

# **INVERCLYDE LICENSING BOARD**

## **ANNUAL FUNCTIONS REPORT**

**2017-2018**

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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 current Board 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.
- 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 report is the Annual Functions report for 2017-2018.
- 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 did not have occasion to review any premises licence during the financial year of 2017-2018. Given that Review Hearings have taken place in each year prior to 2017-2018, the Board is hopeful that the absence of such hearings in the last financial year is indicative of better practice in the licensed trade, joint working with Police Scotland by premises licence holders and the input of Inverclyde Licensing Standards Officers and their joint working with licence holders.

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 for 2013-2016 remains in place and covers the period of this report. The Board are in the process of reviewing their Policy Statement and an updated Policy will be published in December 2018. However, 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 determined that there existed overprovision of licensed premises in part of its area. This was based on crime and health statistics for the area in question. The area of overprovision is effectively Greenock Town centre. However, the Board recognised that there was very little evidence to suggest that public houses, restaurants and nightclubs were the cause of alcohol related illness and crime in Inverclyde. All evidence provided to the Board suggested that alcohol sold from premises to be consumed away from those premises was very likely the cause of most alcohol related illness and crime in Inverclyde. The Board were advised that a minimum of 75% of all alcohol sold in Inverclyde was sold by off-sales premises, and that the overwhelming majority of that alcohol was sold by supermarkets or large national general grocery stores. Accordingly, the Policy Statement makes it clear that although there are no longer different types of premises licence (e.g. hotel licence, restaurant licence, public house licence etc.) the Board is aware that on-sales premises were very likely not the cause of alcohol related illness or crime and applications for a such licences within the area of overprovision would be given a more sympathetic hearing before the Board than an application seeking a licence for the sale of alcohol to be consumed off of the premises (off-sales). Again, the Board will be looking at its area of overprovision policy during its review of its Policy Statement this year and will look for any evidence that the area of overprovision introduced in 2013 has had any impact on alcohol related illness or crime in Greenock Town centre.

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 2017-2018**

4.1 The Board undertakes its functions and business in a transparent and open way. The Board meetings are held in public within the Council Chambers in Greenock. There are four standing Board meetings per annum held on the first Thursday in March, June, September and December. However, the Inverclyde Licensing Board had additional meetings on 29<sup>th</sup> June 2017, 9<sup>th</sup> November 2017 and 25<sup>th</sup> January 2018. It should be noted that the majority of licence applications are granted by Council Officers under delegated authority and did 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 7 meetings of the Board held during April 2017-March 2018, the Board dealt with applications as detailed below:

- 15 Major Variation Applications
- 3 Applications for new premises licences
- 2 Occasional licences
- 33 Extended Hours Applications
- 4 provisional premises license applications
- 1 Variation to a provisional licence application.

All applications were granted by the Board in some form. Some applications sought to have hours out with the Board's Policy statement, but were amended to comply with the Board's policy at the hearing. Many of the extended hours applications arose as a result of premises seeking to operate contrary to the Board's Policy over the festive period and the New Year period. The Board granted the overwhelming majority of those applications given the time of year and the fact that Christmas Day and New Year's Day fell on a Monday. Normally, licensed premises are required to terminate the sale of alcohol earlier than on, for example, a Saturday. Many premises sought weekend operating hours during the festive period and these were all granted.

- 4.4 There were no Review hearings of premises licences or personal licences heard by the Board during 2017-2018. A number of personal licences were revoked but this was done through delegated authority as there was no information provided to the Board that the personal licence holder had undertaken the necessary refresher training required of them.

## **5. STATISTICAL INFORMATION ON LICENCES 2017-2018**

- 5.1 The statistical information regarding licences granted in the financial year together with statistics on other licences held are produced below:

## Liquor Licensing Statistics for Year 2017-18 (Period 01/04/2017 to 31/03/2018)

<b>Local Authority - Inverclyde</b>	
<b>Premises Licence Statistics</b>	
<b>Licences in Force on 31 March 2018 (this should equal total of a+b+c)</b>	<b>208</b>
(a) on license only	80
(b) off license only	76
(c) both	52
Applications received during 2017-18	
(a) on sale	1
(b) off sale	1
(c) both	1
Applications refused during 2017-18 under section 23	0
Applications granted during 2017-18 under section 23	3
Applications for review of premises licence during 2017-18 under S36 & S37 resulting in:-	
(a) written warning	0
(b) variation	0
(c) suspension	0
(d) revocation	0
(e) no action	0
<b>Occasional Licence Statistics</b>	
<b>Number of Occasional Licences granted during 2017-18</b>	<b>215</b>
<b>Personal Licence Statistics</b>	
<b>Personal Licences in Force on 31 March 2018</b>	<b>574</b>
Applications during 2017-18 under section 72:-	
(a) refused	0
(b) granted	49
Proceedings taken during 2017-18 under section 83 (notice of conviction) resulting in:-	
(a) endorsement	0
(b) suspension	0
(c) revocation	0
(d) no action	0
Proceedings taken during 2017-18 under section 84 (conduct inconsistent with licensing objectives) resulting in:-	
(a) endorsement	0
(b) suspension	0
(c) revocation	0
(d) no action	0
Proceedings during 2017-18 under section 86 (multiple endorsements) resulting in:-	
(a) endorsement	0
(b) suspension	0
(c) revocation	0
(d) no action	0
<b>Revocations of personal licences during 2017-18 under section 87(3) (failure to provide evidence of having undertaken refresher training)</b>	<b>33</b>

## **6. INVERCLYDE LICENSING FORUM**

- 6.1 Inverclyde Licensing Forum (hereafter referred to as “the Forum”) is seen as an integral part of the licensing regime in Inverclyde. The Forum has met once during the financial year in question, though it should be noted that in the ordinary course of events the Forum normally meets four times per annum. The reason for only one meeting during the year in question was the absence of a member of staff for a prolonged period.
- 6.2 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.
- 6.3 The Forum is currently gathering evidence-based information that will be used by the Board to determine its Policy Statement that will be published in December 2018.
- 6.4 A new Chair was elected at a meeting of the Forum in May 2018, and it is anticipated that meetings will revert to four meetings per annum this year and in future years.

## **7.0 CONCLUSION**

- 7.1 The Board are satisfied that its hearings are sufficiently open and transparent. All meetings of the Board are held in public. 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 within the formal setting of the Council chambers. 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 welcomes the dramatic reduction in the number of review hearings it required to hear. From a high of 12 hearings in 2012, the Board did not require to hear any review hearings during 2017-2018. The Board believes that this is due to the licensed premises within Inverclyde being well run. It has also been noted that Police Scotland and the Council's Licensing Standards Officers have taken a proactive approach to licensing within Inverclyde. The Police and LSOs often visit premises and give advice on good practice. The Police and LSOs have reported that these interventions have seen changes to operations within certain premises which has meant that review hearings have not been required. The Board accepts this explanation and congratulates licensees, the Police and LSOs in these endeavours.
- 7.3 The Board has noted, though, that the number of licensed premises continues to fall within the Inverclyde area.
- 7.4 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. The Board is currently reviewing its Policy Statement and that will be published in December 2018.
- 7.5 This report was approved by Inverclyde Licensing Board at its meeting of 21<sup>st</sup> June 2018.