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## Licensing Board

Wednesday, 16 November 2022

**NOTICE IS HEREBY GIVEN** that a Meeting of the **Licensing Board** is to be held at **Council Chambers, Council Office, High Street, Elgin, IV30 1BX** on **Wednesday, 16 November 2022** at **14:00**.

### BUSINESS

1. **Sederunt**
2. **Minute of the Meeting of the Board 7 September 2022** 5 - 8
3. **Annual Functions Report** 9 - 18  
Report by the Clerk to the Board
4. **Chief Constables Report 2021-2022** 19 - 26  
Report by the Chief Constable
5. **Application List 16 November 2022** 27 - 40
- 5a. **Threaplunds Ltd - 22-00266-PRELIC**
- 5b. **Bootleggers - 22-001594 PROLIC**
- 5c. **Baxters Food Group - 22-01724 PREVMA**
- 5d. **Click Whisky Auctions - 22-01769 PRELIC**
- 5e. **Glenrothes Distillery - 22-01792 PRELIC**
- 5f. **Keith Railway Club - 22-01701 PRETOA**



## 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.

\*\*\* **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 Board

### SEDERUNT

Councillor Peter Bloomfield (Chair)  
Councillor Sonya Warren (Chair)

Councillor James Allan (Member)  
Councillor Neil Cameron (Member)  
Councillor Tracy Colyer (Member)  
Councillor David Gordon (Member)  
Councillor Scott Lawrence (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 Board**

**Wednesday, 07 September 2022**

**Council Chambers, Council Office, High Street, Elgin, IV30 1BX**

**PRESENT**

Councillor James Allan, Councillor Peter Bloomfield, Councillor Neil Cameron, Councillor Tracy Colyer, Councillor David Gordon, Councillor Scott Lawrence, Councillor Sonya Warren, Councillor Ben Williams

**IN ATTENDANCE**

Also in attendance at the above meeting were Sean Hoath, Depute Clerk to the Board, Jennifer Smith, Solicitor, Emma Rapley Licensing Standards Officer, and Lindsey Robinson, Committee Services Officer, as Clerk to the meeting.

**1. Appointment of Chair**

As this was the first full meeting with all Board Members fully trained, a Chair was to be elected.

Councillor Colyer, seconded by Councillor Gordon, moved that Councillor Bloomfield be Chair. She further moved that Councillor Gordon be Depute Chair. This was seconded by Councillor Bloomfield.

As an amendment, Councillor Cameron moved, seconded by Councillor Lawrence, that Councillor Warren be Chair. He further moved that Councillor Lawrence be Depute Chair. This was seconded by Councillor Warren.

On a division there voted:

For the motion (3) Councillors Colyer, Bloomfield and Gordon

For the Amendment (3) Councillors Cameron, Lawrence and Warren

Abstentions (2) Councillors Allan and Williams

There being an equality of votes and there being no casting vote, the Board came to the agreement the Councillors Bloomfield and Warren would share the role of Chair, taking alternate meetings. Councillor Warren took the Chair for this meeting.

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

In terms of Standing Order 20 and the Councillors' Code of Conduct, Councillor Bloomfield noted a personal interest in agenda item 7g "Hopeman and District Bowling and Social Club". There were no further 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. Minute of the Meeting of the Board 23 March 2022**

The Minute of the Meeting of the Licensing Board of 23 March 2022 was submitted and approved.

### **4. Minute of the Meeting of the Board 30 June 2022**

The Minute of the Meeting of Licensing Board of 30 June was submitted and approved. One point of accuracy was raised.

With reference to the Minute, Councillor Bloomfield stated that his name was incorrect.

The Clerk confirmed she would get this updated.

### **5. Annual Review of Licensing Fees**

A report by the Clerk to the Board, updated the Board on the overall income versus expenditure for alcohol licensing for the last financial year by way of an annual financial report, made predictions in respect of likely future income and expenditure and to determine whether the Board wished to undertake a review of licensing fees as a result.

The Depute Clerk to the Board introduced the report and advised the Board that the fees currently being charged some of the lowest in Scotland.

During consideration, Councillor Gordon sought clarification as to whether fees could be paid in instalments, and if so he proposed that this be implemented.

In response, the Depute Clerk to the Board advised that although it was possible there was a considerable admin burden attached to the implementation and the collection of the money.

Due to the admin burden, Councillor Gordon withdrew his proposal.

Councillor Allan moved that that fees be increased to the maximum amount. This was seconded by Councillor Warren.

There being no one otherwise minded, the Board agreed to:

- i. note the current fees attached at Appendix 1 to the report;
- ii. note the financial report on income and expenditure data at Appendix 2 to the report;
- iii. publish the financial report; and
- iv. increase the fees to the maximum amount.

### **6. Review of Premises Licence**

The Depute Clerk to the Board advised the Board that the report had been withdrawn as the licence holder had surrendered their licence.

**7. 22 00178 PRELIC - Dunphail Distillery**

The Depute Clerk to the Board introduced the application as a provisional new premises licence and advised the Board that all paperwork was in order, there were no representations and no police conditions.

The applicant's representative addressed the Board and responded to questions asked.

Thereafter, the Chair moved that the application be granted, and there being no one otherwise minded, the application was granted.

**8. 22 01058 PREVMA - Lhanbryde Post Office**

The Depute Clerk to the Board introduced the application as a major variation consisting of increasing the opening hours on Sundays and advised the Board that all paperwork was in order, there were no representations and no police conditions.

