

THE ABERDEENSHIRE LICENSING BOARD

COMBINED SCHEME OF DELEGATION

Licensing (Scotland) Act 2005




Gambling Act 2005












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LOCAL OUTCOME IMPROVEMENT PLAN PRIORITIES

Connected and Cohesive Communities	
Changing Aberdeenshire's Relationship with Alcohol	
Reducing Child Poverty	

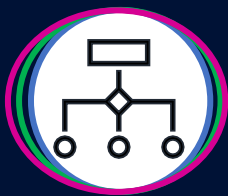
EQUALITIES – PROTECTED CHARACTERISTICS

Age	
Disability	
Gender Reassignment	
Pregnancy and Maternity	
Race (Includes: ethnic origin, national origin, colour and nationality)	
Religion or Belief (Includes: a lack of any belief)	
Sex (Gender)	
Sexual Orientation	
Marriage and Civil Partnerships (But only in respect of the duty to consciously consider the need to eliminate discrimination, harassment and victimisation and other conduct prohibited by the Act).	

PART 1

SCHEME OF DELEGATION

Licensing (Scotland) Act 2005



Licensing (Scotland) Act 2005

Scheme of Delegation

This Scheme of Delegation sets out how decisions will be made using the powers under the Licensing (Scotland) Act 2005 in Aberdeenshire. This Scheme of Delegation was approved by the Aberdeenshire Licensing Board and is effective from the 29th of April 2020.

The Board recognises that any application should only be determined by the Board where necessary. Any straightforward matters should be considered by the Clerk or any member of the Clerk's staff having authority to do so, to save resources and to create as little inconvenience to applicants as possible.

The Board therefore agrees that only those applications and matters which by statute are required to be considered by the Board will be submitted to them for determination and other applications will be determined by the Clerk (or Depute Clerks or persons appointed to assist) in accordance with the following Scheme of Delegation:-

1. Matters reserved to the Licensing Board

#	Nature of Function	Relevant Provisions in Licensing (Scotland) Act 2005	Function
1.1	Determination of Licensing Board Policy.	S.6 and Schedule 1, Paragraph 10(2)(a)	Determining the Board's policy for the purposes of a Licensing Policy Statement or any Supplementary Licensing Policy Statement.
1.2	Determination of Overprovision of Licensed Premises.	S.7 and Schedule 1, Paragraph 10(2)(b)	Determining, for the purposes of any such statement, whether there is overprovision of licensed premises, or licensed premises of any particular description, in any locality.
1.3	Annual Function Statement	S.9A	Approving and publishing an annual statement of the Board's Functions.
1.4	Annual Financial Statement	S.9B	Approving and publishing an annual financial statement of the Board's income and expenditure.
1.5	Premises Licence Application.	S.23 and Schedule 1, Paragraph 10(2)(c)	Determining a premises licence application.
1.6	Premises Licence Major Variation Application.	S.30 and Schedule 1, Paragraph 10(2)(d)	Determining a premises licence variation application where the variation sought is not a minor variation.
1.7	Premises Licence Transfer Application (Conviction)	S.33, S.34 and Schedule 1, Paragraph 10(2)(e).	Determining an application for the transfer of a premises licence where the applicant has been convicted of a relevant or foreign offence.
1.8	Provisional Premises Licence Confirmation.	S.46 and Schedule 1, Paragraph 10(2)(i).	Refusing an application for confirmation of a provisional premises licence.
1.9	Temporary Premises Licence.	S.47.	Determining a Temporary Premises Licence Application.
1.10	Personal Licence Conviction.	S.74 and Schedule 1, Paragraph 10(2)(f).	Determining a Personal Licence application or a personal licence renewal application where the applicant has been convicted of a

			relevant or foreign offence.
1.11	Conducting a Hearing.	S.39, S.84 and Schedule 1, Paragraph 10(2)(g).	<p>Conducting a hearing under the Act, including taking any of the following steps:</p> <p>1.9.1 At a review hearing in respect of a premises licence where necessary in terms of the licensing objectives flowing from the sale of alcohol: (i) Issuing a written warning to the premises licence holder; (ii) Revoking or suspending the premises licence; or (iii) Making a variation of the premises licence; or (iv) Making an order revoking, suspending or endorsing a personal licence.</p> <p>1.9.2 Such hearings will be conducted by means of written submissions in the first instance, where it is appropriate to do so.</p>
1.12	Closure Order.	S.97 and Schedule 1, Paragraph 10(2)(h)	Making a Closure Order.

