

Moray Licensing Board  
Annual Functions Report

1 April 2022 - 31 March 2023

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

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## **About Moray**

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

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

In the spirit of celebration, music plays a vital role in the Moray community. There are major music festivals every year, including 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 2022 to 31 March 2023, the Board met on an approximate eight week cycle on the following dates:

- (a) 30 June 2022
- (b) 7 September 2022
- (c) 16 November 2022
- (d) 8 February 2023

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>

During the course of the next functions period a full review of the statement of licensing policy is due to be completed.

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

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

## Decisions of the Board

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

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

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

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

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

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

### **Licence Applications**

During the course of the year, the Board received applications for 514 occasional licences, up on the previous period by some 180.

Work is ongoing to address the issue of premises trading permanently on occasional licences. The Licensing Standards Officer has persuaded certain applicant to apply for premises licences. In addition Moray has joined a group of officers from the Scottish Government and certain other licensing authorities to review the law controlling occasional licences.

The Board also considered and granted 91 premises related licence applications. The overall number of premises licences has fallen slightly on the previous financial year from 366 to 339.

### **Personal Licence Applications and Reviews**

The Board granted 131 personal licence applications.

During the period the Board considered one personal licence application where the applicant had disclosed a relevant conviction and the licence was granted. The Board also considered one review of a personal licence where a conviction had been disclosed and the personal licence was suspended for 6 months.

### **Premises Licence Reviews**

During the period there were four premises licence reviews heard by the Board. One review was withdrawn as the licence was surrendered. Two reviews resulted in the premises licences being suspended. One review resulted in a premises licence being revoked.

### **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.

### **Licensing Hours**

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

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

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

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

## **Licensing Forum**

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

## **Gambling**

The requirement for a functions report relates to the alcohol licensing legislation. For completeness in terms of the Board's remit, there is little activity in terms of gambling. The number of gambling premises are generally reducing owing to the prevalence of online gambling. Most activity is in relation to monitoring of gaming machines in alcohol licensed premises.

## **Licensing Standards**

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

## **Licensing Standard Officer's Report**

The Liquor LSO 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 LSO worked with the Uniform team (officers who administer the specialist in-house licensing software package) to find a way for uniform to generate a letter to remind personal licence holders of their need for refresher training. Personal licence holders are now receiving reminders when their refresher training is due and when their personal licences are due for renewal. The LSO has also worked with our ICT service to update the information on the website to make it easier to navigate.

Following an increase in the annual fee for premises licence holders the LSO worked closely with both the finance service and the administration team to minimise any disruption and has kept licence holders updated to the delay to invoices and the increase in the fees.

Following the pandemic restrictions easing, there have been a number of new staff and new licence holders and the LSO has started a newsletter which is sent to premises, the newsletter contains information about local policy i.e. the festive extension, best practise for licence holders and national issues that may affect licence holders such as the Scottish Government consultation regarding the proposed changes to alcohol advertising.

The LSO has dealt with numerous complaints from the public including irresponsible drinks promotions, complaints regarding the use of outdoor spaces and associated noise, as well as conducting joint visits with Police Scotland / Environmental Health following incidents at licensed premises.

The LSO has supported the applicants of occasional licences for numerous events including MacMoray, Seafest and Speyfest as well as numerous smaller events and helped numerous applicants to complete applications so that they understand their licences and what activities are permitted.

The LSO has been actively involved in the North East LSO group meetings to share information and best practice between Licensing Standards Officers across the North of Scotland and has continued to work with both internal departments and partnership agencies.

## **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

**Liquor Licensing Statistics for Year 2022-2023 (Period 01/04/2022 to 31/03/2023)**
**Local Authority - MORAY COUNCIL**

<b>Premises Licence Statistics</b>	
<b>Licences in Force on 31 March 2023 (this should equal total of a+b+c)</b>	<b>339</b>
(a) on sales only	75
(b) off license only	104
(c) both	160
Applications received during 2022-2023	
(a) on sale	11
(b) off sale	49
(c) both	49
Applications refused during 2022-2023 under section 23	0
Applications granted during 2022-2023 under section 23	91
Applications for review of premises licence during 2022-2023 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 2022-2023</b>	<b>514</b>
<b>Personal Licence Statistics</b>	
<b>Personal Licences in Force on 31 March 2023</b>	<b>1215</b>
Applications during 2022-2023 under section 72:-	
(a) refused	0
(b) granted	131
Proceedings taken during 2022-2023 under section 83 (notice of conviction) resulting in:-	
(a) endorsement	
(b) suspension	
(c) revocation	
(d) no action	
Proceedings taken during 2022-2023 under section 84 (conduct inconsistent with licensing objectives) resulting in:-	
(a) endorsement	
(b) suspension	
(c) revocation	
(d) no action	
Proceedings during 2022-2023 under section 86 (multiple endorsements) resulting in:-	
(a) endorsement	
(b) suspension	
(c) revocation	
(d) no action	
<b>Revocations of personal licences during 2022-2023 under section 87(3) (failure to provide evidence of having undertaken refresher training)</b>	<b>0</b>
<b>Staff employed at 31 March 2023</b>	
Number (full-time equivalent) of licensing standards officers employed	1