The applicant addressed the Board and responded to questions asked.

Thereafter, the Chair moved that the application be granted, and there being no one otherwise minded, the application was granted.

**9. 22 01332 PREVMA - McKays Mini Market Portnockie**

The Depute Clerk to the Board introduced the application as a major variation consisting of a change to the core operating hours and a change to the store layout, and advised the Board that all paperwork was in order, there were no representations and no police conditions.

The applicant addressed the Board and responded to questions asked.

Thereafter, the Chair moved that the application be granted, and there being no one otherwise minded, the application was granted.

**10. 22 01334 PRELIC - McKays Mini Market Cullen**

The Depute Clerk to the Board introduced the application as a new premises licence and advised the Board that all paperwork was in order, there were no representations and no police conditions.

The applicant addressed the Board and responded to questions asked.

Thereafter, the Chair moved that the application be granted, and there being no one otherwise minded, the application was granted.

**11. 22 01371 PREVMA - Thistle Bar Forres**

Before the Paper was introduced, Councillor Bloomfield advised the Board that he knew the applicant and as such would take no part in the discussion.

The Depute Clerk to the Board introduced the application as a major variation consisting of increasing the capacity to 90 persons, the provision of an outdoor area and a change to the core hours on a Sunday, and advised the Board that all

paperwork was in order, there was one representation and that the applicant had agreed to the police conditions.

The objector addressed the Board and responded to questions asked.

The applicant's representative addressed the Board and responded to questions asked.

The applicant also addressed the Board, and responded to questions asked.

Thereafter, the Chair moved that the application be granted, and there being no one otherwise minded, the application was granted.

Councillor Williams left the meeting during the discussion of this item due to connection issues.

## **12. 22 01351 PRETHA - Club 59 Rothes**

The Depute Clerk to the Board introduced the application as a major variation consisting of changing from a private members club to a commercial premises, changing the core hours, the inclusion of off-sales, young persons access and additional activities, and advised the Board that all paperwork was in order, there were no representations and the police conditions have been accepted by the applicant.

The applicant addressed the Board and responded to questions asked.

Councillor Allan moved that the application be granted as it was a good venture for the town. This was seconded by Councillor Warren.

There being no one otherwise minded, the application was granted.

## **13. 22 01443 PREVMA - Hopeman and District Bowling and Social Club**

Councillor Bloomfield left the chamber for the duration of this item.

The Depute Clerk to the Board introduced the application as a major variation consisting of allowing sport to be shown on TV and allowing the premises to hold meetings, and advised the Board that all paperwork was in order, there were no representations and no police conditions.

The applicant addressed the Board and responded to questions asked.

Thereafter, the Chair moved that the application be granted, and there being no one otherwise minded, the application was granted.





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**REPORT TO: THE MORAY LICENSING BOARD 16 NOVEMBER 2022**

**SUBJECT: LICENSING (SCOTLAND) ACT 2005 - ANNUAL FUNCTIONS REPORT**

**BY: CLERK TO THE BOARD**

**1. REASON FOR REPORT**

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

**2. RECOMMENDATION**

**2.1 It is recommended that the Board:-**

**(i) Note the draft annual functions report at Appendix 1, amend the same if the Board considers appropriate and agree the final report; and**

**(ii) Instruct the Clerk to publish the agreed final report on the Board's web pages;**

**3. BACKGROUND**

3.1 The Air Weapons and Licensing (Scotland) Act 2015 amended the Licensing (Scotland) Act 2005 ("the Act") so as to require each Licensing Board to prepare and publish an annual report, within 3 months after the end of each financial year, on the following:

- A statement as to how the Board has had regard to the licensing objectives and their statement of policy in exercising functions under the Act;
- A summary of the decisions made;
- Information about the number of licences held including the number of occasional licences issued; and
- Such other information as the Board considers appropriate.

3.2 Following the introduction of the requirement to produce an annual functions report in 2018, the Board is invited to consider the draft report which has been produced for approval and is attached at **Appendix 1**.

- 3.3 The normal deadline for publication would be the end of June each year however this year's report has been delayed due to staffing issues within Legal Services and competing priorities.

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

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

The provisions of alcohol licensing directly relate to the priorities within the 10 Year Plan in relation to healthier citizens, a growing and diverse economy and safer communities. Alcohol and alcohol dependency influence the health of the population. The alcohol industry in terms of production, retail and the positive effects on tourism all aid a growing economy. Regulation of the sale of alcohol contributes to a safer community.

**(b) Policy and Legal**

Policy and Legal implications have been explained above.

**(c) Financial implications**

None identified.

**(d) Risk Implications**

None identified. It is a legal requirement to publish the report. There is no stated action for failure to do so therefore any failure would be open to challenge by judicial review.

