

INVERCLYDE LICENSING BOARD

ANNUAL FUNCTIONS REPORT

2021 - 2022



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1. INTRODUCTION

- 1.1 The Inverclyde Licensing Board (hereafter referred to as “the Board”) is the licensing authority for the Local Government area of Inverclyde. The Board comprises eight elected Members of Inverclyde Council. Members are placed onto the Board following Local Government elections and accordingly the Board in place for the period April 2021 to March 2022 was formed in May 2017. The Board is constituted and operates in accordance with the Licensing (Scotland) Act 2005.
- 1.2 Board meetings are held in public but deliberations can be made in private. All decisions taken by the Board must be made in public. During the period from April until July 2021 all meetings of the Licensing Board were held virtually by way of remote on-line meetings due to a rise in the Coronavirus infection rate. Invitations were issued to applicants and any representatives who required to appear before the Board. Thereafter, hybrid meetings were held whereby applicants and any representatives could attend either in person or remotely via webex invite.
- 1.3 The Council is charged with the responsibility for providing accommodation for the meetings of the Board and all necessary expenses in respect of Board proceedings and the provision of staff to undertake work on behalf of the Board.
- 1.4 The Board is a quasi-judicial Board, and accordingly does not operate along party political lines, but must instead have regard to the Licensing (Scotland) Act 2005, the licensing objectives contained therein and its own Statement on Licensing Policy. Under the Act, Licensing Boards are responsible for considering applications for:-
- premises licences (including provisional premises, transfer, variation and temporary applications)
 - occasional licences and extended hours

- personal licences

2. FUNCTIONS REPORT

- 2.1 The Air Weapons and Licensing (Scotland) Act 2015 introduced a statutory obligation on all Boards in Scotland to produce and publish an Annual Functions Report. Such reports must be produced and published within three months of the end of each financial year. The Coronavirus (Scotland) Act 2020 permits Licensing Boards to publish an Annual Functions report within six rather than three months of the end of the financial year due to the coronavirus pandemic. The Annual Functions report for 2020-2021 was published at the end of September 2021 rather than the end of June 2021. Due to the ongoing recovery from the Coronavirus pandemic, it is no longer necessary to delay publication of such reports. This is the Annual Functions report for 2021-2022.
- 2.2 The 2015 Act inserted Section 9A into the Licensing (Scotland) Act 2005, and the text of that section is produced below for ease of reference:

9A Annual functions reports

- (1) Each Licensing Board must prepare and publish a report not later than 3 months after the end of each financial year.
- (2) A report under this section must include—
 - (a) a statement explaining how the Board has had regard to—
 - (i) the licensing objectives, and
 - (ii) their licensing policy statement and any supplementary licensing policy statement (including the Board's statement under section 7(1) (duty to assess overprovision)), in the exercise of their functions under this Act during the financial year,
 - (b) a summary of the decisions made by (or on behalf of) the Board during the financial year, and
 - (c) information about the number of licences held under this Act in the Board's area (including information

about the number of occasional licences issued during the year).

- (3) A report under this section may include such other information about the exercise of the Licensing Board's functions under this Act as the Board consider appropriate.
- (4) At the request of a Licensing Board the relevant council must provide the Board with such information as the Board may reasonably require for the purpose of preparing a report under this section.
- (5) In discharging their duties under subsection (1) and section 9B(1) (annual financial report), a Licensing Board may, if they consider it appropriate, prepare and publish a combined report containing the information required under this section and under section 9B (which combined report must be published not later than 3 months after the end of the financial year in question).
- (6) The Scottish Ministers may by regulations make further provision about reports under this section including, in particular, provision about—
 - (a) the form and required content of reports,
 - (b) the publication of reports.
- (7) In this section, “financial year” means a yearly period ending on 31 March.

2.3 What is therefore required to be published by the Board? The terms of subsection 2 provide that the Board must publish

- a statement explaining how the Board has regard to the licensing objectives and their own policy statement (including its statement on overprovision) throughout the financial year;
- a summary of decisions it has made during the financial year; and
- provide statistical information on the number of licences (including Occasional licences) held and that were granted during the financial year.

