



Licensing Committee

Wednesday, 19 June 2024

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, 19 June 2024 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 Items 8-10 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 meeting dated 15 November 2023** 5 - 8

5 **Written Questions ****

6 **Civic Government (Scotland) Act 1982 - Annual** 9 - 20

Functions Report

Report by Depute Chief Executive (Education, Communities and Organisational Development)

7 **Civic Government Licensing Annual Review of Income** 21 - 32

and Expenditure

Report by Depute Chief Executive (Education, Communities and Organisational Development)

- 8 **Application for Grant of a Short-Term Let Licence - Case No STL 24 001** 33 - 60

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

- 9 **Antisocial Behaviour Etc (Scotland) Act 2004, Part 8
Registration of Private Landlords (Case No LR 24 001)**

[Para 14]

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

- 10 **Application for Grant of a Street Trader's Licence (Case No ST 24 001) [Para 14]**

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

GUIDANCE NOTES

- * **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.

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, 15 November 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

APOLOGIES

Councillor Ben Williams

IN ATTENDANCE

Sean Hoath, Senior Solicitor; Jennifer Smith, Solicitor; Lindsey Robinson, Committee Services Officer, all Moray Council and PC Mitchell Dickson, 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 23 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, 8 and 9 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.
9	14 - Information relating to any action taken in connection with the prevention, investigation or prosecution of crime.

4. Minute of meeting held 6 September 2023

The minute of the meeting of the Licensing Committee held on 6 September was submitted and approved.

5. Written Questions **

The Committee noted that no written questions had been asked.

6. Question Time ***

The Committee noted that no questions were asked.

7. Registration of Private Landlords - Case No LR-23-001 [Para 14]

The meeting had before it a report by the Depute Chief Executive (Economy, Environment and Finance) informing the Committee of an objection from Police Scotland to a landlord being registered under the requirements of the Antisocial Behaviour etc, (Scotland) Act 2004.

Mrs Smith introduced the report and advised the Committee that the applicant had been sent all of the paperwork and details of the meeting.

The Committee noted that the applicant was not in attendance. The Chief Constable was represented by PC Mitchell Dickson.

The Committee noted that the applicant was not in attendance. The Chief Constable was represented by PC Mitchell Dickson.

The Committee were of the view that in the circumstances the applicant had been given a reasonable opportunity to attend the hearing and resolved to proceed with the hearing in his absence.

On the invitation of the Chair PC Dickson addressed the Committee and responded to questions from members.

Councillor Bloomfield moved that the application to be entered onto the register of landlords be refused as having regard to all the evidence the applicant was not a fit and proper person to be a registered landlord. This was seconded by Councillor Gatt.

There being no one otherwise minded the application for registration was refused.

8. Application for the grant of a Street Trader Licence - Case No ST-23-001 [Para 14]

The meeting had before it a report by the Depute Chief Executive (Education, Communities and Organisational Development) asking the Committee to consider an application for a street trader's licence received on 27 February 2023 subject to an adverse representation received from a consultee.

Mr Hoath introduced the report and advised the Committee that the applicant had been sent all of the paperwork and details of the meeting. The Committee were of the view that in the circumstances the applicant had been given a reasonable opportunity to attend the hearing and resolved to proceed with the hearing in his absence.

Before the Committee considered the application, Mr Hoath advised that there was a technically late submission from Police Scotland as the previous Police representation had been upgraded to an objection as part of a second update letter. Mr Hoath asked the Committee if they were happy to accept the late submission. The Committee agreed unanimously that there was sufficient reason to accept the technically late additional information. Thereafter the second submission from Police Scotland was distributed to members.

Adjournment

The Chair called for a short adjournment to allow the Committee time to read the additional submission.

Resumption of meeting

Following a short adjournment the Committee noted that the applicant was not in attendance. The Chief Constable was represented by PC Mitchell Dickson.

On the invitation of the Chair PC Dickson addressed the Committee and responded to questions from members.

Councillor Bloomfield moved that the licence be refused as having regard to all the evidence the applicant was not a fit and proper person to hold a licence. This was seconded by Councillor Leadbitter who added that he also had serious concerns around the issue of public safety.

There being no one otherwise minded the Committee was obliged to refuse the licence application as the applicant was considered to be not a fit and proper person to hold a licence.

9. Application for the grant of a Taxi Driver Licence - Case No TD-23-002 [Para 14]

The meeting had before it a report by the Depute Chief Executive (Education, Communities and Organisational Development) asking the Committee to consider an application for the grant of a taxi driver licence received on 12 October 2023 subject to an adverse representation received from a consultee.

Mrs Smith introduced the report and advised the Committee that the applicant had been sent all of the paperwork.

The Committee noted that the applicant was in attendance. The Chief Constable was represented by PC Mitchell Dickson.

The applicant confirmed his name and that he had received a copy of the Police letter.

On the invitation of the Chair PC Dickson addressed the Committee and responded to questions from members.

On the invitation of the Chair the Applicant advised the Committee that he had nothing further to added.

Mr Hoath advised the applicant that this was his opportunity to address the concerns raised by the Police representation. The applicant addressed the meeting and also

responded to questions from members. In particular the applicant advised that he had not declared his previous convictions as he did not understand the application form.

Mr Hoath sought to confirm that the applicant understood the proceedings and what was happening to which the applicant confirmed he understood.

Councillor Gatt moved that the licence be refused as having regard to all the evidence the applicant was not a fit and proper person to hold a licence. This was seconded by Councillor Cameron.

There being no one otherwise minded the Committee was obliged to refuse the licence application as the applicant was considered to be not a fit and proper person to hold a licence.



REPORT TO: LICENSING COMMITTEE 19 JUNE 2024

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 final 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 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 consideration and 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 licensable 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 consider the contents of this report, amend the draft Annual Functions Report in Appendix 1 if the Committee considers appropriate and agree to publish the final Annual Functions Report.**

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

Signature: _____
Designation: Head of Governance, Strategy and Performance
Name: Alasdair McEachan

Moray Licensing Committee

Annual Functions Report

1 April 2023 - 31 March 2024

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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 2023 to 31 March 2024, the Committee 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

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 1 April 2023 to 31 March 2024, the Committee received applications for 1040 and issued 554 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. It should also be noted that the advent of short term lets has greatly increased the number of applications and licences. The number of applications for the current period equalled the overall number of applications for the previous 5 periods.

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 2023 to 2024 the Committee considered 4 applications for various licences at hearings: 2 taxi driver applications; 1 street trader application (over 2 hearings); and 1 landlord registration.