**(e) Staffing Implications**

Preparation of statistics involves considerable staff time and they are required annually but 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 Board 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 Board note the contents of this report and agree to publish the final annual functions report.**

Author of Report: Sean Hoath, Senior Solicitor, Depute Clerk to the Board  
Background Papers:  
Ref: SH



Moray Licensing Board

Annual Functions Report

1 April 2021 - 31 March 2022

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

**Contents**

About Moray .....	2
Introduction.....	2
The Licensing Objectives .....	2
Annual Functions Report.....	3
Decisions of the Board .....	3
Applications .....	3-4
Reviews and Relevant Licensing Matters (hours, Forum etc) .....	4
Licensing Standards Officer Report .....	5
Conclusion.....	5
Licence Application Numbers.....	6

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

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

[http://www.moray.gov.uk/moray\\_standard/page\\_67620.html](http://www.moray.gov.uk/moray_standard/page_67620.html)

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

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

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

## The Licensing Objectives

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

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

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

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

## Annual Functions Report

From 1 April 2021 to 31 March 2022, the Board met on an approximate eight week cycle on the following dates:

- (a) 9 June 2021
- (b) 25 August 2021
- (c) 20 October 2021
- (d) 8 December 2021
- (e) 9 February 2022

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

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

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

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

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

## Decisions of the Board

Each application, received by the Licensing Board is considered on its individual merits. All licence applications that are received must be weighed-up in accordance with the Licensing (Scotland) Act 2005 and in particular in cognisance of the licensing objectives. The Board must also consider the licence application in line with the Board's policy statement. Attached to this report at Appendix 1 are details of application numbers and decisions made by the Moray Board.

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

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

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

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

## Licence Applications

During the course of the year, the Board received applications for 336 occasional licences.

The Board also considered and granted 93 premises related licence applications. The overall number of premises licences increased on the previous financial year from 347 to 366.

### **Personal Licence Applications**

The Board granted 131 personal licence applications.

The Board considered two personal licences where the applicant had disclosed a relevant conviction and the Board agreed to revoke both of the personal licences.

### **Personal Licence Reviews**

There were no applications from Police Scotland for the review of a personal licence based on conduct alleged to be inconsistent with the licensing objectives.

### **Premises Licence Reviews**

There were no premises licence reviews heard by the Board.

### **Statement of Policy / Policy Matters**

During the financial year, there was no review of policy due by the Board. A review of the policy is to be concluded by November 2023.

The Board did consider and implement a number of initiatives to assist licence holders through the difficult COVID period as described in previous reports. Those initiatives ended in December 2021.

### **Licensing Hours**

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

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

The Board has an existing practice of permitting specific hours over the Christmas / New Year festive period by way of a general extension. This is a flexible policy to allow all premises to open if they choose to do so, rather than having to apply for specific hours. This regulation allows businesses to promote themselves and benefit from increased trade. The Board has had no complaints in respect of festive opening. The policy on festive hours is published here:

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

### **Licensing Forum**

The Moray Licensing Forum should form an integral part of the licensing regime in Moray. The forum membership includes the LSO, Police Scotland, representatives of the NHS, representatives of the District Licensed Trade Association and representatives of Elgin Community Council. The forum last met on the 24 May 2019 after which the MADP was no longer able to Chair and drive the group. It is hoped the Licensing Forum can be revived and will be able to meet again soon with the Board once a year to provide valuable feedback to the Board on the community's opinion on alcohol licensing issues.

### **Licensing Standards**

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

### **Conclusion**

It is the view of the Board that the licensing function in Moray operates very well. The Board has come to this view based on the very low number of incidents which are linked to Licensed Premises in the area and the low number of premises licence reviews



## Licensing Standard Officer's Report

The Liquor LSO post was taken up by the current post holder in February 2019. The role of the LSO is defined by the Licensing (Scotland) Act 2005 for the LSO to:

- Provide guidance and information regarding the Act
- Ensure compliance with the Act in terms of the licence
- Provide mediation to resolve disputes

The last year has been dominated by the Coronavirus pandemic, which has meant that the LSO role has included offering support to Environmental Health and Police Scotland to ensure licensed premises are complying with their responsibilities under the Coronavirus Regulations. This has included issuing guidance to all licence holders each time it has been made available or updated, answering queries and finding information for licence holders, as well as conducting both proactive and reactive multiagency visits to premises about which complaints have been received.

The LSO has answered varied queries from the licenced trade regarding what they can do to remain trading with the various restrictions in place. The LSO has also mediated between premises where relations have become fractured due to the pressure of trying to maximise outdoor spaces, including responding to MSP queries/ complaints as they have arisen. The LSO has liaised with other internal departments such as planning and building standards regarding temporary outdoor structures. The LSO also coordinated with trading standards regarding a complaint under weights and measures.

The last year has shown the importance of good working relations not only with the licensed trade but also with internal departments and partner agencies, the LSO has welcomed a new police licensing enquiry officer in December 2021 and a number of joint visits have taken place including where issues have arisen and the premises becomes a monitored premises due to issues of crime and disorder.

The LSO has continued to support the trade when applications are being made either for currently licensed premises to vary their licence or for new premises to become licensed including providing feedback on applications. This has included ensuring the smooth running of remote Licensing Board meetings when issues with technology have arisen.

