



Licensing Board

Wednesday, 20 October 2021

NOTICE IS HEREBY GIVEN that a Meeting of the **Licensing Board** is to be held at **Remote Locations via Video Conference**, on **Wednesday, 20 October 2021** at **14:00**.

BUSINESS

1. **Sederunt**
2. **Minute of Meeting of 25 August 2021** 5 - 8
3. **Chief Constable's Report Under Section 12A** 9 - 18
Report by Clerk to the Board
4. **Personal Licence Hearing Following Disclosure of Relevant Conviction case 1 of 2021**
5. **Review of Premises Licences**
6. **Application List 20 October 2021**
7. **21-01091-PRELIC Rothes Glen House - Application Form**
8. **21-01321-PREVMA Glen Moray Distillery - Application Form**

Moray Council Committee meetings are currently being held virtually due to Covid-19. If you wish to watch the webcast of the meeting please go to:
http://www.moray.gov.uk/moray_standard/page_43661.html
to watch the meeting live.

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 Gordon Cowie (Chair)
Councillor James Allan (Depute Chair)

Councillor David Bremner (Member)
Councillor Frank Brown (Member)
Councillor Paula Coy (Member)
Councillor Ryan Edwards (Member)
Councillor Maria McLean (Member)
Councillor Louise Nicol (Member)
Councillor Amy Taylor (Member)

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

Minute of Meeting of the Licensing Board

Wednesday, 25 August 2021

remote locations via video conference,

PRESENT

Councillor James Allan, Councillor David Bremner, Councillor Frank Brown, Councillor Gordon Cowie, Councillor Paula Coy, Councillor Ryan Edwards, Councillor Amy Taylor

APOLOGIES

Councillor Maria McLean, Councillor Louise Nicol

IN ATTENDANCE

Also in attendance at the above meeting were: Sergeant Gill Flett, Police Scotland, Sean Hoath, Depute Clerk to the Board, Sana Sarwar, Solicitor, Emma Rapley, Licensing Standards Officer and Lindsey Robinson, Committee Services Officer.

1. Chair

The Meeting was chaired by Councilor Cowie.

2. Minute of the Meeting of the Board 9 June 2021

The minute of the Meeting of the Board on 9 June 2021 was submitted and approved.

3. Licensing (Scotland) Act 2005 - Annual Review of Licensing Fees

A report by the Clerk to the Board asked that the Board note the current fees and the financial report on income and expenditure, agree to publish the financial report, and consider whether to keep the current fee structure or revise the same and in the latter case proceed to nominate and instruct the policy sub group to consider proposals for change as the Board sees fit.

Following consideration Councillor Cowie proposed the recommendations be agreed and there being no one otherwise minded the Board agreed the recommendations.

4. Licensing Scotland (Act) 2005 - Annual Functions Report

A report by the Clerk to the Board asked the Board to note the draft annual functions report, amend the same if the Board considers appropriate and agree the final report, and instruct the Clerk to publish the agreed final report on the Board's web pages.

During consideration the Depute Clerk advised that the table of figures was incorrect, as two licences had been revoked (one premises licence and one

personal licence), and would be amended before the final report was published. The error arose as a result of the table of figures being produced by the licensing ICT system but not being picked up by the statistical function of the system.

Following consideration the Board agreed to publish the report with the above corrections included.

5. Licensing (Scotland) Act 2005 – Personal Licence Hearing Following Disclosure of Relevant Conviction by Licence Holder (Case Number 1 of 2021)

A report by the Clerk to the Board asked the Board to note the existence of a relevant conviction and the requirement to hold a review hearing following confirmation of the conviction and the making of a recommendation by the Chief Constable, and to note any recommendation(s) from the Chief Constable, hear from the parties, consider the matter and determine whether one of the possible orders is necessary for the purposes of any of the licensing objectives.

The Depute Clerk introduced the report and advised that the licence holder was unable to attend the meeting and has requested the case be deferred to the next meeting.

During consideration Councillor Coy sought clarification on what would happen if the licence holder was unable to attend the next meeting as it could not carry over indefinitely.

In response the Depute Clerk confirmed that only one deferral was generally allowed. The licence holder had indicated if he was unable to attend the next meeting he would send a representative. He would also have the options to attend by telephone or send written representations. If there was no representation at the next meeting it would be the Board's decision but the Board would be entitled to proceed in absence.

Following further consideration the Board agreed to defer the item to allow the licence holder to attend in person or for them to arrange a representative to attend on their behalf.

6. 21-00964-PRELIC Orrin - Application Form

The Depute Clerk introduced the application and advised that all relevant paperwork was in order to grant a provisional premises licence and that no objections had been received. The applicants representative introduced the application and confirmed that the Section 50 planning report had been received and the building warrant was due.