2. Matters delegated to the Clerk, Depute Clerks or any other persons appointed to assist them in consultation with the Convenor in the first instance. .

#	Nature of Function	Relevant Provisions in Licensing (Scotland) Act 2005	Function
2.1	Applications for extensions under S.28 to the Board's Policy.	S.28	6.13 of the Board's policy statement provides that if a premises ceases to be used for the sale of alcohol for 3 months that the licence will be deemed to have ceased to have effect. This delegation ensures that where premises have sought an extension, this can be dealt with by the Depute Clerk following consultation with the Convenor.
2.2	Notice of Convictions.	S.44(7A) and S.83(7A)	Determining whether to hold a licence review hearing or to take no further action upon receipt of a notice from the Chief Constable which does not contain a recommendation to vary, suspend, revoke or endorse the licence in question
2.3	Occasional Licence or Extended Hours ("Fast Track")	S.57(4), S.69(4) and Schedule 1, Paragraph 10(1)	Determining whether an application for an occasional licence or occasional extension requires to be dealt with quickly.
2.4	Occasional Licence (Objection/Contrary to Policy)	S.59, and Schedule 1, Paragraph 10(1)	Determining whether or not the Licensing Board will hold a hearing to determine an application for an occasional licence where an objection, representation or a notice

			recommending refusal from the Chief Constable or Licensing Standards Officer or where the application is contrary to the terms of the Board's Policy
2.5	Occasional Licence (Objection)	S.59 and Schedule 1, Paragraph 10(1).	Where a decision has been taken by the Convenor and Clerk not to hold a hearing in terms of Section 59(4) of the Act, the determination of the application following an opportunity for the applicant to comment on the representation in terms of Section 59(5)
2.6	Occasional Licence or Extended Hours (Lodged Late or Contrary to Policy)	S.59, S.70 and Schedule 1, Paragraph 10(1).	Determining whether to accept an application for an occasional licence or occasional extension that has been lodged late in terms of Board's Policy.
2.7	Extended Hours Application (Objection / Contrary to Policy)	S.70 and Schedule 1, Paragraph 10(1).	Determining whether or not the Board will hold a hearing to determine an application for extended hours where an objection, representation or a notice recommending refusal from the Chief Constable or Licensing Standards Officer or where the application is contrary to the terms of the Board's Policy
2.8	Extended Hours Application (Objection)	S.70 and Schedule 1, Paragraph 10(1).	Where a decision has been taken by the Convenor and Clerk not to hold a hearing in terms of Section 70(2) of the Act, the determination of the application following an opportunity for the applicant to comment on the representation in terms of Section 70(3)
2.9	Personal Licence (Licence Previously Surrendered – Hearing)	S.74(7).	Where the applicant has surrendered a personal licence within the period of 3 years prior to an application for a further personal licence being made by that person to decide whether the reasons for surrender of the previous personal licence warrant consideration of the application by the relevant Board
2.10	Pool Table, Dart Boards & Gaming Machine Submissions	Schedule 1, Paragraph 10(1).	Considering written submissions (including photographs) regarding children's' access to areas containing pool tables, dart boards or gaming machines in respect of an Application for premises licence or major variation. If the Convenor is not satisfied with the submissions, the application will be determined by the Board (Central and South only)
2.11	Relevant Offences Submissions	Schedule 1, Paragraph 10(1)	Considering written submissions regarding relevant offences in connection with a premises licence application or transfer of

			premises licence application. If the Convenor is satisfied with the submissions then the Clerk may determine whether or not to cite the applicant to attend the Board Hearing.
2.12	Power to Relieve Procedural Errors.	S.135 and Schedule 1, Paragraph 10(1).	To relieve any applicant or other party to proceedings before the Board of any failure to comply with any procedural provision if the failure is due to a mistake, oversight or other excusable cause, and it is considered appropriate in all of the circumstances to relieve the failure.
2.13	Rejection of Frivolous or Vexatious Objections.	S.22(4), S.36(6) and S.58(3)	Determining whether to reject a notice of objection or representation or request for a premises licence review received by the Board where they consider it to be frivolous or vexatious.

