

Fife Licensing Board

Annual Functions Report 2022 – 2023

This report has been prepared in accordance with the provisions of Section 9A of the Licensing (Scotland) Act 2005 (the “2005 Act”).

Fife Licensing Board is the licensing authority responsible for regulating the sale of alcohol in the area of Fife for the purposes of the 2005 Act. For the period this report covers, the previous Board, formed in May 2017, continued until May 2022 when a new Board, made up of ten elected members from Fife Council, was elected due to the local Government Elections.

Fife is located on the east coast of Scotland, lying between the Firth of Tay on the north and the Firth of Forth on the south, and is bordered to the West by Perth and Kinross and Clackmannanshire Councils. The population of Fife is rising and is currently 374,700. There are five main centres of population, namely, Dunfermline, Kirkcaldy, Glenrothes, Levenmouth and St. Andrews. Fife Licensing Board normally meets at the Town House, Kirkcaldy.

As of 31 March 2023, the Fife Licensing Board area had 2740 personal licence holders and 1044 premises licences comprising 189 on sale, 367 off sale and 488 on and off sale. The corresponding figures for the previous reporting year 2021/22 were 2814 personal licences and 1047 premises licences (197 on sales, 367 off sales and 483 on & off sales).

There has been a decrease in the number of personal licenceholders which is believed to be due to an increase in the number of licences revoked under the 2005 Act due to not undertaking and submitting evidence of refresher training, even with the Covid-19 extension period still in place for undertaking and submitting the evidence of refresher training.

There is a decrease of 3 premises licences in Fife since the last reporting period.

The Board is responsible for considering applications for premises licences (including provisional and temporary premises, transfer, variation and confirmation of provisional premises), occasional licences, extended hours and personal licences.

Licensing Objectives

The 2005 Act sets out the following five licensing objectives: -

- preventing crime and disorder
- securing public safety
- preventing public nuisance
- protecting and improving public health
- protecting children and young persons from harm

The Licensing Board must have regard to the licensing objectives when considering all applications as the licensing objectives provide a basis for the administration of the licensing regime and a potential reason for refusal.

There is a presumption of grant of an application if none of the statutory grounds for refusal apply. Breach of one or more of the licensing objectives may provide grounds for reviewing a premises licence.

The Board recognises decisions to refuse applications must be evidence based and contain reasons as to why one or more of the licensing objectives has been engaged. The Board may attach conditions to a premises licence that it considers necessary or expedient for the purposes of any of the licensing objectives. In exercising its functions under the Act, the Board must consider the licensing objectives.

Board Business

The meetings of the Board during the reporting year 1 April 2022 to 31 March 2023 were somewhat back to normal after the Covid-19 pandemic and new Licensing Board members being appointed in May 2022. During the reporting year, there were 5 meetings of the Board which took place. These were physical meetings of the Board, which took place between Council Chamber in Fife House, Glenrothes and Town House, Kirkcaldy. A practice which was introduced in previous reporting years continued until Covid-19 regulations ended in September 2022, which allowed applicants in respect of whose applications had no objections, representations or other reports had been received, to lodge written submissions for their application with the Board instead of appearing before the Board to minimise the number of persons attending the meeting.

Applications were dealt with by the Board in an open and transparent manner, in accordance with the licensing legislation, statutory guidance and the Board's statement of licensing policy. Meetings of the Board are conducted in accordance with rules made by the Board at Kirkcaldy on 16th June 2008 (subsequently updated).

A copy of the applications and responses to the applications are issued to the Board members and applicants a week in advance of the board meeting. This gives fair notice to all parties involved in the process. The Board is aware of the need to ensure access for all to the licensing process and will provide information and assistance where requested. The Board always tries to be transparent, consistent and proportionate when dealing with applications. Each application made to the Licensing Board is decided on its own individual merits within the framework of the 2005 Act.

Decisions of the Board

In the reporting period, the Board considered 8 applications for a new premises licence and 2 applications for a provisional premises licence. Objections to one of these applications was received, mainly relating to concerns regarding potential noise nuisance. All objections were taken into account during consideration of the application and the concerns of objectors addressed during the applicant's submissions and discussion by the Board. All 10 of the premises/provisional premises licence applications were granted. 8 confirmation of provisional premises licence were also granted.