Following consideration Councillor Brown proposed granting the licence and there being no one otherwise minded the Board agreed to grant the new provisional premises licence.

7. PREVMA Lidl Forres, Buckie and Elgin - Application Forms

The Depute Clerk introduced the application and advised that the applications for the three Lidl stores were identical so could be taken together if the Board was so minded.

The Board agreed that all three Lidl applications should be heard together.

The applicants representative introduced the three reports and gave an overview as to why the variation was being applied for and how it would impact on the stores.

Following consideration Councillor Cowie proposed granting the licences and there being no one otherwise minded the Board agreed to grant the three variations for the Lidl stores in Forres, Buckie and Elgin.

8. 21-00953-PREVMA Scotmid - Application Form

The applicant's representative introduced the application and answered questions from the Board.

Following consideration Councillor Coy stated that she was happy to grant the application. There being no one otherwise minded the Board agreed to grant the variation.

9. 21-01085-PREVMA Spar Shop West Road Service Station - Application Form

The Depute Clerk introduced the application and advised that all relevant paperwork was in order and no objections had been received. The applicant's representative introduced the application and invited questions from the Board.

Following consideration the Board agreed to grant the variation.

10. 21-00805-PREVMA Pinz Bowling - Application Form

The Depute Clerk introduced the application and advised that there were many reports attached to this application including an acoustic expert's report, a representation from Police Scotland and a report from the Licensing Standards Officer (LSO).

The applicant's representative introduced the application, gave background to the application and the variations sought as well as highlighting the importance of the acoustic report that had been submitted with the application.

Sergeant Flett and the Licensing Standards Officer both made representations to the Board.

The Board asked questions of the parties.

In response to questions the applicant's representative advised that they would gladly meet with Police Scotland and the Licensing Standards Officer to set a level from the outset and confirmed that a level of 70Db was proposed in the acoustic report. He also made the Board aware that his client would be prepared to voluntarily accept and indeed welcome a six month trial period with monthly reporting to Police Scotland and Licensing Standards Officer.

Each party summed up with the applicant's representative being the final party to address the Board.

Following debate, deliberation and consideration of all information presented Councillor Allan, seconded by Councillor Edwards, moved that the variation should be granted.

Councillor Brown, seconded by Councillor Coy, proposed that the variation should be refused as it went against current policy guidelines and so granting would be inconsistent with the licensing objectives of preventing public nuisance.

On a division there voted:-

For the Motion (3) Councillors Allan, Edwards and Cowie

For the Amendment (4) Councillors Brown, Coy, Bremner and Taylor

Abstentions (0).

The amendment therefore became the finding of the meeting and the variation was refused.

The applicant's representative requested that his client be allowed to re-apply for the variation prior to the usual 12 month restriction for re-application.

Following consideration, Councillor Edwards moved that the applicant should be allowed to re-apply within the next 12 months. There being no one otherwise minded the Board agreed that the application could be resubmitted within the next 12 months.

11. Review of Open Ended Occasional Licences

The Depute Clerk to the Board gave a verbal update on the open ended occasional licences granted during the pandemic to premises who already hold a licence looking to utilise outside areas.

The Depute Clerk proposed an end date for these licences as the end of the calendar year when those wishing to continue would need to apply for a major variation.

Following consideration the Board agreed that the open ended occasional licences would expire at the end of this calendar year and any premise that would like to permanently licence a specific area currently covered by an occasional licence should apply for a major variation to the premise licence. Any submissions must be with the Board 6 weeks before the hearing date. The next meetings are set for 20 October and 8 December 2021



REPORT TO: THE MORAY LICENSING BOARD 20 OCTOBER 2021

SUBJECT: CHIEF CONSTABLE'S REPORT UNDER SECTION 12A

BY: CLERK TO THE BOARD

1. Reason for Report

1.1 This report is to place before the Board a report from the Chief Constable, who has a responsibility to report certain matters to the Board on an annual basis.

2. Recommendations

2.1 It is recommended that the Board note the contents of the report attached at Appendix 1.

3. Background

3.1 The Chief Constable on 23 August 2021, submitted a report under section 12A of the Licensing (Scotland) Act 2005. This section provides that he should send a report to the Licensing Board after the end of each financial year that sets out the following information.

3.2 His views about matters relating to policing in the Licensing Board's area during that year and the following year, in connection with the operation of the Licensing (Scotland) Act 2005; and

3.3 Any steps taken during the year, or intended to be taken in the following year, to prevent the sale or supply of alcohol to children or young people in the Board's area.

3.2 The Chief Constable's report for 2020 to 2021 is attached at **Appendix I**.

4. SUMMARY OF IMPLICATIONS

(a) Moray 2023 A Plan for the Future/Service Plan

The provisions of alcohol licensing directly relate to the priorities within the 10 Year Plan (Moray 2023) 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

Matters raised in the Chief Constable's report may be relevant to Licensing Board policy.