3. Matters delegated to the Clerk, Depute Clerks or any other persons appointed to assist them.

#	Nature of Function	Relevant Provisions in Licensing (Scotland) Act 2005	Function
3.1	Premises Licence Minor Variation Application.	S.29 and Schedule 1, Paragraph 10(1)	Determining any premises licence variation application where the variation sought is a minor variation.
3.2	New Premises Manager Variation.	S.29(6)(c) and Schedule 1, Paragraph 10(1)	Determining a premises licence variation application for a variation to substitute a new premises manager.
3.3	Premises Licence Application or Variation Application Hearing Citation.	Schedule 1, Paragraph 10(1)	Determine whether to cite an applicant to a hearing for a premises licence application or a variation application where the variation is not a minor variation.
3.4	Premises Licence Transfer Application (No Conviction).	S.46 and Schedule 1, Paragraph 10(1).	Determining any application for the transfer of a premises licence where the applicant has not been convicted of a relevant or foreign offence.
3.5	Provisional Premises Licence Confirmation.	S.46 and Schedule 1, Paragraph 10(1).	Determining any application for confirmation of a provisional premises licence - where no variation (other than a minor variation) has been made to the operating plan or layout plan for the premises to which the licence relates since the provisional licence was issued or since a variation of the provisional premises licence was granted.
3.6	Premises Licence Review Proposal	S.37 and Schedule 1, Paragraph 10(1).	Determining whether to make a premises licence review proposal

3.7	Obtaining further information for the purposes of a Review Hearing	S.38(5) and (6) and Schedule 1, Paragraph 10(1).	To exercise the powers under section 38(5) and (6) for the purposes of a review hearing to obtain further information, request any person to attend to provide information and/or request production of any document at a review hearing.
3.8	Premises Licence (Licence Production)	S.49(3) and Schedule 1, Paragraph 10(1).	To require a premises licence holder to produce the premises licence.
3.9	Occasional Licence (No Objection)	S.59 and Schedule 1, Paragraph 10(1).	Determining an application for an occasional licence – where no objections or representations have been received, nor a notice recommending refusal from the Chief Constable or any report from the Licensing Standards Officer recommending refusal including late applications which the Convenor has approved in terms of 2.5 above.
3.10	Occasional Licence or Extended Hours (Funeral Teas)	Schedule 1, Paragraph 10(1).	Determining an application for an occasional Licence or occasional extension that has been lodged in respect of a funeral tea.
3.11	Occasional Licence Conditions	S.60 and Schedule 1, Paragraph 10(1).	To impose conditions under S60 in respect of an occasional licence as necessary or expedient for the purpose of any licensing objective.
3.12	Extended Hours Application (No Objection)	S.79 and Schedule 1, Paragraph 10(1).	Determining an application for extended hours where no objections or representations have been received nor a notice recommending refusal from the Chief Constable or any report from the Licensing Standards Officer recommending refusal including applications which the Convenor has approved in terms of 2.5 above.
3.13	Personal Licence (No Convictions)	S.74 and Schedule 1, Paragraph 10(1).	Determining a personal licence application or a personal licence renewal application where the applicant has not been convicted of a relevant or foreign offence.
3.14	Personal Licence (Licence Previously Surrendered)	S.77(6) and S.87(3).	To grant personal licence where the applicant has previously surrendered their personal licence under S77(6) or their licence has been revoked under S87(3)
3.15	Revocation of Personal Licence	S.87(3) and Schedule 1, Paragraph 10(1).	The revocation of a personal licence where the licence holder has not complied with the requirements of S87(1) of the Act.