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 commitment in Civic Government licensing during the period covered by this report has been 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. A fully automated online process has been developed as an extremely complex process involving the council's bespoke licensing software provider. Unfortunately the online process was later than planned and so the majority of applications can in on paper. As above there has been a huge surge in the overall number of applications for civic licences driven by short term lets. A large amount of officer time is now being spent in processing these licences. The process has been made much more difficult by late applications as the majority of applications came in just before the deadline of 1 October 2023. Changes to the Scottish Government statistical requirements and guidance have also caused difficulties. The Scottish Government is also changing the law again before the first round of applications are completely processed.

Nonetheless deadlines remain in force and all applications by existing hosts/operators should be determined by the end of this calendar year. Numbers of actual applications have now exceeded the overall number expected. It was previously thought numbers might reach approx. 600 but have now exceeded 700. As such, work on processing short term let applications has risen dramatically in recent months.

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. The council has deleted the post of one animal services officer and so licensing is working with local vets as regards inspections for animal related licences.

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

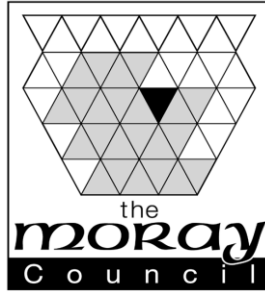
The Civic Licensing Standards Officer is responsible for numerous licence types. The aim of the role is to provide guidance and information to interested parties; ensure compliance by licence holders; and provide a mediation service for the purpose of avoiding or resolving disputes

Below is a brief list of some of the activities carried out by the Civic LSO between April 2023 and March 2024.

- Joint Investigation with Police of unlicensed taxis being run in Elgin resulting in two charges
- Supported the applicants of Public Entertainment licences for MacMoray, Speyfest 25yr anniversary, Gordon Castle Highland Games, Moray Pride, Rotary Rotafest and community coronation celebrations, Buckie Xmas Kracker and numerous smaller events
- Worked with the Elgin BID and Showmen's Guild on reducing Fly Posting issues across Moray Towns
- Promoted use of local vendors at Events through additional information on Templates and Guidance notes
- Partnered with Police, BID and local groups to ensure public safety during demonstrations in Elgin Town Centre throughout the year
- Dealt with Late Hours Catering complaints and objections
- Arranged and Provided an Event Safety Plan seminar for Event Organisers to assist them in understanding the detail required when completing a Public Entertainment Licence application. This involved all partners and consultees in the PEL process presenting and being available to organisers for questions.
- Created new organiser guidance for Bonfire / Fireworks Display events in partnership with SFRS
- Participated in 2 joint Taxi inspection operations with Police Scotland and VOSA
- Implemented the new HMRC tax code requirement for various licence types
- 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
- Investigated reports of unlicensed Short Term Let premises when reported by the public.
- Completes the GDPR checks on the Short Term Let public register regularly before publication
- Attended meetings with the Lossiemouth Development Trust, Moray Association of Village Halls, Elgin Bid, Elgin Rotary and other volunteer groups to assist in explaining licensing requirements and offer assistance in completing required applications.
- Processed all Civic Licence applications and renewals within the required 28 consultation periods

	Applications Received						
Count of REFVAL	Year						
Licence Type	2019	2020	2021	2022	To 31/3/2023	1/4/23 to 31/3/24	Grand Total
Animal Boarding	14	8	8	17	12	35	94
Animal Breeding - 1 Year	0	0	0	1	0	1	2
Animal Rehoming - 1 Year	0	0	0	0	1	0	1
Animal Rehoming - 3 Years	0	0	0	0	1	0	1
Animal Welfare Establishment - 1 Year	0	0	0	1	0	1	2
Cinema	0	2	0	3	1	1	7
Dangerous Wild Animals	0	0	1	2	1	1	5
Dog Breeding	3	2	2	3	0	0	10
HMO Licence	11	11	6	12	4	8	52
Knife Dealers	0	0	1	0	0	0	1
Late Hours Catering	6	8	6	5	0	10	35
Market Operators – Full	1	2	1	3	2	11	20
Market Operators – Temp	2	1	0	1	0	1	5
Metal Dealer Licence	0	1	0	2	0	1	4
Pet Shops	3	2	2	1	0	0	8
Private Hire Driver	4	1	6	5	2	5	23
Private Hire Operator	10	8	6	11	1	9	45
Public Charitable Collections	28	11	13	33	5	24	114
Public Entertainment - 1 Year	4	1	1	2	2	6	16
Public Entertainment - 3 Years	13	3	5	22	2	10	55
Public Entertainment – Temporary	14	3	2	10	3	9	41
Riding Establishments	0	0	1	3	0	5	9
Sale of Pet Animals - 2 Years	0	0	0	2	0	0	2
Second Hand Dealer	16	30	26	29	8	26	135
Short-term Lets - Home Letting	0	0	0	2	5	64	71
Short-term Lets - Home Letting/Sharing	0	0	0	0	1	34	35
Short-term Lets - Home Sharing	0	0	0	1	1	35	37
Short-term Lets - Secondary Letting	0	0	0	20	42	506	568
Skin Piercing and Tattooing	8	6	17	18	5	17	71
Small Lotteries	13	11	8	14	8	16	70
Street Trader	17	23	35	29	15	37	156
Taxi Booking Office	0	0	3	1	0	0	4
Taxi Driver	48	77	79	90	11	76	381
Taxi Operator	21	61	43	52	18	75	270
Venison Dealer	2	1	5	1	1	2	12
Window Cleaners	2	19	24	9	11	14	79
Grand Total	139	227	235	273	126	1040	2040

	Licences Issued						
Count of REFVAL	Year						
Row Labels	2019	2020	2021	2022	To 31/3/2023	1/4/23 to 31/3/24	Grand Total
Animal Boarding	8	10	5	6	22	30	81
Animal Welfare Establishments	0	0	0	0	0	1	1
Cinema	1	2	0	1	2	2	8
Dangerous Wild Animals	0	0	0	2	0	0	2
Dog Breeding	3	0	2	1	1	1	8
HMO Licence	5	9	9	3	5	10	41
Knife Dealers	0	0	1	0	0	0	1
Late Hours Catering	5	7	6	4	1	10	33
Market Operators – Full	1	1	1	2	1	8	14
Market Operators – Temp	2	0	0	1	0	2	5
Metal Dealer Licence	0	1	0	2	0	1	4
Pet Shops	3	2	2	3	0	0	10
Private Hire Driver	2	2	4	6	0	2	16
Private Hire Operator	7	2	10	9	0	8	36
Public Charitable Collections	27	10	11	32	4	23	107
Public Entertainment - 1 Year	4	1	1	2	2	2	12
Public Entertainment - 3 Years	13	0	4	21	2	11	51
Public Entertainment – Temporary	14	1	1	12	1	6	35
Riding Establishments	2	0	0	2	2	3	9
Second Hand Dealer	16	31	27	28	6	25	133
Short-term Lets - Home Letting						8	8
Short-term Lets - Home Letting/Sharing						4	4
Short-term Lets - Home Sharing	0	0	0	0	1	5	6
Short-term Lets - Secondary Letting	0	0	0	0	16	164	180
Skin Piercing and Tooting	6	4	18	17	5	16	66
Small Lotteries	14	7	12	13	6	11	63
Street Trader	14	17	35	28	12	36	142
Taxi Booking Office	1	0	2	2	0	0	5
Taxi Driver	44	59	92	85	11	72	363
Taxi Operator	19	20	82	48	17	73	259
Venison Dealer	1	0	5	1	0	3	10
Window Cleaners	4	12	30	9	9	17	81
Grand Total	202	191	348	327	120	554	1742



