



## **Licensing Committee**

Wednesday, 21 June 2023

**NOTICE IS HEREBY GIVEN** that a Meeting of the **Licensing Committee** is to be held at **Council Chambers, Council Office, High Street, Elgin, IV30 1BX** on **Wednesday, 21 June 2023 at 09:30.**

### **BUSINESS**

1. **Sederunt**
2. **Declaration of Group Decisions and Members Interests \***
3. **Resolution**  
Consider, and if so decide, adopt the following resolution:  
"That under Section 50A (4) and (5) of the Local Government (Scotland) Act 1973, as amended, the public and media representatives be excluded from the meeting for Item 8 of business on the grounds that it involves the likely disclosure of exempt information of the class described in the relevant Paragraphs of Part 1 of Schedule 7A of the Act."
4. **Minute of the Meeting of the Licensing Committee of 3 May 2023** **5 - 8**
5. **Written Questions \*\***
6. **Annual Functions Report** **9 - 20**  
Report by Depute Chief Executive (Education, Communities and Organisational Development)
7. **Question Time \*\*\***  
Consider any oral question on matters delegated to the Committee in terms of the Council's Scheme of Administration.

**Item(s) which the Committee may wish to consider with  
the Press and Public excluded**

**8. Registration of Private Landlord - Case No RL-23-003**

- Information relating to action taken, or to be taken, in connection with the prevention, investigation or prosecution of crime.

\* **Declaration of Group Decisions and Members Interests** - The Chair of the meeting shall seek declarations from any individual or political group at the beginning of a meeting whether any prior decision has been reached on how the individual or members of the group will vote on any item(s) of business on the Agenda, and if so on which item(s). A prior decision shall be one that the individual or the group deems to be mandatory on the individual or the group members such that the individual or the group members will be subject to sanctions should they not vote in accordance with the prior decision. Any such prior decisions will be recorded in the Minute of the meeting.

\*\* **Written Questions** - Any Member can put one written question about any relevant and competent business within the specified remits not already on the agenda, to the Chair provided it is received by the Proper Officer or Committee Services by 12 noon two working days prior to the day of the meeting. A copy of any written answer provided by the Chair will be tabled at the start of the relevant section of the meeting. The Member who has put the question may, after the answer has been given, ask one supplementary question directly related to the subject matter, but no discussion will be allowed.

No supplementary question can be put or answered more than 10 minutes after the Council has started on the relevant item of business, except with the consent of the Chair. If a Member does not have the opportunity to put a supplementary question because no time remains, then he or she can submit it in writing to the Proper Officer who will arrange for a written answer to be provided within 7 working days.

\*\*\* **Question Time** - At each ordinary meeting of the Committee ten minutes will be allowed for Members questions when any Member of the Committee can put a question to the Chair on any business within the remit of that Section of the Committee. The Member who has put the question may, after the answer has been given, ask one supplementary question directly related to the subject matter, but no discussion will be allowed.

No supplementary question can be put or answered more than ten minutes after the Committee has started on the relevant item of business, except with the consent of the Chair. If a Member does not have the opportunity to put a supplementary question because no time remains, then he/she can submit it in writing to the proper officer who will arrange for a written answer to be provided within seven working days.

# **THE MORAY COUNCIL**

## **Licensing Committee**

### **SEDERUNT**

Councillor Paul McBain (Chair)  
Councillor Peter Bloomfield (Depute Chair)

Councillor James Allan (Member)  
Councillor Neil Cameron (Member)  
Councillor Tracy Colyer (Member)  
Councillor Theresa Coull (Member)  
Councillor John Divers (Member)  
Councillor Jérémie Fernandes (Member)  
Councillor Donald Gatt (Member)  
Councillor Juli Harris (Member)  
Councillor Graham Leadbitter (Member)  
Councillor Kathleen Robertson (Member)  
Councillor Ben Williams (Member)

Clerk Name:	Lindsey Robinson
Clerk Telephone:	07966 120593
Clerk Email:	committee.services@moray.gov.uk

**Minute of Meeting of the Licensing Committee****Wednesday, 03 May 2023****Council Chambers, Council Office, High Street, Elgin, IV30 1BX****PRESENT**

Councillor James Allan, Councillor Peter Bloomfield, Councillor Neil Cameron, Councillor Tracy Colyer, Councillor Theresa Coull, Councillor John Divers, Councillor Jérémie Fernandes, Councillor Donald Gatt, Councillor Juli Harris, Councillor Graham Leadbitter, Councillor Paul McBain, Councillor Kathleen Robertson, Councillor Ben Williams

**IN ATTENDANCE**

Also in attendance at the above meeting were Sean Hoath, Senior Solicitor, Lindsey Robinson, Committee Services Officer, as Clerk to the meeting, both Moray Council and Sergeant Neil Grant, Police Scotland.