4. Other matters.

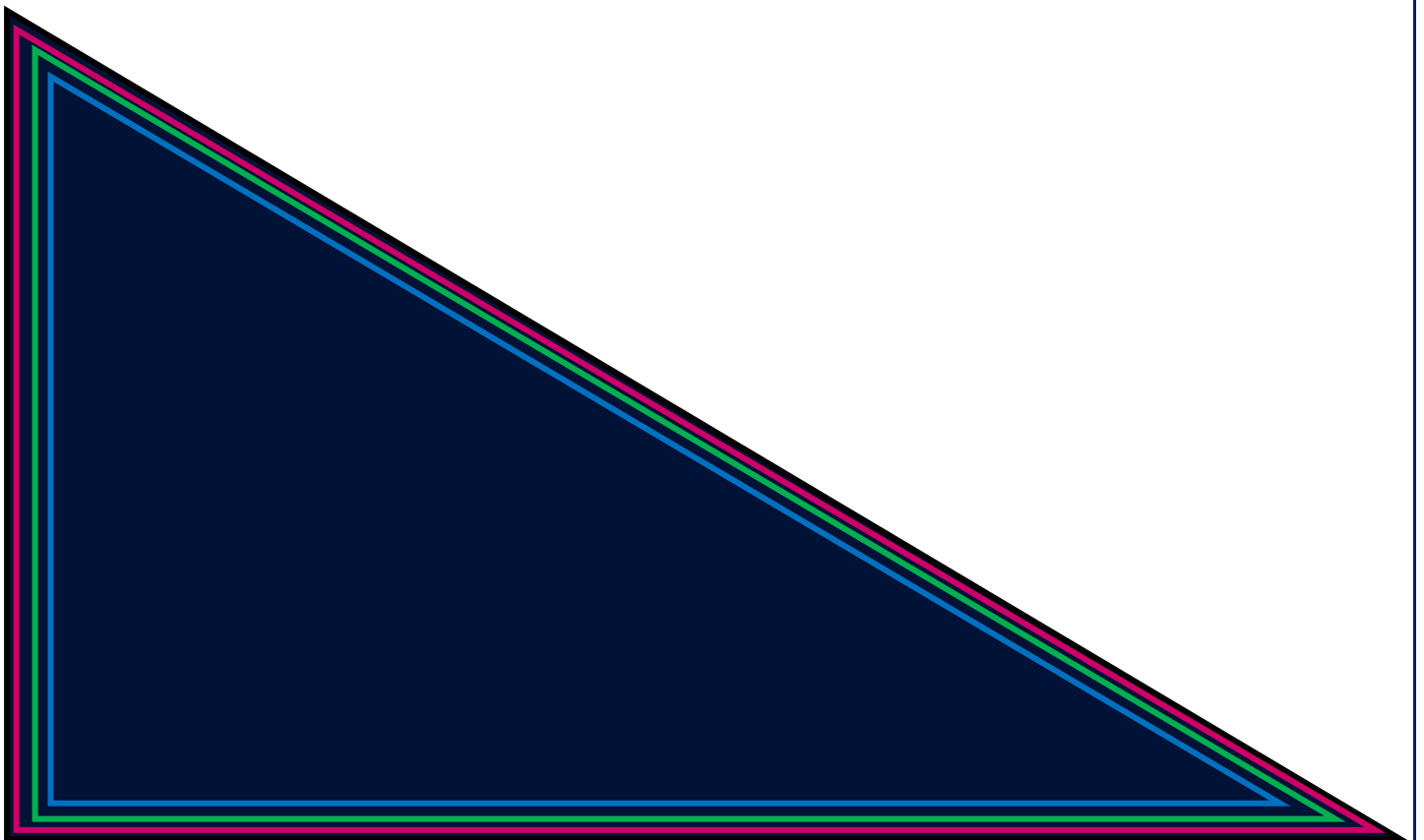
Any matters which are not the subject of a specific delegation in terms of this Scheme of Delegation and are not prescribed by the Licensing (Scotland) Act 2005 shall be determined by the Clerk (or any person appointed to assist the Clerk) as appropriate unless the nature of such matter is considered to be appropriate to be determined by the Licensing Board at a meeting arranged by the Clerk in consultation with the Convenor of the Licensing Board.

5. Exercise of delegated powers.

The Clerk, the Depute Clerks and any other member of staff appointed to assist them may elect not to use their delegated powers in a particular case, in which case the matter will be referred to the Licensing Board.

6. Legislation.

These delegations are subject to any necessary alterations arising from amendments to Legislation, Regulations, Codes of Practice or Government Circulars. In the event of a conflict between the terms of this Scheme of Delegation and the relevant legislations, the Scheme of Delegation shall be deemed amended to accord with the provisions of the said relevant legislation.



PART 2

SCHEME OF DELEGATION

Gambling Act 2005



Gambling Act 2005

Scheme of Delegation

This Scheme of Delegation relates to the powers of the Licensing Board for Aberdeenshire under the Gambling Act 2005. This Scheme of Delegation was approved by the Aberdeenshire Licensing Board and is effective from 29th April 2020.

The Board, as Licensing Authority for the purpose of the Gambling Act 2005, has designated the Clerk to the Board, The Depute Clerk to the Board, the Licensing Standards Officers, any Environmental Health Officer, and any Building Control Officer of Aberdeenshire Council as authorised persons for the purposes of Section 304 of the Gambling Act 2005.

The Board recognises that any application should only be determined by the Board where necessary. Any straightforward matters should be considered by the Clerk or any member of the Clerk's staff having authority to do so, to save resources and to create as little inconvenience to applicants as possible.

