introduction of this new licence type.

Conclusion

It is the view of the Board that the licensing function in Moray operates very well. The Board has come to this view based on the very low number of incidents which are linked to Licensed Premises in the area, the timely interventions of the LSO and the very low number of times the Board is required to act.

Liquor Licensing Statistics for Year 2023-2024 (Period 01/04/2023 to 31/03/2024)

Local Authority - MORAY COUNCIL	
Premises Licence Statistics	
Licences in Force on 31 March 2024 (this should equal total of a+b+c)	337
(a) on sales only	74
(b) off license only	106
(c) both	157
Applications received during 2023-2024	
(a) on sale	10
(b) off sale	33
(c) both	45
Applications refused during 2023-2024 under section 23	0
Applications granted during 2023-2024 under section 23	82
Applications for review of premises licence during 2023-2024 under S36 & S37 resulting in:-	
(a) written warning	
(b) variation	
(c) suspension	
(d) revocation	
(e) no action	
Occasional Licence Statistics	
Number of Occasional Licences granted during 2023-2024	558
Personal Licence Statistics	
Personal Licences in Force on 31 March 2024	1202
Applications during 2023-2024 under section 72:-	
(a) refused	0
(b) granted	125
Proceedings taken during 2023-2024 under section 83 (notice of conviction) resulting in:-	
(a) endorsement	
(b) suspension	
(c) revocation	
(d) no action	
Proceedings taken during 2023-2024 under section 84 (conduct inconsistent with licensing objectives) resulting in:-	
(a) endorsement	
(b) suspension	
(c) revocation	
(d) no action	
Proceedings during 2023-2024 under section 86 (multiple endorsements) resulting in:-	
(a) endorsement	
(b) suspension	
(c) revocation	
(d) no action	
Revocations of personal licences during 2023 - 2024 under section 87(3) (failure to provide evidence of having undertaken refresher training)	0
Staff employed at 31 March 2024	
Number (full-time equivalent) of licensing standards officers employed	1

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