**1. Chair**

Councillor Paul McBain, as Chair of the Licensing Committee, chaired the meeting.

**2. Declaration of Group Decisions and Members Interests \***

In terms of Standing Order 21 and the Councillors' Code of Conduct, there were no declarations from Group Leaders or Spokespersons in regard to any prior decisions taken on how Members will vote on any item on the agenda or any declarations of Member's interests in respect of any item on the agenda.

**3. Resolution**

The Meeting resolved that under Section 50A (4) and (5) of the Local Government (Scotland) Act 1973, as amended, the public and media representatives be excluded from the meeting for Items 7 and 8 of business on the grounds that they involve the likely disclosure of exempt information of the class described in the relevant Paragraphs of Part 1 of Schedule 7A of the Act.

Paragraph Number of Minute	Paragraph Number of Schedule 7a and Reason
7	14 - Information relating to any action taken in connection with the prevention, investigation or prosecution of crime.
8	14 - Information relating to any action taken in connection with the prevention, investigation or prosecution of crime.

**4. Minute of the Meeting of the Licensing Committee of 8 February 2023**

The minute of the meeting of the Licensing Committee of 8 February 2023 was submitted and approved.

## **5. Written Questions \*\***

The Committee noted that no written questions had been submitted.

## **6. Question Time \*\*\***

The Committee noted that no questions were asked.

## **7. Application for Grant of a Street Trader's Licence - Case No ST-23-001 [Para 14]**

A report by the Depute Chief Executive (Education, Communities and Organisational Development) asked the Committee to consider an application for the grant of a street trader's licence received on 27 February 2023 subject to an adverse representation received from a consultee.

The senior solicitor introduced the report and confirmed that the applicant had received all of the paperwork.

The Committee noted that the applicant was in attendance. The Chief Constable was represented by Sergeant Neil Grant.

On the invitation of the Chair, Sergeant Grant addressed the Committee and responded to questions from Members.

On invitation of the Chair, the applicant addressed the Committee and responded to questions from Members.

During consideration, Councillor Gatt moved that the decision be deferred for 3 months to allow for the court case to conclude. This was seconded by Councillor Bloomfield.

Councillor Divers proposed an amendment to the motion raised by Councillor Gatt, in that the deadline for the decision is 27 November so the decision should be deferred to the meeting directly before hand to allow for the maximum time available to receive an outcome from the court. This would be the meeting scheduled for 15 November 2023. This was seconded by Councillor Harris.

Upon hearing the proposed amendment, Councillor Gatt withdrew his motion. This was agreed by Councillor Bloomfield.

Councillor Fernandes, seconded by Councillor Cameron, moved an amendment that the licence should be granted.

On a division there voted:

For the Motion (8)	Councillors Divers, Harris, Bloomfield, Coull, Gatt, Leadbitter, McBain and Robertson
For the Amendment (4)	Councillors Fernandes, Cameron, Allan and Colyer
Abstentions (1)	Councillor Williams

Accordingly the motion became the finding of the meeting and the Committee agreed to defer the decision until 15 November 2023.

**8. Application for Grant of a Street Trader's Licence - Case No ST-23-002**  
**[Para 14]**

A report by the Depute Chief Executive (Education, Communities and Organisational Development) asked the Committee to consider an application for the grant of a street trader's licence received on 11 January 2023 subject to an adverse representation received from a consultee.

The senior solicitor introduced the report and confirmed that the applicant had received all of the paperwork.

The Committee noted that the applicant was in attendance. The Chief Constable was represented by Sergeant Neil Grant.

On the invitation of the Chair, Sergeant Grant addressed the Committee and advised that additional information was available.

The senior solicitor confirmed that the applicant was happy to proceed.

The Committee agreed to hear the additional information from Police Scotland.

Sergeant Grant updated the Committee and responded to questions from Members.

On invitation of the Chair, the applicant addressed the Committee and responded to questions from Members.

Following consideration, the Chair moved that the licence be granted, and there being no one otherwise minded, the licence was granted.