ITEM: Item 7

PAGE:

REPORT TO: LICENSING COMMITTEE 19 JUNE 2024

SUBJECT: CIVIC GOVERNMENT LICENSING ANNUAL REVIEW OF INCOME AND EXPENDITURE

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

1. REASON FOR REPORT

1.1 This report is to update the Committee on the overall income versus expenditure for civic and other related licensing for the last financial year by way of an annual financial report;

1.2 This report is submitted to Committee in terms of Section III (H) (1) of the Council's Scheme of Administration relating to the exercise of all the functions of the Council as Licensing Authority including applications in terms of relevant legislation other than duties carried out by the Licensing Board.

2. Recommendations

It is recommended that the Committee:-

2.1 Note the current fees attached at Appendix 1;

2.2 Note the financial report on income and expenditure data at Appendix 2;

2.3 Agree to publish the financial report;

2.4 Note that a full review of licence fees set by the Committee is underway and will come back to Committee for review in due course.

3. BACKGROUND

Current Fees

3.1 The Civic Government (S) Act 1982 and other licensing legislation for which the Licensing Committee is responsible gives the Committee the power to set fees in respect of various applications under the Acts.

- 3.2 The current set of fees is attached at **Appendix 1**. The current fees were agreed by the Committee in 2017 and have since been the subject of annual inflationary increases.
- 3.3 The fee structure is designed around the principle that licensing is to be, as far as possible, self funding and that each licensing authority is to broadly recover, through licensing fees, the overall cost to the Council of providing licensing functions. The expenses to be recovered are to include all those incurred by the Council in both licensing administration and from other services within the Council contributing to the licensing procedure.
- 3.4 The current fee scale is due for a full review and a review process has started but is not yet ready for review by the Committee. Staff shortages and a demanding workload, particularly in relation to short term lets have contributed to the delays. The full review is a very onerous process. Calculations are made more difficult by the fact that income and expenditure cannot be aggregated across all licence types. For example it is not possible to make street trading fees more expensive in order to reduce taxi driver fees. A report will be brought before the Committee as soon as time allows.
- 3.5 A similar review of licensing income and expenditure has been undertaken in the past by way of an annual check, pending full review. This report is therefore presented as an interim measure to keep the Committee up to date on overall income versus expenditure.
- 3.6 Most civic and similar licence types last for three years so income is received in cycles. This is a further reason why calculations prove difficult as application numbers and income must be aggregated over the previous three years. Within this period figures still remain skewed by the influence of the pandemic.

4. FINANCIAL REPORT ON INCOME AND EXPENDITURE

- 4.1 With the assistance of officers in the Finance service, officers have now collated income and expenditure figures for the financial year 1 April 2023 to 31 March 2024.
- 4.2 The figures and calculations are summarised at **Appendix 2**.
- 4.3 The figures reveal the following indications:
- 4.3.1 There was a notional next expenditure of £1070.48 for the last financial year.
- 4.3.2 Income and expenditure within civic and other licensing can fluctuate, very much depending on the number and nature of application types in any given year. As stated above most licence types last three years and income is received in cycles.
- 4.3.3 Owing to the cyclic nature of income, two thirds of the income from short term let licence applications has been written forward to even out the figures. All short term let licence applications have been received in the current financial year. However the sheer number of applications in one year would present an unnatural position.

Publication of the Financial Report

- 4.4 Whilst there is no legal requirement to publish reports on both functions and finances, it is considered to be open and equitable to do so.
- 4.5 A separate report is being submitted relating to the required functions including details of the licensing applications processed.
- 4.6 The Committee is asked to note and agree to publication of this financial report on the Council's web pages.

5. Future Fees

- 5.1 As stated this report presents a snapshot position for the financial year 2023 to 2024 whilst a full fee review is being undertaken.
- 5.2 The overarching legal requirement is for the licensing authority to have regard to the desirability of ensuring that the total fees payable in respect of any given period are likely to be broadly equivalent to the expenses incurred by that authority.
- 5.3 The current net expenditure is equivalent to 0.46% of the overall income. Fee setting is not an exact science but it is therefore considered that income is broadly equivalent to expenditure for this period.
- 5.4 In respect of any review it should be noted that where, in accordance with legislation, fees are set by the Committee there is no requirement to consult upon those fees before any variation is brought into effect. Nevertheless there will always be pressure from the licensed trade not to place any increased financial burden on them.

6 SUMMARY OF IMPLICATIONS

(a) Moray 2026 A Plan for the Future/ Service Plan

The provisions of licensing directly relate to the priorities within the 10 Year Plan in relation to healthier citizens, a growing and diverse economy and safer communities. Various licences help with the four main priority areas of developing a diverse, inclusive and sustainable economy, building a better future for children and young people in Moray, empowering and connecting communities and improving the wellbeing of the population. Regulation of the licensable activities contributes to a safer community and promotes confidence in businesses.

(b) Policy and Legal

Policy and Legal implications have been explained above.

(c) Financial implications

Financial implications relating to fee levels have been explained above.

(d) Risk Implications

There is always a risk that the actual income differs from the projected income and/or expenditure. The risk in connection with the setting of fees is that if fees are set too low then the cost of administering the licensing system may not be recouped. Conversely if fees were to produce a surplus then any decision in respect of fees may be open to review.

(e) Staffing Implications

Preparation of financial information has involved considerable staff time. No additional resources are required. It is anticipated that going forward fee income will be designed to ensure full cost recovery in terms of providing the licensing function.

(f) Property

None.

(g) Equalities

In considering this matter 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) Consultations

As far as possible, the figures within this report have been prepared in consultation with Alistair Milne, Accountant within the Council's Finance Service.

7 Conclusion

7.1 It is proposed that the Committee note the contents of this report and agree to publication of this financial report on the Council's web pages.