2.4 As set out at para 2.1 Schedule 5 paragraph 4 of the Coronavirus (Scotland) Act 2020 permitted Licensing Boards to prepare and publish the annual report no later than 30 September 2021 due to the coronavirus pandemic. At the present time this is no longer deemed necessary.

3. THE LICENSING OBJECTIVES AND POLICY STATEMENT

3.1 The Licensing (Scotland) Act 2005 sets out the following five licensing objectives ("the licensing objectives"):-

- preventing crime and disorder
- securing public safety
- preventing public nuisance
- protecting and improving public health
- protecting children and young persons from harm

3.2 The licensing objectives provide a basis for the administration and determination of applications under the licensing regime. The Board considers the licensing objectives in determining all applications. Indeed, in terms of the legislation it is compelled to do so. The Board recognises in refusing applications, all of its decisions must be evidence based and must contain reasons why particular objectives have been used to reject an application. The Licensing (Scotland) Act 2005 provides that there is a presumption that an application should be granted unless one or more of the licensing objectives would be breached. It accordingly follows that unless there is evidence to support a breach of a licensing objective, the application should be granted.

3.3 Breach of the objectives may also provide grounds for reviewing a premises licence. The Board considered 1 review of a premises licence and 1 review of a personal licence during the financial year 2021 – 2022.

3.4 The Board has for some time been concerned at the health statistics relative to alcohol related illness within the Inverclyde area and has incorporated a number of conditions into its policy and premises licences to combat this. An example of a policy that has been introduced is the condition that no children should be seated at the bar area in any licensed premises regardless of whether they are taking a meal or not. This is an attempt to combat the “normalisation” of children sitting at a bar within licensed premises. The Board has also introduced a policy that there is a presumption of refusal where licenses are sought for the sale of alcohol at sporting events aimed at

children. Such events would include, but is not limited to, end of season presentation nights for children's football teams. The Board believes that it is counterintuitive to have alcohol sold at events that seek to promote sporting endeavours and wishes to break any idea that sport and alcohol are linked.

- 3.5 The Board's Policy had been reviewed at the end of 2018 with a finalised version of the Policy Statement published from January 2019 – November 2021. In terms of the Air Weapons and Licensing (Scotland) Act 2015 the period of publication of the Licensing Policy statement was amended from three to five years to correspond more closely with the term of local government. Statements must now be produced within 18 months of local government elections and therefore the Policy Statement must be reviewed and published no later than November 2023. The Board's Policy was continued by the Board in November 2021 and a consultation with the Board Members took place prior to the local government elections in May 2022. The new Board will be consulted regarding further consultation with a view to drafting a revised Policy Statement. The Policy Statement is there to provide licensees and applicants with a document that illustrates what the Board regards as good practice, what the Board expects from those operating licensed premises and to provide uniformity and consistency of decision-making.
- 3.6 Inverclyde Licensing Board had previously decided that there was an area of overprovision within its local authority area. This was effectively Greenock Town Centre. This policy existed for a period of five years. When looking at reviewing its Licensing Policy, the Board were struck by the fact that the area of overprovision did not provide for any discernible difference in crime or health statistics for the area. Accordingly, the Board has removed its area of overprovision, but will continue to monitor the situation and will reinstate such a policy should evidence support doing so.
- 3.7 The Board therefore contends that in all of its decision-making it has regard to the licensing objectives as required by law. The Board does not, and cannot, make decisions based on local knowledge or the personal views of Members of the Board relative to the sale of alcohol. The Board approaches any decision that they face on the presumption

that an application should be granted unless there is evidence to support the idea that any of the licensing objectives will be breached by the granting of the licence in question. The Board also contends that its Policy Statement seeks to provide licensees with a document that outlines good practice and highlights the demands placed on licensees by the Board. The Board has introduced conditions and policies that seek to promote the licensing objectives.