**Liquor Licensing Statistics for Year 2021-2022 (Period 01/04/2021 to 31/03/2022)**

<b>Local Authority - MORAY COUNCIL</b>	
<b>Premises Licence Statistics</b>	
<b>Licences in Force on 31 March 2022 (this should equal total of a+b+c)</b>	<b>366</b>
(a) on sales only	87
(b) off license only	104
(c) both	175
Applications received during 2021-2022	
(a) on sale	15
(b) off sale	44
(c) both	46
Applications refused during 2021-2022 under section 23	0
Applications granted during 2021-2022 under section 23	93
Applications for review of premises licence during 2021-2022 under S36 & S37 resulting in:-	
(a) written warning	
(b) variation	
(c) suspension	
(d) revocation	
(e) no action	
<b>Occasional Licence Statistics</b>	
<b>Number of Occasional Licences granted during 2021-2022</b>	<b>336</b>
<b>Personal Licence Statistics</b>	
<b>Personal Licences in Force on 31 March 2022</b>	<b>1106</b>
Applications during 2021-2022 under section 72:-	
(a) refused	0
(b) granted	131
Proceedings taken during 2021-2022 under section 83 (notice of conviction) resulting in:-	
(a) endorsement	
(b) suspension	
(c) revocation	2
(d) no action	
Proceedings taken during 2021-2022 under section 84 (conduct inconsistent with licensing objectives) resulting in:-	
(a) endorsement	
(b) suspension	
(c) revocation	
(d) no action	
Proceedings during 2021-2022 under section 86 (multiple endorsements) resulting in:-	
(a) endorsement	
(b) suspension	
(c) revocation	
(d) no action	
<b>Revocations of personal licences during 2021-2022 under section 87(3) (failure to provide evidence of having undertaken refresher training)</b>	<b>0</b>
<b>Staff employed at 31 March 2022</b>	
Number (full-time equivalent) of licensing standards officers employed	1

**MORAY**  
**Licensing Report**  
**2021-2022**



**POLICE**  
**SCOTLAND**  
Keeping people safe

**Moray Council**

**Foreword**

It gives me great pleasure to provide the Annual Licensing Report for 2021/22, in accordance with Section 12(A) Licensing (Scotland) Act 2005. Throughout this year Local Authorities and Police Scotland worked hard to support licensed premises in their road to recovery as Covid-19 restrictions were being lifted.

Collaboration is vital to ensure these businesses can flourish, providing much needed employment for our communities as well as a safe environments for people to socialise. Police Scotland will continue to work closely with Local Authorities, as well as other stakeholders, to ensure there is a fair and consistent approach across all 32 Local Authorities throughout Scotland to aid this recovery. Preventing alcohol fuelled violence, disorder and antisocial behaviour remains a priority for Police Scotland and I believe that working together we can reduce this through early intervention and enforcement.

I would like to take this opportunity to thank our local partnerships and the good work they carry out. With their support Police Scotland and partners can continue to drive improvements in licensing. I will continue to ensure that all officers and staff recognise the importance of working together with key partners, including the Licensing Trade, in an effort to improve licensing standards nationally.

Mr Iain Livingstone QPM

Chief Constable

Police Service of Scotland

**Police Scotland Licensing Overview –**

The Violence Prevention and Licensing Co-ordination Unit (VPLCU) sits within Safer Communities based at Dalnarnock Police Station, Glasgow.

The VPLCU upholds the two tier structure for licensing which supports both national and local priorities through service delivery. They have overall responsibility for determining and delivering national licensing strategy and policy, by providing advice, guidance and support to divisional licensing teams as well as undertaking other specialist functions.

The Violence Prevention and Licensing Co-ordination Unit is a specialist department which consists of a small team of officers, based in Glasgow. The officers within the unit work with divisional licensing teams and partner agencies to help shape policy and strategy around the police licensing function. They provide practical and tactical

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advice to police licensing practitioners, operational officers, supervisors and policing commanders.

The VPLCU seek to ensure that legislation governing the sale and supply of alcohol is applied consistently across the country and all opportunities are taken to stop the illegal or irresponsible sale, supply or consumption of alcohol with the intention of preventing and reducing crime and disorder.

During 2021/2022, from a licensing perspective, our particular focus was on the following;

- Scrutiny of the serious incidents of violence, disorder and antisocial behaviour linked to licensed premises.
- Working closely with Licenced Premises and Scottish Government to navigate the challenges of the COVID-19 pandemic through the 4Es approach by engaging, explaining, educating and enforcing.
- Governance and ongoing development of the National ICT Licensing System, known as “Inn Keeper”, to increase the efficiency and effectiveness of liquor and civic licensing administration and management. Police Scotland are currently working on upgrade to the National ICT system to ensure compliance with GDPR legislation.

Each of the 13 Local Policing Divisions have a licensing team responsible for the day to day management of licensing administration, complying with statutory requirements as well as addressing any issues that may arise within licensed premises in their local area.

## **LICENSING BOARD AREA**

The Moray Licensing Board area is policed by North East Division

Chief Superintendent Kate Stephen is the Local Police Commander who has the responsibility for all day-to-day policing functions.

## **Local Policing Priorities**

Following our public consultation process, the policing priorities for North East Division, as set out in our Local Policing Plan are as follows;

- Antisocial Behaviour, Violence and Disorder

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- Acquisitive Crime
- Protecting People at Risk of Harm
- Road Safety and Road Crime
- Serious Organised Crime
- Counter Terrorism and Domestic Extremism

### **OPERATION OF THE LICENSING (SCOTLAND) ACT 2005**

The North East Division Licensing Team is located across the division in Aberdeen, Inverurie, Elgin and Stonehaven. All staff have a division wide remit and a working knowledge of all the areas covered.

The North East Division Licensing Team, supported by Community Policing Officers, has promoted the Police Service of Scotland's force priorities alongside the five licensing objectives, the overarching principles and aims of the Licensing (Scotland) Act 2005.

The global COVID-19 pandemic and its associated restrictions continued to present challenges for the Licensing Trade. The vast majority of operators abided by the regulations and worked in close co-operation with Police Scotland and local authority partners such as Licensing Standards Officers, Trading Standards and Environmental Health.