The Board considered 41 applications for variations (other than a minor variation) to premises licences; 36 were granted, 2 were refused and 3 were withdrawn. As with the premises licence and provisional premises licence applications, some objections were received in relation to the applications, mainly relating to concerns regarding potential noise nuisance for live music, persons leaving the premises late in the evening, smokers making noise outside the premises and general anti-social behaviour. After consideration of the objections in each case the Board refused 2 applications and granted 36.

278 applications for minor variation were received by the Board, all of which were granted by the Clerk under delegated powers.

95 applications for transfer of a premises licence were received, 91 were granted and 4 were withdrawn.

The Board received 1064 occasional licence applications during the reporting year which is an increase on the 939 applications in the previous year 2021/22. 1042 of the applications were granted, 4 were withdrawn prior to determination and a total of 18 were not considered in time or were no longer required. This increase in numbers is due to events starting to get back to normal after the period of restrictions.

75 applications for extended hours were received during the year. 72 were granted, 2 were withdrawn and 1 was surrendered as no longer required.

The Board made a general determination extending licensed hours during the 2022/2023 festive period.

Spreadsheets listing the applications for premises licences, provisional premises licences, confirmation of licences, variations of premises licences, transfers, reviews of premises licences, applications for occasional licences and extended hours including the decisions taken on the applications will be published with this statement.

Reviews

In the period 1 April 2022 to 31 March 2023, 5 personal licence review applications and 2 premises licence review applications were considered by the Board.

2 of the personal licence reviews related to inconsistency with the licensing objectives and 3 reviews related to notification of convictions. On 4 of the review applications, the Board decided that the grounds for review were established resulting in 2 personal licences being endorsed and no further action being taken on the other 2 reviews. The other review was continued to a later meeting of the Board; however, the personal licence was surrendered prior to this meeting.

1 of the premises licence reviews related to failing to uphold one or more of the Licensing Objectives. The grounds for review were established and the Board suspended the licence for 4 weeks. The other review was for non-payment of the Annual Fee Payment, however, the licenceholder surrendered the licence before the Board made any decision.

The outcomes of the premises licence reviews are indicated on the spreadsheet.

Licensing Forum

There is a properly constituted Licensing Forum operating in Fife. Members consist of representatives from the on and off trade, health, police, Licensing Standards Officers and members of the public. The Board invites the Forum to comment on matters of policy and the Forum shows a keen interest in the Board's decision making and processes. The Forum responds well to requests for information and feedback, and comments on policy matters and the like.

Fife Licensing Forum meets on a quarterly basis in central Fife, mainly in the afternoon. Members of the Licensing Board frequently attend the Licensing Forum meetings to keep abreast of any issues or concerns the licensing forum may have. Board members in attendance at meetings then feed back to the Board as a whole and the process is also done in reverse whereby the Board Members feed any relevant information to the Forum at meetings. Meetings of the Forum were affected by the lockdown and restrictions with some meetings cancelled and others held remotely. The joint meeting of the Board and Forum was held as a blended meeting in April 2023.

The Forum has not made any recommendations or given advice to the Board that has not been considered by the Board, during the period being considered by this report.

Conclusion

The operation of licensed premises was still partially restricted in this period due to Covid-19 restrictions in place throughout some of the reporting period. The volume of applications to the Board increased during this period as premises started to operate with reduced restrictions in place. The Board and Licensing Team worked to process applications as expeditiously as possible in line with the different ways of working which were introduced to mitigate the risk of the spread of infection and worked with the Licensing Standards Officers to give advice to licenceholders on how they could operate their premises in compliance with the restrictions. Licensing Standards Officers were working with reduced officers during this period due to unfilled posts and leave, which caused some delay in providing assistance to licenceholders and responding to public enquiries. A further two Licensing Standards Officers have been in post since October 2022.

Compliance with the restrictions was generally good and the Board congratulates members of the licensed trade in Fife for their efforts in promoting and upholding the licensing objectives in difficult circumstances.

Fife Licensing Board recognises the efforts of those who have an input into the operation of the Licensing Board and will continue to work with partner agencies to ensure the good practice going forward.

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