
Scottish Borders Licensing Board

Report by Clerk

Annual Report December 2020 to November 2021

30 November 2021

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 2 December 2020, the Board have met 11 times. 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:

Occasional Licenses granted	426
Above includes Voluntary Organisations	36
Extended Hours granted	3

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. The Licensing (Scotland) Act 2005 requires that hearings are held in public and parties have the right to address the Board or rely solely on their written submissions. However, the initial Covid-19 lockdown in March 2020 meant that holding hearings in public was not possible. The Coronavirus (Scotland) Act 2020 gives Boards the discretion to provide alternative means for persons to be heard such as by telephone, by video conferencing or by written communication including electronic means. As a consequence, the Board has continued to meet by Microsoft Teams Video Conferencing and this has enabled the Board to meet on a monthly basis as it had done prior to the Covid-19 outbreak.

3.4 **Variations**

The Board considered 20 applications to vary Premises Licenses. 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 apart from 3 which were as a result of applications received from Police Scotland on the grounds of breach of licensing objectives. In 2 of these cases, the Board took no action pending the outcome of a criminal prosecution. In the other case the Licence holder undertook to surrender his licence during the meeting. In the 9 other cases relating to non-payment of annual fees, the Board suspended 4 licences, revoked 3 and took no action in respect of the other 2 as one Licence holder paid the annual fee prior to the hearing and the other licence was surrendered.

Premises Review	12
Ending in Suspension	4
Ending in Revocation	3
Outstanding fees paid prior to Hearing	1
Ending in no action	2
Licences Surrendered	2

3.6 Grants Including Provisional Grants

The Board must hold a hearing for the Grant or Provisional Grant of a Premises Licence. 7 new Provisional Premises Licences and 3 new Premises Licences were granted.

1 Licence Holder chose to surrender their Licence.

4 OTHER MATTERS

The Covid-19 pandemic has continued to have an effect on the Licensed trade and the Board's business. As referred to in para 3.3 above. The Licensing (Scotland) Act 2005 requires the Board to hold hearings in public. The initial lockdown in March 2020 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. Recognising the difficulties that this would cause to both the Licensed trade and to Boards, the Scottish Government passed the Coronavirus (Scotland) Act 2020 which allows the Board some flexibility with regard to the timescales and deadlines stipulated in the 2005 Act. In particular, 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 continues to meet by Microsoft Teams Video Conferencing and this enables the Board to meet on a monthly basis as it normally did prior to the Covid-19 outbreak.