Author of Report: Sean Hoath, Senior Solicitor, Depute Clerk to the Board

Background Papers:

Ref: SH

Signature: _____

Designation: Head of Governance Strategy and Performance,

Name: Alasdair McEachan

Appendix 1

**Moray Licensing Committee
Current Fees**

Animal Licence Fees	Fee	Additional Fees
Animal Boarding Establishment (Licence Application/renewal/change)	£138	Vet fees variable, chargeable per hour*
Animal Welfare Establishment (Licence Application/renewal/change)	£243	Vet fees variable, chargeable per hour*
Animal Rehoming Activities	£210	Vet fees variable, chargeable per
Breeding of dogs, cats and rabbits (Licence Application/renewal/change)	£194	Vet fees variable, chargeable per hour*
Dangerous Wild Animals Licence (Licence Application/renewal/change)	£301	Vet fees variable, chargeable per hour*
Riding Establishments Act 1964/70 (Licence Application/renewal/change)	£437	Vet fees variable, chargeable per hour*
Sale of Pet Animals (Licence Application/renewal)	£237	Vet fees variable, chargeable per hour*
Performing Animals Licence (Licence Application/renewal/change)	£116	
Zoo Licence (Licence Application/renewal/change)	£349	Vet fees variable, chargeable per hour*

*Fees are chargeable per hour and must be paid before any licence is issued.

Business Related Licence Fees	
Copy of a Licence	£23
Food Premises Approval	n/a
Food Premises Registration	n/a
Itinerant Metal Dealer	Licence: £722 Exemption warrant: £722
Knife Dealer	£764
Late Hours Catering	Licence: £1006 Renewal: £1006
Market Operator	Licence: £472 Temporary licence: £472
Metal Dealer	Licence: £722 Exemption warrant: £722
Public Charitable Collection	n/a
Second Hand Dealer	£154
Sexual Entertainment Venue new licence	£1617
Sexual Entertainment Venue licence grant fee	TBD
Sexual Entertainment Venue licence renewal	£1617
Sexual Entertainment Venue licence variation	£539
Sexual Entertainment Venue licence transfer	£297
Sexual Entertainment Venue issue duplicate licence	£43
Sex Shop	£1,350
Skin Piercing and Tattooing	£416
Street Trader	£416
Variation of any Licence	£30
Venison Dealer	£56
Window Cleaner	£164

Entertainment Licence Fees			
Cinema	£175		
Public Entertainment		50% fee for registered charity	75% of fee for charity event by a non-registered body
Under 200 attendees	£333	£166.50	£249.75
200-299 attendees	£416	£208	£312.00
300-399 attendees	£542	£271	£406.40
400-499 attendees	£709	£354.50	£531.75
Over 500 attendees	£1467	£733.50	£1100.25
Copy of a licence	£23		
Variation to a licence	£30		

HMO Licence Fees	
House in Multiple Occupation (HMO)	5 occupants or under: £1,903 10 occupants or under: £2,719 over 10 occupants: £3,536 Change of circumstance: £275

Short Term Let Licence Fees	
Short-term Let Licence/renewal (new or existing operator)	£495
Temporary Short-term Let Licence	£495
Copy of a Short-term Let licence	£22
Variation to a Short-term Let Licence	£28
Inspection of Short-term Let premises	£200

Taxi Licence Fees	
Copy of a Licence	£23
Replacement Badge	£23
Taxi Booking Office (4 or more cars)	£544
Taxi/Private Hire - Driver Grant	£257
Taxi/Private Hire - Driver Renewal	£208
Taxi/Private Hire - Vehicle (Operator)	£446
Variation of any Taxi/Private Hire Licence	£30
Licence Plates	£23 non-refundable
Vehicle Substitution	£373

Appendix 2 Civic Licensing Income and Expenditure

Description	Actual to Date
Employee Costs	
SJC	1163.32
TOTAL: Salaries	1163.32
National Insurance	133.77
Employee Costs Allocation	22937.44
TOTAL: Other Costs	23071.21
Employee Costs Total	24234.53
Running Total -----	24234.53
TOTAL EMPLOYEE COSTS	24234.53
Running Total -----	24234.53
Property Costs	
Running Total -----	24234.53
Supplies and Services	
Equipment & Furniture	0.00
Software licences, maintenance	3534.74
Text & Library Books	57.39
Printing and Stationery	0.00
Postages	9.60
Other Supplies and Services	0.00
Fees, charges and subs	0.00
Conference Expenses	305.00
Supplies and Services Total	3906.73
Running Total -----	28141.26
Transport & Plant Costs	
Vehicle Running Costs	2616.90
Transport & Plant Costs Total	2616.90
Running Total -----	30758.16
Support Services	
Apportioned Costs	201648.07
Support Services Total	201648.07
Running Total -----	232406.23
Income	
Income from Service Users	-231335.75
TOTAL: Other Income	-231335.75
Income Total	-231335.75
Running Total -----	1060.48

Description	Actual to Date
Totals:-	-231345.75
Game Dealers, Cinemas	-272.00
Metal Dealing	-1807.00
Late Hours Catering	-8578.00
Second Hand Dealing	-3195.00
Animal Boarding Act	-4192.00
Riding Estabs Act	-185.54
Street Traders Licences	-13923.00
Window Cleaners Licences	-2170.00
HMO Licences (multiple occup)	-12306.00
Market Operators Licences	-5364.00
Public Entertainment Licence	-12496.25
Animal Licences	-285.00
Skin Piercing/Tattooing	-5543.00
Civic Short Term Let Licence	-106453.96
Taxis	-26250.00
Private Car Hires	-3747.00
Taxis Drivers	-23238.00
Drivers Private Car Hires	-908.00
Licence Plates	-422.00

TOTAL EXPENDITURE	232,406.23
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TOTAL INCOME	-231,335.75
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NET EXPENDITURE	1,070.48
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REPORT TO: LICENSING COMMITTEE ON 19 JUNE 2024

SUBJECT: CIVIC GOVERNMENT (SCOTLAND) ACT 1982 (LICENSING OF SHORT-TERM LETS) ORDER 2022 – APPLICATION FOR GRANT OF A SHORT-TERM LET LICENCE (CASE NO. STL/24/001)

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

1. REASON FOR REPORT

- 1.1 To consider an application for the grant of a short-term let licence received on 4 August 2023 which is subject to objections received from the public.
- 1.2 This report is submitted to Committee in terms of Section III (H) (1) and (2) of the Council's Scheme of Administration relating to exercising the function of the Council as licensing authority for the Moray Council area and issuing and suspending, revoking and refusing applications for all licences in terms of the Civic Government (Scotland) Act 1982.