(c) Financial implications

None.

(d) Risk Implications

None

(e) Staffing Implications

None.

(f) Property

None.

(g) Equalities/Socio Economic Impact

None.

(g) Consultations

None.

5. Conclusion

5.1 It is proposed that the Board note the report from the Chief Constable.

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

Background Papers:None

Ref:

MORAY

Licensing Report

2020-2021



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SCOTLAND**

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Foreword

In accordance with Section 12(A) Licensing (Scotland) Act 2005 I provide the Annual Licensing Report for 2020/21.

I would like to thank you for working with policing to keep the people of Scotland safe in what has been an extremely demanding year. During these challenging times Police Scotland has continued to work closely with Local Authorities and key stakeholders and, collectively, we have played a crucial role in supporting the national response to the COVID-19 pandemic, explaining the rules and encouraging our fellow citizens to do the right thing.

We have embraced new, flexible ways of working that have involved remote or home working where possible and the incorporation of new IT solutions. We have quickly adapted to these changes while continuing to provide a high standard of service to our communities.

We have also continued to deliver effective regulation of Liquor Licensing whilst taking full cognisance of the restrictions and requirements conferred by the Coronavirus Regulations. Our focus has been on preventing alcohol fuelled violence, disorder and antisocial behaviour along with supporting the national response to suppress the virus.

I would like to thank our many local partnerships and acknowledge the good work that they do; without their support we would not be able to maintain the high standard in licensing in the Moray area.

Police Scotland remains committed to working with others to achieve the licensing objectives. I am confident that through effective, collaborative working we will meet any challenges that may arise and will continue to improve licensing standards for the communities of Scotland.

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 Dalmarnock 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 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 2020/2021, 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 Licensed 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 thirteen 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.

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LICENSING BOARD AREA

The Licensing Board area is policed by North East Division.

Chief Superintendent George Macdonald 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 Police Plan 2020 - 23 are as follows:

- Protecting vulnerable people;
- Serious organised crime;
- Anti-social behaviour, violence and disorder;
- Road safety and road crime;
- Acquisitive crime;
- Counter terrorism and domestic extremism.

OPERATION OF THE LICENSING (SCOTLAND) ACT 2005

Due to the global COVID-19 pandemic, we began and ended the reporting period in national lockdown. Many licensed premises operated under varying restrictions between July and December 2020, with the exception of venues which could be considered nightclubs.

This presented new and unprecedented challenges for all involved in the licensed trade; from prolonged cessation of trading for much of the year and the adapting to guidelines and regulations to permit certain types of business to operate under prescribed conditions.

The vast majority of operators abided by the frequently changing landscape of regulations and worked in close co-operation with Police Scotland and local authority partners such as Licensing Standards Officers, Trading Standards and Environmental Health.

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. Sizeable towns in Moray benefit from a dedicated Weekend Policing Plan to support the night time economy.

Within the reporting period, there were 546 inspections (visits) to licensed premises recorded on the Inn Keeper system.

Any Police Officer who attends an incident at a licensed premises is expected to submit a concise report via the Inn Keeper system, particularly when the incident

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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 32 incidents connected to licensed premises within Moray recorded on the Inn Keeper system.

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.

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.

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 have been two licensed premises subject to a period of monitoring or intervention. In all instances, the issues were connected to management and procedures in terms of legislation introduced and relating to the COVID-19 pandemic, including one which resulted in a premises licence review hearing.

Partnership working between the Police, the Licensing Standards Officer 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.

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

Towns in Moray attract a relatively low number of reports of underage drinking or youth congregation involving alcohol when considering 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.

One way in which North East Division delivers our commitment to the community is through our School Liaison Officers and School Based Officers.

PROPOSED ACTIVITY FOR THE YEAR AHEAD

The uncertainty of the global COVID -19 pandemic has impacted heavily on the licensing trade making it very difficult to plan for proposed activity for the year ahead.

The North East Division Licensing Team, along with Community Policing Teams, will work alongside licensed premises, to ensure that the premises are complying with the legislation and operate in a manner that supports the five licensing objectives. We aspire to maintain 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.

Our involvement and participation in public safety campaigns will continue, such as the 'Ask for Angela' personal safety campaign, the 'One Punch' campaign which highlights consequences for both victims and perpetrators of spontaneous acts of violence and support partners with campaigns such as 'Count 14' promoting awareness of alcohol consumption guidelines. We will also remain involved in ongoing work to ensure premises are complying with the Duty of Care condition.

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 during what has been a challenging year for all. We have all had to adapt to a new way of working and ever changing circumstances which has been embraced by all.

We look forward to a safe and healthy 2021/2022.

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