4. BUSINESS OF THE BOARD 2021-2022

- 4.1 The Board undertakes its functions and business in a transparent and open way. The Board meetings prior to the Coronavirus pandemic were held in public within the Council Chambers in Greenock. Meetings of the Licensing Board were held virtually via remote on-line meetings from April 2021 until July 2021 with Webex invitations being issued to applicants and their representatives. In addition, a secure meeting room, with IT equipment, was made available to those applicants and/or representatives who did not have the electronic means to participate in a remote meeting. Since September 2021 meetings have been held on a hybrid model with applicants and their representatives attending remotely or in person. There are four standing Board meetings per annum held on the first Thursday in March, June, September and December. Additional meetings were held on 2 July, 8 and 29 October, 11 November and 16 December 2021. The Board would also usually hold a joint meeting with Inverclyde Licensing Forum however no such meeting has taken place due to the coronavirus pandemic. It should be noted that the majority of licence applications are granted by Council Officers under delegated authority and do not require to call before the Board.
- 4.2 The Board's Minutes and notification of upcoming Board meetings can be found on the Inverclyde Council's website:
<https://www.inverclyde.gov.uk/law-and-licensing/licensing/alcohol-and-gambling/licensing-board>.
Details of all applications considered by the Board can be read using the above hyperlink. However, a summary has been provided below for ease of reference.
- 4.3 During the 10 meetings of the Board held during April 2021 - March 2022, the Board dealt with applications as detailed below:
- 10 major variation applications
 - 1 premises licence application
 - 5 provisional premises licence applications
 - 10 occasional licence applications

Almost all applications were granted by the Board in some form.

- 4.4 There were 2 Review hearings during the period from April 2021 to March 2022. There was 1 application for review of a Premises Licence and 1 application for review in relation to a Personal Licence Holder. Both applications related to a reported breach of licensing objectives/conditions in respect of non-compliance with Covid-19 Legislation at a licensed premises in December 2020. Both applications were considered at a Review Hearing on 11 November 2021. The grounds for review were not established in either application. The Board having heard evidence and detailed submissions considered that it would be inappropriate for the Board to make a finding in relation to the grounds of review for either application. The Board took the opportunity to express concerns in relation to the evidence about lack of social distancing. No personal licences were revoked under delegated authority due to not undertaking the necessary refresher training. The Board took a light touch approach in this regard due to the coronavirus pandemic and training courses being unavailable.
- 4.5 330 Occasional Licence applications were granted under delegated authority in terms of the Inverclyde Licensing Board's policy on Outdoor Drinking during the Covid-19 pandemic in light of the approach recommended by the Scottish Government.

5. INVERCLYDE LICENSING FORUM

- 5.1 Inverclyde Licensing Forum (hereafter referred to as “the Forum”) is seen as an integral part of the licensing regime in Inverclyde. There was one meeting of the Forum in the year 2021-2022 due to the coronavirus pandemic, though it should be noted that in the ordinary course of events the Forum normally meets four times per annum.

- 5.2 The Forum was instrumental in the formulation of the Board’s Licensing Policy. However, despite various attempts to increase membership by citizens of Inverclyde there remains only one person on the Forum who is not from the licensed trade, the Police, Licensing Standards or Health related departments or organisations. There are no young persons with membership of the Forum despite repeated invitations for young persons to take part at meetings and join the Forum.

7.0 CONCLUSION

- 7.1 The Board are satisfied that its hearings are sufficiently open and transparent. Prior to the Coronavirus pandemic meetings of the Board were held in public. From April 2021 to July 2021 remote on-line meetings of the Board were held with applicants and representatives being issued with electronic invitations and provided an opportunity to participate fully in remote meetings. Since September 2021 meetings have been held on the hybrid model. The Board has attempted to make the hearings before them as informal as it can. The Board recognises that many people may feel daunted appearing before up to eight elected members of the Council. Accordingly, where applicants are not represented by solicitors, the Chair will explain the process being followed and what considerations the Board will and are entitled to take into account when making their decision. All decisions are taken in public.
- 7.2 The Board recognises that a lot of good work is being undertaken by licensees, but is ever mindful of the need to educate (where it can) and to ensure compliance with the licensing objectives by licensees.
- 7.3 This report was approved by the Board of the Inverclyde Licensing Board on 23 June 2022.