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**REPORT TO: LICENSING COMMITTEE 21 JUNE 2023**

**SUBJECT: CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - ANNUAL  
FUNCTIONS REPORT**

**BY: DEPUTE CHIEF EXECUTIVE (EDUCATION, COMMUNITIES AND  
ORGANISATIONAL DEVELOPMENT)**

**1. REASON FOR REPORT**

1.1 This report is to seek approval to publish the draft annual functions report which incorporates a report from the Licensing Standards Officer.

1.2 This report is submitted to the Committee in terms of Section III (H) (1) of the Council's Scheme of Administration relating to the exercise of the function of the Council as licensing authority for The Moray Council area.

**2. RECOMMENDATION**

**2.1 It is recommended that the Committee note the draft Annual Functions Report at Appendix 1, amend the same if the Committee considers appropriate and agree the final report to be published.**

**3. BACKGROUND**

3.1 It is mandatory that the Licensing Board produces an Annual Functions Report. It was therefore thought appropriate, for transparency and information, that an Annual Functions Report also be produced for the Licensing Committee. A draft has therefore been produced so as to include the following;

3.1.1 A statement as to how the Committee has had regard to the licensing legislative requirements in exercising functions under the Civic Government (Scotland) Act 1982; and

3.1.2 A summary of the decisions made.

3.2 The draft report is produced at **Appendix 1** for noting and for approval. The normal deadline for publication of the annual report is the end of June each year and it is intended that the report to this Committee will, as far as possible, follow this schedule.

#### **4. SUMMARY OF IMPLICATIONS**

**(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))**

The provisions of licensing directly relate to the priorities within the 10 Year Plan (Moray 2026) in relation to healthier citizens, a growing and diverse economy and safer communities. The industries that require licensing have positive effects on tourism and the economy in terms of production, retail and services. Regulation of licensable activities contributes to a safer community by ensuring those providing licenseable goods and services are fit to do so.

**(b) Policy and Legal**

Policy and legal implications have been explained above.

**(c) Financial Implications**

None identified.

**(d) Risk Implications**

None identified.

**(e) Staffing Implications**

Preparation of statistics involves considerable staff time. Statistics are also useful for other purposes e.g. the annual return to the Scottish Government. No additional resources are required.

**(f) Property**

None.

**(g) Equalities/Socio Economic Impact**

In considering individual decisions the Committee should have regard to issues of equality and the subject's (licence holders) rights under the European Convention on Human Rights (and the Human Rights Act 1998). It is not considered necessary to undertake an equalities and human rights impact assessment in connection with this report.

**(h) Climate Change and Biodiversity Impacts**

None identified.

**(i) Consultations**

None.

**5. CONCLUSION**

- 5.1 It is proposed that the Committee note the contents of this report, amend the same if the Committee considers appropriate and agree to publish the Annual Functions Report.**

Author of Report: Sean Hoath, Senior Solicitor  
Background Papers:  
Ref: SH



Moray Licensing Committee

Annual Functions Report

1 April 2022 - 31 March 2023

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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 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 Committee ("the Committee") is the licensing authority for the purposes of all civic licensing excluding alcohol and gambling which are dealt with by the Moray Licensing Board.

The Licensing Committee is responsible for considering applications and objections in relation to regulating Civic licensing in accordance with the Civic Licensing (Scotland) Act 1982 as amended.

Under the ("the Act"), the Licensing Committee is responsible for considering applications for:-

1. Taxis
2. Second hand dealers
3. Knife dealers
4. Metal dealers
5. Boat hire licences
6. Street traders' licences
7. Market operators' licences
8. Public entertainment licences
9. Indoor sports entertainment licences
10. Late hours catering licences
11. Window cleaners' licences
12. Public processions
13. Houses in Multiple Occupation (HMOs)
14. Various animal related licences e.g. pet shops, animal boarding, animal breeding, animal rehoming, horse riding establishment etc.
15. Landlord registration
16. Short term lets
17. Sex shops and sexual entertainment venues

In exercising its functions under the Act, the Committee is required to have regard to consultees' responses as well as neighbouring or community objections if there are any.

## **Annual Functions Report**

From 1 April 2022 to 31 March 2023, the Committee met on an approximate eight week cycle on the following dates:

- (a) 22 June 2022
- (b) 7 September 2022
- (c) 21 September 2022
- (d) 8 February 2023

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

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

## **Decisions of the Committee**

Each application received by the Licensing Committee is considered on its individual merits. All licence applications that are received must be weighed-up in accordance with the Civic Government (Scotland) Act 1982 and in consultation with the consultees.