In the reporting period, as statutory consultees, the team responded to the Board regarding 377 applications for occasional licences or extended hours, 11 premises or provisional premises applications, 133 personal licence applications and 40 premises variations or premises licence transfer applications.

Where any query arises from any such application, a member of the team will seek to discuss the application with the applicant, or the applicant's agent, to ensure that responses to the Board by means of representation or objection are considered, reasonable and proportionate.

The team enjoys a strong working relationship with the Local Authority Licensing Standards Officers. Both teams meet on a regular basis to share information and regularly conduct joint visits to licensed premises, on both a pro-active and reactive basis.

North East Division Licensing Team is represented on the Local Licensing Forum works alongside the following groups and organisations to jointly improve local licensing issues:

- Community Safety Partnership;
- Local Pubwatch initiatives;
- Local Security Industry companies.

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Reviewing incidents on, or connected to, licensed premises is a key part of our day-to-day business.

Community based Police Officers are encouraged and expected to routinely visit licensed premises within their area. Moray benefits from a dedicated Weekend Policing Plan to support the night time economy.

Within the reporting period, there were 1729 inspections (visits) to licensed premises within Moray recorded on the InnKeeper system. This is an increase from 546 the previous reporting year, which reflects the increase of trade due to the relaxing of COVID-19 restrictions.

Any Police Officer who attends an incident at a licensed premises is expected to submit a concise report via the InnKeeper system, particularly when the incident involves violence, disorder, anti-social behaviour, drunkenness, drug misuse, underage drinking, breaches of licensing legislation or any other matter that might impact on public safety.

Within the reporting period, there were 92 incidents connected to licensed premises within Moray recorded on the InnKeeper system. This is an increase from 32 the previous reporting year and again reflects the increase of trade during the period of reporting.

The information obtained may show a causal link between the operation of the premises and the incident. An incremental intervention process allows for issues to be addressed quickly and effectively at an early stage. This includes a low level 'interaction' which may involve a discussion between the Police and the premises management and/or licence holder. The level of engagement from within the Moray licensed trade is very good and in many instances, this approach reduces recurrence or escalation.

Premises may become 'monitored' with closer attention being paid to any incidents occurring there. This is often undertaken in conjunction with tasked, supportive visits to the premises by uniformed Police Officers.

However, where necessary, the staged process allows for more formal intervention to support premises where the need for support has been identified. A premises licence holder and the premises management may be asked to meet with the Police, when concerns will be discussed. This will often involve an agreed action plan being put in place, with a reasonable time scale for completion.

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The most common example of an agreed 'action' is refresher training of staff covering their responsibilities including the sale of alcohol to underage or intoxicated persons, 'Challenge 25' and the general terms and conditions of the licence held.

Should the intervention stage not bring about the necessary changes, or be otherwise unsuccessful, the next stage is the submission of a premises licence review application for the consideration of the Licensing Board.

Over the reporting period there were two premises in Moray that were subject to a period of intervention. The issues that were addressed related either to incidences of violence on the premises and/or perceived management shortcomings following serious incidents.

Partnership working between the Police, the Licensing Standards Officers and the premises licence holders and premises' management teams continues to hopefully fully resolve the issues and prevent bringing the matters to the Licensing Board by premises licence review application.

Partnership working between the Police, the Licensing Standards Officers and the premises licence holders and premises' management teams allows us to resolve any issues and often prevents the necessity to bring matters to the attention of the Licensing Board by premises licence review application.

In the reporting period there were no premises licence review applications or Closure Order applications submitted to the Board.

The North East Division Licensing Team also has a system in place which monitors certain conduct of Personal Licence holders. Should such a licence holder be charged with any offence, this is brought to the attention of the team. Should the circumstances appear to be inconsistent with any of the five licensing objectives, consideration will be given to bringing this to the attention of the Board by way of a personal licence review. In addition, should an individual be convicted of a relevant offence, this will undergo the same scrutiny.

## **PREVENTING THE SALE OR SUPPLY OF ALCOHOL TO CHILDREN OR YOUNG PEOPLE**

Moray attracts a lower number of reports of underage drinking or youth congregation involving alcohol in comparison to other towns and cities across Scotland.



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Where a person under 18 years of age is found to be either under the influence of alcohol, drinking alcohol in a public place or in possession of alcohol, the Police Officer involved will take all appropriate steps to ascertain the source of the alcohol.

Where information that cannot be fully evidenced is received regarding the sale of alcohol to children and young persons, in accordance with the national guidance contained within the 'Alcohol Toolkit', letters will be sent to licensed premises in the area reminding them of their responsibilities and requesting extra vigilance.

If such concerns were to continue in respect of specific premises, then other operational strategies would be considered.

There was one reported case of alcohol being purchased by a person under the age of 18 within Moray during the reporting period.

In support to the Protection of Children from Harm licensing objective, applications for premises licences and variations to premises licences come under close scrutiny often resulting in the submission of letters of objection, or more commonly, of representation, in which the imposition of conditions in respect of on sales, with regard to the times and terms in which children can be on such premises, will be recommended by the Chief Constable.

## **TACKLING SERIOUS AND ORGANISED CRIME**

Many of the processes and procedures involved in licensing applications are carried out to guard against Serious Organised Crime Groups (SOCG) infiltrating the licensed trade in any way. There are a number of these groups operating within Moray, of whom Police Scotland continually monitor, disrupt and take enforcement action against. This scrutiny is further enhanced with the nation-wide InnKeeper system. This database contains details of all liquor and civic licences for every Division in Scotland, and enhances our information sharing in respect of premises and people in the licensed trade as they move about the country and work in multiple venues.

