
Scottish Borders Licensing Board

Report by Clerk

Annual Report December 2018 to November 2019 and December 2019 to November 2020

2 December 2020

1 PURPOSE AND SUMMARY

- 1.1 **The purpose of this report is to give a summary of the work of the Scottish Borders Licensing Board and the staff supporting the Board**
- 1.2 **It is hoped that this report will assist the Forum to facilitate its scrutiny role of how the Board discharges its duties and responsibilities in terms of the Licensing (Scotland) Act 2005 (the Act), as amended.**

2 RECOMMENDATIONS

- 2.1 **I recommend that the Board and the Forum note the report and request that the Clerk continues to provide updates to the joint meeting on an annual basis.**

**Nuala McKinlay
Clerk
Scottish Borders Licensing Board**

3 SUMMARY OF ACTIVITY

- 3.1 Since the last joint meeting on 5 December 2018, the Board have met 11 times in the period from the last meeting to 30 November 2019; and 7 times in the following period to 30 November 2020. At each Board meeting, in addition to determining applications and reviews, members consider all matters which have been dealt with under the delegated powers of the Clerk where both the Act permits this method of determination and there have been no objection or representation in respect of the application.

3.2 **Delegated Decisions**

The majority of delegated decisions are in connection with grants of occasional licences which are a feature of sporting fixtures and local festivals in the Community, figures are below:

	2018-2019	2019-2020
Occasional Licenses granted	1340	321
Above includes Voluntary Organisations	(382)	(101)
Extended Hours granted	78	25

The other reported decisions relate to minor variations of premises licences, substitution of premises managers, grants of personal licences and transfers of premises licences.

3.3 **Hearings**

The hearings take place as part of the Board's business as narrated in the published agenda. Hearings are held in public and parties have the right to address the Board or rely solely on their written submissions.

3.4 **Variations**

The Board considered 27 applications to vary Premises Licenses (17 in the period to 30 November 2019 and a further 10 to 30 November 2020). This included both major and minor variation applications which must be determined by the Board and applications which attracted objections or representations.

As in previous years much work has been generated by established businesses who realign their layout and/or operating plans or as a result of transfer of business to a new licence holder or manager. Such applications can be the outcome of visits by the Licensing Standards Enforcement Officer when it is apparent that the current operation does not comply with the Licence or the Licence Holders discuss how they can amend their Licence to move with their perceived training and business needs. When subsequent applications are submitted and processed often these do not generate objections and are granted by the Board at the meetings after due consideration of the application in relation to the statement of policy.

Such non contentious applications can relate to changes in opening hours often relating to the times for sales of alcohol where premises wish the opportunity to open earlier for the sale of breakfasts, coffees etc. Applications are also generated from store refits where national retailers change corporate layout and/or practice such as playing music in store. The majority of these have also contained an increase in the area of alcohol sales in shops and these have all been within policy and have not attracted objections from the statutory consultees.

3.5 **Reviews**

Premises Licences

The Board arranged Review hearings in respect of premises licences as detailed in the table below. All were in relation to notices for failure of premises to make a payment of the annual fee with the exception of 3 in 2019-2020 which were as a result of applications received from Police Scotland on the grounds of breach of licensing objectives. In all 3 cases, the Board took no action.

	2018-2019	2019-2020
Premises Review	12	9
Ending in Suspension	5	6
Ending in Revocation	3	3
Outstanding fees paid prior to Hearing	4	0
Ending in no action	0	3

3.6 **Grants Including Provisional Grants**

The Board must hold a hearing for the Grant or Provisional Grant of a Premises Licence. 7 new Premises Licences were granted in the period to 30 November 2019 and 10 in the following period to 30 November 2020. 3 Licence Holders chose to surrender their Licence.

4 **OTHER MATTERS**

- (a) The last joint meeting took place on 5 December 2018. Last year's meeting scheduled for the beginning of December 2019 was postponed due to the involvement of council officers in preparation for the general election. It proved not to be possible to reschedule the meeting for the early part of 2020 before the Covid-19 lockdown in March. The lockdown initially impacted on the Board's business. The Licensing (Scotland) Act 2005 requires the Board to hold hearings in public. The lockdown meant that this was not possible. In addition, the 2005 Act contains a number of strict timescales and deadlines with little or no discretion available to the Board if they are not adhered to. With both businesses and licensing authorities under unprecedented disruption as a result of the Covid-19 outbreak, the Scottish Government moved swiftly and passed the Coronavirus (Scotland) Act 2020 which allowed the Board some flexibility with regard to the timescales and deadlines stipulated in the 2005 Act. In addition, the 2020 Act contains provisions which gave the Board a new discretion to dispense with the requirement to hold meetings in public and to instead provide alternative means for persons to be heard by telephone, video conferencing or by written communication including by electronic means. As a consequence, the Board was able to recommence meetings by Microsoft Teams Video Conferencing and held its first meeting by this medium on 31 July 2020. This has subsequently enabled the Board to meet on a monthly basis as it normally did prior to the Covid-19 outbreak.
- (b) As mentioned in the last annual report for the joint meeting on 5

December 2018, the Board is required to produce and publish annual finance and functions reports for the period 1 April to 31 March. The Board considered and approved these reports for the year to 31 March 2019 at its meeting on 21 June 2019 and the reports were subsequently published thereafter. The Coronavirus (Scotland) Act 2020 extended the timescale for publishing these reports for the period to 31 March 2020 to 31 December 2020 and as such the Board will consider its annual finance and functions reports at its next meeting on 18 December 2020 with a view to having the reports published immediately thereafter.

Since the last meeting, the Board has also been required to review its Statement of Principles under the Gambling Act 2005 for the period 31 January 2019 to 30 January 2022. At its meeting on 22 March 2019 the Board agreed a draft Statement of Principles for consultation. A six week period of consultation took place from 5 April 2019 to 17 May 2019. A total of eight responses were received. Officers considered the responses on behalf of the Board and concluded that the responses raised matters that were either covered by the draft statement of principles or related to matters that were outwith the Board's control. As a result it was the considered view of these officers that no changes were required to the draft and a recommendation to this effect was considered and approved by the Board at its meeting on 19 July 2019 and the finalised Statement of Principles was published shortly thereafter.