
Scottish Borders Licensing Board

Report by Clerk

Annual Report December 2022 to January 2024

23 January 2024

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 29 November 2022, the Board have met 9 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**

Many 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	1505
Above includes Voluntary Organisations	325
Extended Hours granted	36

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. Following the creation of the current Board following the local government elections in May 2022 the hearings have been taking place in a blended meeting format where the meetings are held at Council HQ whilst providing the Board Members, Licensing Officers, and other relevant parties with the opportunity to attend the meetings either in person or via Microsoft Teams Video Conferencing. The meetings have proceeded well in that format with some applicants taking the opportunity to attend in person to address the Board in support of their applications.

3.4 Variations

The Board considered 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 and Personal Licences

During the period, the Board arranged a review hearing in respect of one premises licence. This was in connection with a review request received from one of the Council's Licensing Standards and Enforcement Officers for non-compliance with mandatory condition 10 attached to all premises licences relating to the payment of annual fees. In this instance payment of the annual fees due at 1 October 2021 and 1 October 2022 were outstanding. At the first review hearing, the Board continued consideration of the review request and afforded the licence holder the opportunity to make payment of the fees outstanding for 2021. At the second review hearing the Board were advised that payment of the fees outstanding for 2021 had not been made and as a result the licence was revoked. The Board also carried out a review of a personal licence following a request by Police Scotland. This followed the licence holder having been charged with a number of domestic related offences including assault to injury and domestic breach of the peace. Following a hearing, the Board revoked the licence with immediate effect.

3.6 Grants Including Provisional Grants

The Board must hold a hearing for the Grant or Provisional Grant of a Premises Licence. 10 new Provisional Premises Licences were granted.

4 OTHER MATTERS

- 4.1 One of the main functions of the Board during the period was the review of its Licensing Policy Statement. The Board acknowledges the work of the Forum in producing the Alcohol Profile and keeping it under review and for its contribution to the review of the policy statement. The Board recently finalised its review of the policy statement and considered and agreed appropriate changes thereto some of which flowed from the contribution received from the Forum.