If such an SOCG were able to gain a foothold in licensed premises this would afford the criminal group a seemingly legitimate income stream, which could be no more than a veneer for other criminal activities such as money laundering, tax evasion, drug and people trafficking and other dishonest activities.

Many of the procedures currently carried out by the North East Divisional Licensing Team, particularly in relation to new premises licences and the transfer of premises licences are done to ensure complete financial transparency and to ensure there are no business related irregularities which may be indicative of SOCG involvement.

Frequent and directed Police attendance and contact with licensed premises also increases the opportunity for irregularities to be identified or reported.

As part of this, the North East Division Licensing Team regularly liaise with Police Interventions staff who are aware of SOCG activity within the Division to ensure that

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applicants are not affiliated in any way to such groups, before responding to the Licensing Board.

The consistent high profile approach and interaction with licensed premises in direct correlation with the aforementioned close scrutiny in the application process should reinforce the work carried out to maintain this position.

**PROPOSED ACTIVITY FOR THE YEAR AHEAD**

Over the forthcoming year, North East Division Licensing Team, in conjunction with Community Policing Teams, will work alongside licensed premises, to ensure that these premises are adhering to the spirit of the legislation and operate in a manner that supports the five licensing objectives. We aspire to increasing our number of supportive visits to licensed premises and hope to see a continued reduction in the number of incidents taking place on licensed premises.

It is intended that our involvement and participation in public safety campaigns will continue. The team will be actively engaged in promoting the national 'It'll cost you' campaign aimed at deterring proxy sales of alcohol for supply to children and young persons.

The ending of the current Government restrictions in respect of COVID-19 has seen an increase in activity within the Licence trade. We see this as an opportunity to reinvigorate our processes and we are looking at ways of improving our performance across the entirety of A Division, including Moray. We have already undertaken refresher sessions for our Community Policing Teams in respect of Inspections of licenced premises, which will continue throughout the year. Members of the team will also be involved in various local initiatives centred on Licensing.

By working with established partnerships but particularly with the licensed trade, we hope to continue to see a reduction in alcohol-related crime, particularly violence, whether perpetrated within licensed premises, public places or private spaces.

To conclude we would like to thank you for your continued support and we look forward to a safe and healthy 2022/2023.

## MORAY LICENSING BOARD

**MEETING, 16 November 2022 at 14:00hrs in Council Chambers, Council Headquarters, High Street, Elgin, IV30 1BX**

### Licensing (Scotland) Act 2005

Type	Premises	Applicant	Date received	Comments
New Premises	Threaplands Ltd Threaplands Garden Centre A96	Ben Laing 13 Morriston Road Elgin Moray IV30 4EB	16.02.2022	<p><b>New Premises Application</b></p> <p>Paperwork in order No site visit No objections or representations</p> <p>Police conditions accepted by applicant In terms of Section 22(1)(b)(ii) and (iii) of the same Act, I make the following representation and recommend that the licence be granted with the following conditions:</p> <p>That there is a recorded age verification system in place in respect of remote/online sales and that 'Challenge 25' is carried out at any point of collection or delivery of alcohol; All children to be accompanied by a responsible adult whilst within the licensed area; Signage to be displayed indicating that alcohol is not to be removed from the licensed area;</p>

## MORAY LICENSING BOARD

**MEETING, 16 November 2022 at 14:00hrs in Council Chambers, Council Headquarters, High Street, Elgin, IV30 1BX**

### Licensing (Scotland) Act 2005

				Where there is no existing delineation/boundary, the area to be delineated by a barrier or similar.
New Premises	Bootleggers West Beach Caravan Park Hopeman Elgin Moray IV30 5RU	Barry Scott The Woolmill Dallas Forres Moray IV36 2RZ	12.09.2022	New Premises Application  Waiting for Sec 50 Provisional BS Waiting for paperwork No objections or representations No stte visit
Major Variation	Baxters Food Group Fochabers Moray IV32 7LD  MO/PRM/0148	Karlie Thomas Baxters Food Group Fochabers Moray IV32 7LD	28.09.2022	Major Variation Application  To make changes to the operating plan including remove all children and young person access. Remove all activities associated with on sales. Remove On sale hours. To amend off sales terminal hour Monday to Sunday to 22:00. Add delivery to activities. The premises will now be licenced for purely remote sales  Removal of seasonal variations

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				<p>Removal of additional activities Change of Designated Premises Manager</p> <p>Paperwork in order No objections No site visit</p> <p>Police representation accepted by applicant recommend the application be granted subject to a condition that a recorded age verification system is in place in respect of any remote/online sale of alcohol. Applicant accepted condition, police withdrew representation</p>
New Premises	Click Whisky Auctions Unit 4 Chanonry Court Chanonry Road South Elgin Moray IV30 6NG	Murray Greig 14 Tannachy Terrace Portgordon Buckie Moray AB56 5PF	07.10.2022	<p>New Premises Application</p> <p>Waiting for Sec 50, EH and Planning Waiting for paperwork No objections or representations No site visit</p> <p>Police condition accepted by applicant:</p>

# MORAY LICENSING BOARD

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## Licensing (Scotland) Act 2005

