

INVERCLYDE LICENSING BOARD

ANNUAL FUNCTIONS REPORT

2022 – 2023



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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 in April 2022 was formed in May 2017, with the Board in place for the remaining period to March 2023 was formed after the last Local Government election in May 2022. 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. From April 2022 until March 2023 almost all meetings of the Board were held in a hybrid format, whereby members, 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. This is the Annual Functions report for 2022-2023.
- 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.

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 during the financial year 2022 – 2023. There were no reviews of a personal licence during this period.
- 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 In terms of the Alcohol (Scotland) Act 2005 Licensing Board Policy Statements were due to be reviewed and published every three years. The period of publication of the Licensing Board Policy statement was amended by the Air Weapons and Licensing (Scotland) Act from three to five years to correspond more closely with the term of local government. Licensing Board Policy Statements must now be produced within 18 months of local government elections and therefore the Inverclyde Licensing Board Policy Statement must be reviewed and published no later than November 2023. A consultation with the previous Board Members took place prior to the local government elections in May 2022. The new Board has also been consulted and the outcome of a recent public consultation is due to be considered by the Licensing Board at a special meeting on 28 June 2023 with a view to revising the 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 was struck by the fact that the area of overprovision did not provide for any discernible difference in crime or health statistics for the area and accordingly, the Board removed its area of overprovision. However the issue of overprovision requires to be considered as part of the Board's review of its Policy Statement.
- 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 2022-2023

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 mostly held on a hybrid model from April 2022 until March 2023 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 14 April, 23 June and 26 October 2022, and on 18 and 25 January 2023. The standing meeting of the Licensing Board in June 2022 was cancelled due to requirement of the Board Members to undertake alcohol training prior to sitting on the Licensing Board. The Board also requires to hold a joint meeting with Inverclyde Licensing Forum. No such meeting took place in 2022 due to the recovery period from the coronavirus pandemic. A joint meeting is being arranged to take place this year to afford the members of the Local Licensing Forum to consult with the Board. 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 8 meetings of the Board held during April 2022 - March 2023, the Board dealt with applications as detailed below:

- 7 major variation applications
- 1 premises licence application
- 1 provisional premises licence applications
- 1 transfer with variation application
- 3 extended hours applications

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

- 4.4 There was 1 Premises Licence Review hearing during the period from April 2022 to March 2023. The application for review by Police Scotland related to a reported breach of licensing objectives/conditions in respect of events within a licensed premises which led Police Scotland to put in place an Emergency Closure Order. This application was considered at a Review Hearing on 25 January 2023. The grounds for review were established in terms of the licensing objectives of (i) preventing crime and disorder; (ii) protecting and improving public health; and (iii) protecting children and young persons from harm. The Board did not revoke or suspend the licence, however it imposed additional conditions on the Premises Licence. There was no request for review of a personal licence during the relevant period. 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.
- 4.5 413 Occasional Licence applications were granted under delegated authority. A number of these Occasional Licences were granted in terms of the Inverclyde Licensing Board's policy on Outdoor Drinking for the Duration of the Covid Pandemic, which was withdrawn by the Board with effect from 1 October 2022 due to the withdrawal by the Scottish Government of planning relaxations. Thereafter Occasional Licences have been granted to Premises which wish to continue with outdoor drinking in circumstances where Premises have applied for a major variation of the licence, pending consideration by the Board.

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 2022-2023 due to recovery from 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. Although out with the relevant period, the Chair of the Forum attended a conference arranged by the Scottish Government on 9 June 2023 in relation to the role of Licence Forums in the Licensing Board’s Policy review.

6.0 CONCLUSION

- 6.1 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 2022 to March 2023 meetings of the Board were held with on the hybrid model with applicants and representatives being issued with electronic invitations and provided an opportunity to attend in person or attend remotely. 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.
- 6.2 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.
- 6.3 This report was approved by the Board of the Inverclyde Licensing Board on 28 June 2023