2. RECOMMENDATION

2.1 The Committee is invited to consider the application in light of the matters referred to in this report and the provisions of the Civic Government (Scotland) Act 1982 and Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 and thereafter:-

- (i) Grant the licence; or**
- (ii) Grant the licence and (either or both):**
 - (a) Disapply or vary any standard conditions applicable to the licence; and/or**
 - (b) Impose conditions in addition to any mandatory or standard conditions to which the licence is subject; or**
- (iii) Refuse to grant the licence.**

3. BACKGROUND

- 3.1 The licensing authority must reach a final decision on each application from “new hosts” within 9 months of it having been made. “New hosts” are those operators who were not using their premises for short-term letting before 1 October 2022. The application was deemed valid on 13 November 2023 therefore, as an application from a “new host” it must be decided by 13 August 2024.
- 3.2 Powers are delegated to the Head of Governance, Strategy and Performance to grant or where appropriate, renew licences only if there are no objections or adverse representations received from a consultee or the general public. In light of circumstances detailed within this report, it is appropriate that this matter be dealt with by the Licensing Committee.
- 3.3 A copy of the application is provided at **Appendix 1**.
- 3.4 A letter of objection was received on 8 December 2023 and is provided at **Appendix 2**. The objection was received within the statutory consultation period.
- 3.5 An email of objection was received on 18 December 2023 and is provided at **Appendix 3**. The objection was received within the statutory consultation period.
- 3.6 Licensing Standards Officer, Joanne Larsen, carried out mediation among the parties. Proposed additional licence conditions aimed to resolve issues raised by the objectors have been accepted by the applicant however the objections have not subsequently been withdrawn. A copy of the view expressed by the Licensing Standards Officer is provided at **Appendix 4**.
- 3.7 The applicant has been provided with a copy of the objections lodged against the application and all parties have been invited to attend the meeting.

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 a growing and diverse economy and safer and healthier communities. The various licensable activities within industry all aid a growing economy in terms of production, retail and the positive effects on tourism. Regulation of the licensed activities contributes to a safer community by ensuring those providing licensable goods and services are fit to do so.

(b) Policy and Legal

Under the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 (“2022 Order”) and the Civic Government (Scotland) Act

1982 (“1982 Act”) where an application for the grant or renewal of a licence is received, a licensing authority can:-

- grant (or renew) the licence; or
- grant (or renew) a licence and in doing so disapply or vary any standard conditions applicable to the licence; or (failing which)
- grant (or renew) a licence and impose additional conditions to the licence; or (failing which)
- refuse to grant (or renew) the licence.

Considerations to which the Committee may have regard

In considering whether or not to grant a licensing application, the Committee may have regard to any misconduct on the part of the applicant which in its opinion has a bearing on his fitness to hold a licence. This includes, but is not limited to, previous and spent convictions.

Granting the Application

The licensing authority is **obliged** to grant the licence unconditionally unless it considers that any of the criteria below apply to justify granting it with conditions or refusing it altogether. In granting the application the Committee may choose to grant a licence and disapply or vary any of the standard conditions (i.e. local conditions agreed by the licensing authority) which ordinarily apply to the licence, if there is a justifiable reason for doing so.

Where the Committee is not minded to grant the application unconditionally, it should first move to consider whether the application should be granted with additional conditions. Additional conditions may include conditions restricting the licensable activity, for example restricting the activity to certain times or areas. Where the Committee chooses to impose additional conditions to a licence, the additional conditions must be reasonable, must not impose any limit on the number of nights for which premises may be used for secondary letting (Paragraph 5 (2) and 5(2B) Schedule 1, 1982 Act respectively) and they must not relate to fire safety or any other matter dealt with under the Fire (Scotland) Act 2005 (Paragraph 5 (2A) Schedule 1, 1982 Act).

In addition, it is important that the removal, variation or addition of conditions is not inconsistent with any of the mandatory licence conditions. (Paragraph 5 (2ZA) Schedule 1, 1982 Act).

Refusal of an Application

There are certain circumstances under which the Committee is obliged to refuse an application to grant or renew a licence. These are provided at paragraph 5(3) of Schedule 1 to the 1982 Act as amended by the 2022 Order and are:-

- (a) The applicant or, where the applicant is not a natural person, any director of it or a partner in it or any other persons responsible for its management is either:-
- (i) for the time being disqualified from holding a licence under section 7(6) of the 1982 Act; or
 - (ii) not a fit and proper person to be the holder of the licence;
- (b) the activity to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant or renewal of such a licence if he made the application himself;
- (c) where the licence applied for relates to an activity consisting of or including the use of the premises or a vehicle or a vessel, those premises are not or, as the case may be that vehicle or vessel is not suitable or convenient for the conduct of the activity having regard to:-
- (i) the location, character or condition of the premises or the character or condition of the vehicle or vessel;
 - (ii) the nature and the extent of the proposed activities;
 - (iii) the kind of person likely to be in the premises, vehicle or vessel;
 - (iv) the possibility of undue public nuisance; or
 - (v) public order or public safety; or
- (ca) the applicant would not be able to secure compliance with:-
- (i) the mandatory licence conditions, and
 - (ii) the standard conditions and any further conditions under sub-paragraph 1(A)(b) to which the licence is to be subject,
- (cb) the application does not contain the information required under paragraph 1(2)(da), or (db) (the consent of the owners of the premises), or
- (d) there is other good reason for refusing the application.

Where none of these conditions apply, the licensing authority is **obliged** to grant the application.

(c) Financial implications

None.

(d) Risk Implications

None.

(e) Staffing Implications

None.

(f) Property

None.

(g) Equalities/Socio Economic Impact

In considering this matter the Committee should have regard to the subject's rights under the European Convention on Human Rights (and the Human Rights Act 1998).

In particular:

Article 8 - access to private and sensitive information about the person could give rise to interference with the subject's right to respect for private and family life.

Article 1 of Protocol 1 - the decision may also interfere with the right to property, in that, depending on the outcome, the decision may deprive the subject of income.

Article 6 - the right to a fair trial means the proceedings must be conducted fairly to arrive at a reasoned decision.

Article 8 and Article 1 of Protocol 1 are qualified rights, meaning these can be restricted in order to protect the rights of another or the wider public interest. This will require an objective justification. To be able to objectively justify a decision, the Committee has to demonstrate that any decision is a proportionate means to achieve a legitimate aim.

A legitimate aim must be a real consideration that is legal and not discriminatory.

Examples of legitimate aims include: Public health; Public safety; Efficiency; Enabling elderly people to live at home longer. Saving cost may be relevant but is not an aim in itself.

Any measure taken to achieve the legitimate aim must also be proportionate i.e. necessary and the least intrusive/discriminatory way of achieving the aim.

Lastly, when any of the Articles are engaged, it will also mean Article 14 should be considered. That is the right not to be discriminated against in relation to the convention rights. The definition of discrimination under this Article covers a much wider spectrum than the protected characteristics under the Equality Act 2010. The Committee should therefore have regard to all the applicant's circumstances.