				<p>1.The premises will not display any external advertisement or overt signage indicating that the premises is licensed under the Licensing (Scotland) Act 2005, for the purpose of selling alcohol products from the premises;</p> <p>2.There is a recorded age verification system in place in respect of remote/online sale of alcohol and that 'Challenge 25' is carried out at any point of collection or delivery of alcohol.</p> <p>Waiting for police representation to be withdrawn</p>
New Premises	Glenrothes Distillery Burnside Street Rothes Aberlour Moray AB38 7AA	Highland Distillers Limited 100 Queen Street Glasgow G1 3DN	12.10.2022	<p>New Premises Application</p> <p>Waiting for Sec 50 BS, EH and Provisional Planning certificate received</p> <p>Waiting for paperwork</p> <p>No objections or representations</p> <p>No site visit</p>

## MORAY LICENSING BOARD

MEETING, 16 November 2022 at 14:00hrs in Council Chambers, Council Headquarters, High Street, Elgin, IV30 1BX

### Licensing (Scotland) Act 2005

Major Variation	Keith Railway Club Union Street Keith Moray AB55 5BP  MO/PRM/287	Gordon Strathdee 21A Nelson Terrace Keith Moray AB55 5EF	23.09.2022	<p>Major Variation Application</p> <p>Waiting for paperwork No objections or representations yet No site visit</p> <p>Amendments to the operating plan</p> <p>Amend Q.2 on premise sales core hours to 1100 to 2300 hours Sunday to Wednesday, 1100 to 0000 on Thursday and 1100 to 0130 hours on Friday and Saturday; Amend Q.3 to include off premise sales from 1000 to 2200 hours daily; Amend Q.4 Seasonal Variations with the wording provided; Amend Q.5 activities to include Conference facilities, Bar meals, Theatre and Films, both within and out of core licensed hours, with the additional wording provided. Amend Q.6 Children and Young person's access as follows; All children and young persons to be</p>

# MORAY LICENSING BOARD

MEETING, 16 November 2022 at 14:00hrs in Council Chambers, Council Headquarters, High Street, Elgin, IV30 1BX

## Licensing (Scotland) Act 2005

				granted access whilst accompanied by a responsible adult over the age of 18 and within the public bar area, for the purposes of partaking in a meal, until the terminal hour of 2200 or, if attending a function, until its terminal hour.
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## Key to Colour Coding of Applications within Appendices to the Agenda of Business for the Moray Licensing Board

All matters are to be heard by the Moray Licensing Board and the Moray Licensing Board has the final decision. However, in accordance with Government Guidance and locally agreed procedure, applications may be submitted to the Board with a general recommendation.

Please note that colour coding may be subject to change given the nature of the licensing procedure. Documents may be received and/or negotiations resolved following publication of the agenda.

RED	Indicates that the application will normally require to be heard, whether by virtue of general procedural rules or as a result of problems arising. This should apply to all new premises/provisional licence applications. There may be ongoing negotiations to resolve problems.
YELLOW	Indicates changing circumstances with the application. It is not ready to be granted at the time of publication but there are not normally major problems e.g. procedural issues or ongoing negotiations. Applications will normally be submitted with recommendation for grant or deferral.
GREEN	Indicates that all is in order with the application. All documents have been received and checked. All procedures have been followed. There are unlikely to be any representations, objections or problems or the same have been resolved. It is being submitted with a recommendation for grant but members are free to make enquiries as they see fit.



# Licensing (Scotland) Act 2005

## Licensing Objectives

Section 4 sets out the licensing objectives:

- “(1) For the purposes of this Act, the licensing objectives are—
- (a) preventing crime and disorder,
  - (b) securing public safety,
  - (c) preventing public nuisance,
  - (d) protecting and improving public health, and
  - (e) protecting children and young persons from harm.”

## Applications for a Premises Licence or Provisional Premises Licence

### Section 20 Application

By section 20 any person (over 18) may apply to the appropriate Licensing Board for a premises licence in respect of any premises.

An application under subsection must—

- (a) contain a description of the subject premises, and
- (b) be accompanied by—
  - (i) an operating plan for the subject premises,
  - (ii) a “layout plan” of the subject premises, and
  - (iii) the certificates required by section 50(1).

### Notice of Application

Notice of the application has been given to—

- (a) each person having a notifiable interest in neighbouring land *i.e. neighbours within 4 metres of the boundary of the premises*
- (b) the community council within whose area the premises are situated,
- (d) the chief constable, and
- (e) the fire service
- (f) the NHS

### Objections / Representations

By section 22 any person may, by notice to the Licensing Board—

- (a) object to the application on any ground relevant to one of the grounds for refusal (detailed below)
- (b) make representations to the Board—
  - (i) in support of the application,
  - (ii) as to modifications which the person considers should be made to the operating plan accompanying the application, or
  - (iii) as to conditions which the person considers should be imposed.

A representation is not an objection to a licence being granted. It means the representer would like to see a changes or changes to the licence or conditions on the licence before it is granted.

Where a Licensing Board receives a notice of objection or representation the Board must—

- (a) give a copy of the notice to the applicant, and
- (b) have regard to the objection or representation in determining the application,

unless the Board rejects the notice as being frivolous or vexatious.

Where a Licensing Board rejects a notice of objection or representation as frivolous or vexatious, the Board may recover from the person who gave the notice any expenses incurred by the Board in considering the notice.

### **Consideration and determination of a Premises Licence Application**

Section 23(4) states that:

“(4) The Board must, in considering and determining the application, consider whether any of the grounds for refusal applies and—

- (a) if none of them applies, the Board must grant the application, or
- (b) if any of them applies, the Board must refuse the application.”