During the course of the calendar year 2022 and to 31 March 2023, the Committee received applications for 1207 and 424 licences respectively. Lists of application numbers by calendar year appear at the end of this report for comparison. It should be noted that not all licences are due to be considered each year as most licences under the Civic Government (S) Act 1982 have a three year cycle. Therefore the overall number of licences is much higher than the number considered each year.

In addition the majority of licence applications are processed under delegated powers where there are no problems with the application and there are no objections or representations. In cases where an objection or representation does arise the matter is referred to the Licensing Committee. The Committee is regularly provided with a report on applications considered and granted under delegated powers.

During the financial year 2022 to 2023 the Committee considered 7 applications for various licences at hearings. 2 taxi driver applications, 1 second hand dealer application, 1 late hours catering application and 1 public entertainment licence application were all granted. 1 landlord registration was refused and 1 review of a taxi driver's licence was deferred.

In considering the applications, the Committee 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, 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 Committee also have regard to these community planning priorities.



## **Sexual Entertainment Venues (SEV)**

Following the Resolution in terms of Section 45B of the Civic Government (Scotland) Act 1982 passed on 6 November 2019 there have been no applications for a SEV licence.

## **Short Term Let Licensing**

The single largest development in Civic Government licensing during the period covered by this report has been the preparation for and commencement of the licensing regime for short term lets. This has involved a lot of officer time across many council services in developing and implementing a completely new licence type. The Scottish Government estimated there would be approx. 600 short term lets in Moray which, if correct, would make it the largest single category of licence. A fully automated online process is still in development as it is an extremely complex process involving the council's bespoke licensing software provider. The process has been made much more difficult by late changes to legislation, Scottish Government statistical requirements and Scottish Government guidance. The guidance is still being revised and has yet to be finalised.

Nonetheless deadlines remain in force and all application by existing hosts/operators should be with the Committee by the end of September 2023. Numbers of application have generally been low on a national basis when compared to numbers expected. To date 97\* applications have been received 25\* licences have been issued. Work on processing short term let applications is expected to rise dramatically in the coming months.

\* Note these figures are more up to date than the report attached as there is ongoing monitoring of this issue

## **Animal Licensing**

The Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021 came into force in September 2021. It modernised some of the animal related licences (e.g. selling animals as pets), added some categories to existing licences (e.g. dog breeding has become breeding of dogs, cats or rabbits) and introduced new licences for animal rehoming and animal welfare establishments. The Regulations brought animal related licences more into line with civic style licences by making them up to three years in length and providing for specific mandatory conditions for relevant licence types. These licences are now becoming more common and work is ongoing to modernise the system of processing.

## **Licensing Standards**

There are two full time Licensing Standards Officers (LSOs). One LSO is responsible for all aspects relating to civic and taxi licensing, while the second LSO is responsible for liquor licensing, gambling and adult entertainment. The LSOs will offer guidance and advice to licence holders and communities to supervise compliance with the requirements of the Act by the licence holders. The LSOs will act as an intermediary between licence holders and the general public helping to avoid and resolve any disputes or disagreements. LSOs also attend meetings with the trade and the public which allows them to build a rapport with the local trade and members of the public as a consistent point of contact. This will ensure that there is a cohesive working partnership between all persons interested in the operation of the Act.

## Licensing Standards Officer Report

The Civic Licensing Standards Officer is responsible for numerous licence types. The aim of the role is to provide guidance and information to interested parties; ensure compliance by licence holders; and provide a mediation service for the purpose of avoiding or resolving disputes

Below is a brief list of some of the activities carried out by the Civic LSO between April 2022 and March 2023.

- Joint Investigation with Police of 2 Unlicensed Second Hand Dealers and 2 unlicensed Street Traders
- Supported the applicants of Public Entertainment licences for MacMoray, Speyfest 25yr anniversary, Gordon Castle Highland Games, Moray Pride, Rotary Rotafest and many other community Jubilee celebrations, Buckie Xmas Kracker and numerous smaller events after the lifting of Covid restrictions
- Worked to ensure the Taxi Fare review was completed within legislative requirements and that the trade were kept informed at all stages
- Updated licensing webpages with new templates and information to help streamline and provide more relevant information in an easy to access to format for license holders and interested parties e.g. taxi driver DVLA record instructions, Appeal / Objection form for Civic licences.
- Actively participated in the Moray Events Oversight Group on a regular basis to discuss all events within Moray to ensure safe and legal guidance is followed
- Developed new Large Event Safety Plan Template with input from the Moray Events Oversight Group to assist Event Organisers in submitting comprehensive and accurate safety plans
- Worked with Emergency Planning to keep event organisers updated to potential upcoming legislation changes with Martyn's Law
- Participated in the North East Civic Licensing Group meetings to share information and best practice between Civic Licensing Standards Officers across the North of Scotland
- Worked with HSE on investigating report of unsafe fairground at Moray event
- Completed HMRC data review and return for all previously issued Covid related Taxi and Private Hire Operator and Driver Grants