(h) Climate Change and Biodiversity Impacts

None identified.

(i) Consultations

The Chief Constable and the Scottish Fire and Rescue Service have been consulted in terms of the Act. Moray Council's Planning, Environmental Health and Building Standards Services have also been consulted. Objections have been received from the public as detailed above. No other adverse representations or objections regarding the application were received from consultees.

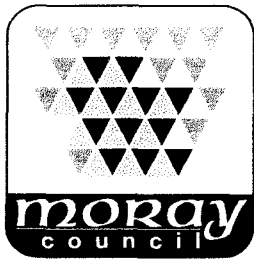
5. CONCLUSION

5.1 That the Committee considers the recommendations set out in section 2 of the report.

Author of Report: Jennifer Smith, Solicitor
Background Papers: There are no background papers
Ref: JS/SAH

£495 PMD ON 3/8/23
- CASAN

4 AUG 2023



**THE CIVIC GOVERNMENT (SCOTLAND) ACT 1982 (LICENSING OF SHORT-TERM LETS)
ORDER 2022
APPLICATION FOR A SHORT-TERM LET LICENCE**

PLEASE READ GUIDANCE NOTES SUPPLIED BEFORE COMPLETING THE FORM

A. LICENCE DETAILS

Tick one box only:

Secondary Letting

Home Letting

Home Sharing

Home Letting and Home Sharing

Are you applying for a temporary licence? YES / NO

B. APPLICANT DETAILS

Tick one box only: Individual Corporate Entity

B.1 Individual Details:-

Full Name Mrs Bresilda Haka

Home Address [Redacted]

[Redacted]

[Redacted]

Post Code [Redacted]

Tel. No [Redacted] Mobile... [Redacted]

If you have lived at this address for less than five years, you must provide previous addresses below to cover this period.

Previous Address 1

[Redacted]

[Redacted]

Post Code

[Redacted]

Previous Address 2

[Redacted]

[Redacted]

[Redacted]

Post Code

[Redacted]

If you have further address details to add, include these in the additional information sheet attached to this application.

[Redacted]

Email

Date of Birth

[Redacted]

Age

[Redacted]

Place of Birth

[Redacted]

Are you a Registered Landlord?

YES NO

If yes, please provide your landlord registration number

B.2 Corporate Entity

Full Name of Person completing application

N/A

Full Name of Corporate Entity

Address of Registered or Principal Office

Post Code

Tel. No

Email

Full details of all Directors, Partners or other persons responsible for management of the entity (continue on the additional information sheet if necessary)

Full Name

Home Address

.....

.....

Post Code

Tel. No Mobile.....

Email

Date of Birth Age.....

Place of Birth

Full Name

Home Address

.....

.....

Post Code

Tel. No Mobile.....

Email

Date of Birth Age.....

Place of Birth

Full Name

Home Address

.....

.....

Post Code
Tel. No Mobile.....
Email
Date of Birth Age.....
Place of Birth

C. DAY TO DAY MANAGEMENT OF THE PREMISES

Do you intend to carry out the day to day management of the premises? YES NO

If no, provide the full details of the agent/day-to-day manager who will be responsible for management of the premises:

Full Name
Home Address
.....
.....
Post Code

If the agent/day to day manager has lived at this address for less than five years, provide previous addresses below to cover this period.

Previous Address 1
.....
.....
Post Code
Previous Address 2
.....
.....
Post Code

If you have further previous address details to add, include these in the additional information sheet attached to this application.

Tel. No Mobile.....

Email
Date of Birth Age.....
Place of Birth

D. PREVIOUS/OTHER SHORT-TERM LET LICENCE DETAILS

Have you or anyone else named on this application held a short-term let licence? YES NO

If yes, please provide the licensee's full name, name of licensing authority who granted the licence and the type of short-term let licence held

.....
.....
.....

E. OWNERSHIP OF THE PREMISES

Do you own the premises/land on which the premises are located that you are seeking a licence for? YES / NO

If yes, do you share ownership? YES / NO

If you do not own, or are not the sole owner of the premises/land on which the premises are located, please provide the full name(s) and address(es) of each owner (continue on the additional information sheet if necessary):

Full Name [Redacted]

Home Address [Redacted]

Post Code [Redacted]

Full Name

Home Address

Post Code

If you do not own or are not the sole owner of the premises, do you have permission of the owner(s), each other owner(s) or, person authorised to act on behalf of the owner(s)?

YES NO

Have you included a consent declaration from each owner(s)/each other owner(s) or, person authorised to act on behalf of the owner(s) with this application?

YES / NO

F. PREMISES

Full Address of Premises
(including County)

1 WOODSIDE
CALCOTS ROAD
ELGIN
IV308BW

Post Code

Please confirm the Moray Council Ward where the premises are located by ticking the relevant box.

- Ward 1 Speyside Glenlivet
- Ward 2 Keith and Cullen
- Ward 3 Buckie
- Ward 4 Fochabers Lhanbryde
- Ward 5 Heldon and Laich
- Ward 6 Elgin City North
- Ward 7 Elgin City South
- Ward 8 Forres

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

Is the premises located within a National Park?

YES NO

If yes, please confirm the National Park where the premises are located by ticking the relevant box.

- Cairngorms National Park
- Loch Lomond and Trossachs National Park

Were the premises available for short-term let before 1 October 2022? YES / NO

F.1 Description of the Premises

Please give a general description of the type of the premises (e.g. bungalow, flat, unconventional dwelling, specify number of floors, etc) and enclose a detailed floor/layout plan. Your plan should indicate room sizes, fire escape routes, steps, stairs, elevators or lifts, accommodation intended for guests with mobility impairment as well as the extent and boundary of the building if relevant.

END TER HOUSE, 2 FLOORS, SEMI RURAL LOCATION

.....
.....
.....
Please provide details of any third party accreditation or certification awarded to the premises (e.g. Visit Scotland Quality Assurance, date of award and number of stars awarded).
.....
.....

F.1.1 Rooms

Total number of habitable rooms (include kitchen) 6
Total number of letting bedrooms 4
Total number of beds available for use by the guests 5
Total number of public rooms available for use by the guests
i.e. lounge/dining room etc. 2
Total number of rooms used for owner/manager's private accommodation 0

F.1.2 Catering

Do you offer Self Catering accommodation? YES/NO
Do you offer Bed Only accommodation? YES/NO
Do you offer Bed & Breakfast/Full Board accommodation? YES/NO

F.2 General Safety and Standards

F.2.1 Fire Safety

Does the premises have satisfactory equipment installed for detecting and giving warning of fire or suspected fire, and the presence of carbon monoxide? YES/NO
Do all upholstered furniture and furnishings intended for guest use or to which guests are permitted to have access to comply with the Furniture and Furnishings (Fire Safety) Regulations 1988? YES/NO
If yes, do you have records to demonstrate compliance with the Furniture and Furnishings (Fire Safety) Regulations 1988? YES/NO
Have you completed Scottish Fire and Rescue Service's fire safety checklist? YES/NO

You must send a copy of the completed checklist to Moray Council with your licence application.