### **Possible Courses of Action**

1. Grant the licence as applied for;
2. Grant the licence with a condition(s) under s.27(6). Determine the licensing objective and how the situation can be improved and the exact terms of a condition.
3. Grant the licence with a modification to the operating plan under s.23(7) which states that  
“(7) Where the Licensing Board considers that—
  - (a) they would refuse the application as made, but
  - (b) if a modification proposed by them were made to the operating plan for the subject premises accompanying the application, they would be able to grant the application,the Board must, if the applicant accepts the proposed modification, grant the application as modified.”
4. Refuse - In section 23(5) of Act:
  - (5) The grounds for refusal are—
    - (a) that the subject premises are excluded premises,
    - (b) that the application must be refused under section 25(2) (*licence refused within the last year*), 64(2) (*licence sought for 24 hours continuous*) or 65(3) (*off sale hours outside 10am to 10pm*),
    - (ba) that the Licensing Board consider, having regard to the licensing objectives, that the applicant is not a fit and proper person to be the holder of the premises licence,

(c) that the Licensing Board considers that the granting of the application would be inconsistent with one or more of the licensing objectives,

(d) that, having regard to—

(i) the nature of the activities proposed to be carried on in the subject premises,

(ii) the location, character and condition of the premises, and

(iii) the persons likely to frequent the premises,

the Board considers that the premises are unsuitable for use for the sale of alcohol,

(e) that, the Board considers that, if the application were to be granted, there would, as a result, be overprovision of licensed premises, or licensed premises of the same or similar description as the subject premises, in the locality.

5. Defer – if for example the Board wanted to arrange a further site visit.

### **Consequences of Refusal**

Section 25 says that where a Licensing Board has refused a premises licence application the Board must refuse any subsequent premises licence application in respect of the same premises before the expiry of the period of one year beginning with the date of the earlier refusal UNLESS at the time of the earlier refusal the Board directed that this provision would not apply or the Board is satisfied that there has been a material change of circumstances.

## **Applications to Vary a Licence**

### **Section 29 Application**

By section 29(1) a premises licence holder may apply to the appropriate licensing Board for a variation of the licence. Such an application must be accompanied by

(a) the premises licence to which the application relates, or

(b) if that is not practicable, a statement of the reasons for failure to produce the licence.

### **Meaning of Variation**

Section 29(5) defines a variation as meaning any variation (which includes addition deletion or other modification) of:

(a) any of the conditions to which the licence is subject (*other than those to which the licence is subject by virtue of section 27(1) which are Schedule 3 mandatory conditions and cannot be changed*);

(b) any of the information contained in the operating plan contained in the licence;

(c) the layout plan contained in the licence; or

(d) any other information contained or referred to in the licence.

Generally a variation that involves a change to the information contained within the operating plan is not a minor variation and it requires to be determined by the Licensing Board.

Any variation that involves:

- (i) a change to the layout plan that does not affect the operating plan
- (ii) a restriction on the access for children/young persons
- (iii) a change of premises manager
- (iv) reduction in the alcohol display area or capacity
- (v) reduction in the core hours

can be considered to be a minor variation which must be granted and so is dealt with under delegated powers.

### **Notice of Application**

Notice of the application has been given to—

- (a) each person having a notifiable interest in neighbouring land *i.e. neighbours within 4 metres of the boundary of the premises*
- (b) the community council within whose area the premises are situated,
- (d) the chief constable, and
- (e) the fire service
- (f) the NHS

Section 22 applies the same as it does to a premises licence application and so any person may, by notice to the Licensing Board object to the application on any ground relevant to one of the grounds for refusal or make representations to the Board concerning the application.

### **Determination of the Variation Application**

Section 30(3) provides that the Licensing Board must hold a hearing for the purpose of considering and determining the application. The Board must consider whether any of the grounds for refusal applies and:

- (a) if none of them applies, the Board must grant the application;
- (b) if any of them applies, the Board must refuse the application;

Section 30(5) provides that the grounds for refusal are:

- (a) that the application must be refused under section 32(2) (*licence refused within the last year*), 64(2) (*licence sought for 24 hours continuous*) or 65(3) (*off sale hours outside 10am to 10pm*);
- (b) that the Licensing Board considers that the granting of the application would be inconsistent with one or more of the licensing objectives;
- (c) that, having regard to the nature of the activities carried on or proposed to be carried on in the subject premises, the location, character and condition of the premises, and the persons likely to frequent the premises,

the Board considers that the premises are unsuitable for use for the sale of alcohol in accordance with the proposed variation;  
(d) that the Board considers that if the application were to be granted, there would, as a result, be overprovision of licensed premises, or licensed premises of the same or similar description as the subject premises (taking account of the variation), in the locality.

Where the Licensing Board grants the application, the Board may make a variation of the conditions to which the licence is subject.

Where the Licensing Board refuses the application the Board must specify the ground for refusal, and where relevant the Board must specify the licensing objective or objectives in question.

### **Subsequent Applications Following Refusal**

Section 32 says that where a Licensing Board has refused a premises licence variation application the Board must refuse any subsequent premises licence variation application in respect of the same premises licence, and seeking the same variation made before the expiry of the period of one year beginning with the date of the earlier refusal UNLESS at the time of the earlier refusal the Board directed that this provision would not apply or the Board is satisfied that there has been a material change of circumstances.