Applications Received						
Count of REFVAL	Year					Grand Total
Licence Type	2019	2020	2021	2022	To 31/3/2023	
Animal Boarding	14	8	8	17	12	59
Animal Breeding - 1 Year				1		1
Animal Rehoming - 1 Year					1	1
Animal Rehoming - 3 Years					1	1
Animal Welfare Establishment - 1 Year				1		1
Cinema		2		3	1	6
Dangerous Wild Animals			1	2	1	4
Dog Breeding	3	2	2	3		10
HMO Licence	11	11	6	12	4	44
Knife Dealers			1			1
Late Hours Catering	6	8	6	5		25
Market Operators – Full	1	2	1	3	2	9
Market Operators – Temp	2	1		1		4
Metal Dealer Licence		1		2		3
Pet Shops	3	2	2	1		8
Private Hire Driver	4	1	6	5	2	18
Private Hire Operator	10	8	6	11	1	36
Public Charitable Collections	28	11	13	33	5	90
Public Entertainment - 1 Year	4	1	1	2	2	10
Public Entertainment - 3 Years	13	3	5	22	2	45
Public Entertainment – Temporary	14	3	2	10	3	32
Riding Establishments			1	3		4
Sale of Pet Animals - 2 Years				2		2
Second Hand Dealer	16	30	26	29	8	109
Short-term Lets - Home Letting				2	5	7
Short-term Lets - Home Letting/Sharing					1	1
Short-term Lets - Home Sharing				1	1	2
Short-term Lets - Secondary Letting				20	42	62
Skin Piercing and Tattooing	8	6	17	18	5	54
Small Lotteries	13	11	8	14	8	54
Street Trader	17	23	35	29	15	119
Taxi Booking Office			3	1		4
Taxi Driver	48	77	79	90	11	305
Taxi Operator	21	61	43	52	18	195
Venison Dealer	2	1	5	1	1	10
Window Cleaners	2	19	24	9	11	65
<b>Grand Total</b>	<b>139</b>	<b>227</b>	<b>235</b>	<b>273</b>	<b>126</b>	<b>1000</b>

Licences Issued						
Count of REFVAL	Year					Grand Total
Row Labels	2019	2020	2021	2022	To 31/3/2023	
Animal Boarding	8	10	5	6	22	51
Cinema	1	2		1	2	6
Dangerous Wild Animals				2		2
Dog Breeding	3		2	1	1	7
HMO Licence	5	9	9	3	5	31
Knife Dealers			1			1
Late Hours Catering	5	7	6	4	1	23
Market Operators – Full	1	1	1	2	1	6
Market Operators – Temp	2			1		3
Metal Dealer Licence		1		2		3
Pet Shops	3	2	2	3		10
Private Hire Driver	2	2	4	6		14
Private Hire Operator	7	2	10	9		29
Public Charitable Collections	27	10	11	32	4	84
Public Entertainment - 1 Year	4	1	1	2	2	10
Public Entertainment - 3 Years	13		4	21	2	40
Public Entertainment – Temporary	14	1	1	12	1	29
Riding Establishments	2			2	2	6
Second Hand Dealer	16	31	27	28	6	108
Short-term Lets - Home Sharing					1	1
Short-term Lets - Secondary Letting					16	16
Skin Piercing and Tatooing	6	4	18	17	5	50
Small Lotteries	14	7	12	13	6	52
Street Trader	14	17	35	28	12	106
Taxi Booking Office	1		2	2		5
Taxi Driver	44	59	92	85	11	291
Taxi Operator	19	20	82	48	17	186
Venison Dealer	1		5	1		7
Window Cleaners	4	12	30	9	9	64
<b>Grand Total</b>	<b>202</b>	<b>191</b>	<b>348</b>	<b>327</b>	<b>120</b>	<b>1188</b>