F.2.2 Gas Safety

Does the premises have a gas supply?

YES / NO

If yes, please provide a copy of the most recent Gas Safety Certificate for the premises with this application.

F.2.3 Electrical Safety

Do guests have access to electrical fittings within the premises?

YES / NO

If yes, please provide a copy of the most recent Electrical Installation Condition Report on fixed installations with this application.

Do guests have access to electrical moveable appliances within the premises?

YES / NO

If yes, please provide a copy of the most recent Portable Appliance Testing Report on moveable appliances with this application,

F.2.4 Water Safety

Does the premises have a private water supply?

YES / NO

If yes, have you complied with the requirements set out in the Water Intended for Human Consumption (Private Supplies)(Scotland) Regulations 2017?

YES / NO

Have you completed a legionella risk assessment for the premises?

Please provide a copy of the risk assessment carried out with this application.

YES / NO

F.2.5 Safety & Repair Standards

Have you taken all reasonable steps to ensure the premises are safe for residential use?

YES / NO

Are the premises subject to the requirements of Chapter 4 of Part 1 of the Housing (Scotland) Act 2006?

YES / NO

If yes, do the premises meet the repairing standard?

YES / NO

F.2.6 Energy Performance Certificate

Does the premises have an Energy Performance Certificate issued within the last 10 years?

YES / NO

If yes, please enclose a copy of the Energy Performance Certificate with this application.

If yes, please tick the box which indicated the Energy Performance Certificate Rating for the premises.

A	<input type="checkbox"/>
B	<input type="checkbox"/>
C	<input checked="" type="checkbox"/>
D	<input type="checkbox"/>
E	<input type="checkbox"/>
F	<input type="checkbox"/>
G	<input type="checkbox"/>

F.2.7 Building Warrant

Are you aware of any building work that has been carried out on the premises in the last 10 years?

YES NO

If yes, please specify

.....
.....
.....

Have you considered if a building warrant is required?

YES NO

If yes, please give the reference and date granted

If no, please search "Do I need a building warrant?" at www.moray.gov.uk

F.2.8 Insurance

Specify the buildings insurance in force, including details of insurance company and amount of cover. **Enclose with the application a valid Insurance Certificate or other proof of insurance cover.**



.....
.....

Specify the public liability insurance in force, including details of insurance company and amount of cover. Please note valid public liability insurance for not less than £5 million should be in place for the duration of each short-term let. **Enclose with the application a valid Insurance Certificate or other proof of insurance cover.**



.....
.....

F.3 Planning Permission

Have you considered if planning permission is required?

YES NO

If yes, please give the reference and date granted

If no, please search "Do I need planning permission?" at www.moray.gov.uk

G. OCCUPANCY AND AVAILABILITY

Total number of guests you would like to accommodate at any one time in the premises

Total number of adult guests and total number of child (aged under 10) guests you would like to accommodate at any one time in the premises.

Total number of owner(s) family or family of the person(s) managing the premises and guests at one time.

Is the accommodation used by the owner(s) family or family of person(s) managing the premises entirely separate from the other guests accommodation? YES NO

How often do you intend to make the premises available to guests?
Please tick the box that applies.

- Less than 3 months per year
- 3 to 6 months per year
- 6 to 9 months per year
- All year round

Other please describe

.....

Do you hold a House in Multiple Occupation Licence in respect of the premises? YES NO





J. DECLARATION

I declare that I shall, for a period of 21 days, display at or near the premises mentioned in Section F so that it can be conveniently read by the public, a notice complying with the requirements of Paragraph 2(2) of the Civic Government (Scotland) Act 1982. *A form which may be used for this purpose is in appendix 1 and you must submit a Certificate of Compliance to the Council.*

Signature of applicant  Date 02/08/2023

or

Signature of Agent on behalf of applicant Date

Agents Address

I declare that I have met the mandatory licence conditions set out in The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022

Signature of applicant  Date 02/08/2023

or

Signature of Agent on behalf of applicant Date

Agents Address

I declare that the particulars given by me on this form are true and I hereby make application to Moray Council for the grant of the licence applied for.

Signature of applicant  Date 02/08/2023

or

Signature of Agent on behalf of applicant Date

Agents Address
.....

NB. It is an offence for any person to make any statement which he knows to be false in this application or in connection with the making of this application

Data Protection - Moray Council is the Data Controller for this process. Please see our [Privacy Notice](#) for information about how and why the personal information provided on this form will be used to process an application for a short-term lets licence.



ADDITIONAL INFORMATION SHEET (1/2)

Section B.1 Individual Details

Section B.2 Corporate Entity

Section C. Day to Day Management of the Premises

Section E. Ownership of the Premises



ADDITIONAL INFORMATION SHEET (2/2)

Use the space below to provide any other information relevant to your application

Short Term Lets Licence Applications
Moray Council
High Street
Elgin
IV30 1BX

8th December 2023

Objection to Short Term Licence Application by Mrs Bresilda Haka 1 Woodside
Calcots Road Elgin IV30 8BW

Dear Sirs

My wife Kay and I who live at 4 Woodside Calcots Road Elgin IV30 8BW wish to object to the above application. The property involved is part of a quadrangle involving 5 adjoining properties. Our main objection is based on the fact that on the Scottish Government's website one of the competent grounds for objection is that the application runs contrary to other legal or contractual requirements. In the missives (copy attached) for all 5 of the properties it is clearly stated under the Burdens section at No 3, Each dwelling house shall be used for residential purposes only and not for any business or commercial purpose.

Running the house as an Air B&B where you are no longer resident would obviously be changing the house from a residence to a business.

In addition in the missives for the properties there is communal parking provision for all 5 properties and the additional visitors (up to 5 cars if there are 5 rooms let out) will make this more awkward and put the parking capacity under strain as well as adding to the wear and tear of the lockblock area which is communal. There is a safety concern that the parking area is used by children as a play area and all the residents are aware of this but visitors would not be. The house is going to be let in total so there will be no control on up to 10 residents and there must be a possibility of noise late in the evening of visitors arriving or having parties. We have already had an instance of visitors trying to get keys from a keybox at [REDACTED] late at night.

The house at [REDACTED] has been operating as an Air B&B for the last two years and because the five houses are adjoining and look the same visitors assume that the whole development is a holiday complex and look for keys, come into gardens and park awkwardly for residents needing access.

Finally there is a danger that if one house is granted a licence in contravention of the missives that others will follow and what is a quiet residential development will become a holiday complex.

We also note that the display of the public notice although attached to the house cannot be read without entering the garden.

Yours sincerely

Jim and Kay Gibson



21/06/2023, 13:15 Title Information for MOR12476 - ScotLIS - Registers of Scotland conditions in this Deed of Conditions are expressly stated to apply.

2.3 Variation and Discharge of community burdens

A community burden may be varied or discharged by a deed of variation or discharge under Section 33 of the Title Conditions (Scotland) Act 2003 granted:

2.3.1 by or on behalf of the Owners of at least 3 of the Plots,

2.4 Lands Tribunal applications

No application may be made to the Lands Tribunal for Scotland under sections 90(1)(a)(i) and 91(1) of the Title Conditions (Scotland) Act 2003 in respect of the community burdens and servitudes created in this Deed for a period of five years after the date of registration of this Deed of Conditions in the Land Register of Scotland.

3 Each Dwellinghouse shall be used for residential purposes only and not for any business or commercial purpose.

4 The Owner of each Plot will be responsible for the whole cost of maintaining any boundary fences or walls which do not separate the Plot from another Plot on the Development and for a one-half share of the cost of maintaining any Mutual Property.

5 Where any items of property are in common ownership or are used by more than one Plot such property and the Development Common Parts shall be maintained at the joint expense of all Plots having an interest therein in equal shares counting one share for each Plot unless provision for a different proportion is made in the Disposition of that Plot or in this Deed of Conditions.

6 No building or structure shall be erected over the line of any sewer, drain or water pipe without the prior written consent of the parties using the same.

7 The Pend shall be maintained by the Owners of Plots 2, 3 and 4, Plot 2 bearing a 25% share, Plot 3 a 50% share and Plot 4 a 25% share but for the avoidance of doubt the dwellinghouse situated above the Plot shall be maintained at the sole cost of the Owner of Plot 3.

8 Servitudes

The rights in this Condition are servitudes imposed on the relevant burdened properties in favour of the relevant benefited properties

8.1 Community Servitudes

8.1.1 For the purposes of this Condition 8.1:

(i) the burdened property is the Development, and (ii) each Plot is a benefited property.

10 of 17

From: [REDACTED]
Sent: 18 Dec 2023 09:44:49
To: [REDACTED]
Cc:
Subject: FW: 101003448500
Attachments:

Item 8

Dear Sirs,

I am writing for the second time to ask that the license for 1 Woodside is NOT granted.

The new owners have tried to circumvent their need to give notice by placing their latest notice at the side of the building. We have also been threatened that should the license fail, the house will be filled by undesirables on long-term let. This reaction to our right to object concerns me as to the type of landlord they are likely to make.

My objections can be summarised ;

- My main objection lies in the missives for ALL properties in Woodside which clearly state that they are residential only and should not be used for business purposes. Depending on your decision I have every intention of taking legal action to have the missives upheld
- [REDACTED] Woodside has and still is as far as I know already causing disruption by running an Air B&B, and a Motorhome hire service. (for which I would also like the chance to object)
- Woodside is serviced by a single-track road and is ill equipped to handle additional traffic.
- We already have had strangers chapping our doors at night. wandering into our gardens and seeking keys for [REDACTED] None of us want this disruption to double in the future.
- we have a communal courtyard; this let could lead to excess cars and wear and tear on the surface as well as access issues, already experienced when [REDACTED] is busy.

Essentially, we are in a semi-rural steading already suffering with the end terrace operating two businesses, [REDACTED] is the other end terrace and will disrupt our home living in the same way. I assume the license system was set up to allow residents the opportunity to have their say and protect our rights to live without disruption. More so when we felt protected by legal missives.

Does the license committee have the right to dismiss the legal contracts already in place for these residences?

I urge that this disruption and threat to our home life is halted and Woodside gets returned to its initial residential use. It cant be right that anyone can purchase and seek commercial use of any residential dwelling whilst going against the missives and disrupting the lives of their neighbours.

Yours

Faithfully,

Tom Syme
3 Woodside, Calcots Road

contracts attached to each

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
customer.services.support@moray.gov.uk [website](#) [facebook](#) [twitter](#) [instagram](#) [news](#)

Gregor.Lawson@moray.gov.uk

Customer.Services.Support@moray.gov.uk

gregor.lawson@moray.gov.uk | [website](#) | [facebook](#) | [twitter](#) |

[instagram](#) | [news](#)



On May 20th 2024 15:30 I met with
Mr James and Mrs Kay Gibson - 4 Woodside, Calcots Road, Elgin
[REDACTED]

In addition, I had confirmation from Mr Tom Syme that he was "happy for my neighbours to state our case and feel they will cover any objections I may raise".

The intention of the meeting was a mediation session to address the competent objections made against the Short Term Let licence for 1 Woodside, Calcots Road, Elgin.

The mediation session resulted in the proposed solutions listed below:

1 – Each property has 2 parking bays per dwelling, please ensure the bays to 1 Woodside are clearly marked and that all bookings are advised that they are to park only within these bays. You must inform all guests that any additional cars must not cause a nuisance or block access to any other properties or garages within Woodside, Calcots Road.

2 – You must provide clear instructions, photographs and directions to the Key Lock Box, (we suggest differentiating the box via a colour from those at neighbouring properties) to ensure that no guest attempts entry of the incorrect box or disturbs any resident on Woodside, Calcots Road for assistance.

3 – You must provide a contact number for guests to use, should they have difficulty locating the lock box or entering the property to prevent them disturbing any other property within Woodside, Calcots Road for assistance.

4 – You must advise all guests that Woodside, Calcots Road is a residential area and to be respectful of residents at all times.

5 – Any advertisement of the property for letting, should state that bookings from Hen or Stag parties would not be accepted.

6 – Residents of Woodside should be provided with the ability to contact the owners of no 1 in the event of any disturbance.

7 – Refuse bins will be kept within the property and the courtyard area kept clear and well maintained.

These proposals were sent to the Applicant, Mrs Bresilda Haka on May 22nd 2024 for consideration and she confirmed acceptance of them all, by return email on May 23rd 2024.

An excerpt of her acceptance email is below for reference:

Thank you so much for reaching me today regarding my license for 1 Woodside Calcots Road.

I really appreciate your help and support and I am really glad to accept all the conditions you have proposed for me.

It is not my intention to bother anyone or cause problems in Woodside and I would accept any condition so in that way no one there would be affected by my operation as short term let.

It is my opinion that the suggested solutions are reasonable and pragmatic and if incorporated as conditions into any subsequent issued short-term let licence would mitigate disturbance of the neighbours to 1 Woodside.

Joanne Larsen

Joanne Larsen
Licensing Standards Officer