The Board therefore agrees that only those applications and matters which by statute are required to be considered by the Board will be submitted to them for determination and other applications will be determined by the Clerk (Depute Clerks or persons appointed to assist) in accordance with the following Scheme of Delegation: -

1. Matters reserved to the Licensing Board

#	Nature of Function	Relevant Provisions in Gambling Act 2005	Function
1.1	Premises Licence Application (With Representations Made).	S.161	Determination of an application of a premises licence of which representations have been made under Section 161 (and not withdrawn).
1.2	Premises Licence Variation Application (With Representations Made).	S.188 and S.189	Determination of an application for the variation of a Premises Licence in respect of which representations have been made under Section 161 as applied by Section 187 (and not withdrawn).
1.3	Transfer Application without and with representation from Gambling Commission.	S.188 and S.189.	Determination of an application for transfer under Sections 188 and 189 following representations by the Gambling Commission.
1.4	Provisional Statement Application (With Representations)	S.204 and S.161.	Determination of an application for a provisional statement under Section 204 in respect of which representations have been made under Section 161 as applied by Section 204 (and not withdrawn).
1.5	Review of Premises Licence.	S.201.	A review of a Premises Licence under Section 201.
1.6	Issuing a Counter Notice or Temporary Use Notice.	S.224.	Determination of whether to issue a counter notice to a temporary use notice under Section 224 of the Gambling Act 2005.
1.7	Application for or cancellation of a Club Machine Permit (With Objections Made)	S.271 and S.273	Determination of an application for, or the cancellation of a Club Gaming Permit or Club Machine Permit under Section 271 and 273 of the Gambling Act 2005 in respect of which objections have

			been made and not withdrawn.
1.8	Determination on whether to cancel Club Gaming Permit or Club Machine Permit.	Sch. 12 para 21.	Determination of whether to cancel a Club Gaming Permit or Club Machine Permit.
1.9	Gaming Machine Permit for 3 or more gaming machines for licences premises Application (With Objections)	S.283.	Determination of an application for a gaming machine permit for 3 or more gaming machines for licensed premises under Section 283 of the Gambling Act 2005 in respect of which objections have been made and not withdrawn.
1.10	Determination on whether to cancel Gaming Machine Permit in respect of Licensed Premises.	Schedule 13, Paragraph 16.	Determination of whether to cancel a Gaming Machine Permit in respect of Licensed Premises.
1.11	Applications for registrations for the grant and renewal of registration for the promotion of lotteries by small, non-profit. (With Representations Made)		Determination of applications for registrations for the grant and renewal of registration for the promotion of lotteries by small, non-profits in respect of which objections have been made and not withdrawn
1.12	Making a resolution not to issue Casino Licences.	S.166.	Making resolution not to issue Casino Licences under Section 166 of the Gambling Act 2005.
1.13	Formulating Licensing Policy.	S.349.	Formulating Licensing Policy under Section 349 of the Gambling Act 2005.
1.14	Registrations for the grant of registrations for the promotion of lotteries by small, non-profit-making societies.		Determining whether a representation is vexatious, repetitious or one which will not influence the authority's determination of the application.

2. Matters delegated to the Clerk, Depute Clerks or any other persons appointed to assist them in consultation with the Convenor in the first instance.

#	Nature of Function	Relevant Provisions in Gambling Act 2005	Function
2.1	Premises Licence Application (No Representation or Where Representation is Withdrawn)	S.161	To determine an application for a premises licence where no relevant representations have been made or where relevant representations have been made and then withdrawn.
2.2	Premises Licence Variation Application (Representation Made, Then Withdrawn)		To determine an application for a variation of a premises licence where no relevant representations have been made or, where relevant representations have been made and withdrawn.

3. Matters delegated to the Clerk, Depute Clerks or any other persons appointed to assist them.

#	Nature of Function	Relevant Provisions in Gambling Act 2005	Function
3.1	Application for Transfer of Premises Licence (No representation By Gambling Commission made)		To determine an application for a premises licence where no representations have been made by the Gambling Commission.
3.2	Provisional Statement Application (Representation Made, Then Withdrawn)	S.204	To determine an application for provisional statement under s204 of the Gambling Act 2005 where no relevant representations have been made or, where relevant representation have been made and then withdrawn.
3.3	Club Gaming Permit or Club Machine Permit (No Representation Made or, Representation Made Then, Withdrawn).		To determine an application for a Club Gaming Permit or Club Machine Permit where no relevant representations have been made or, where relevant representations have been made and then withdrawn.
3.4	Gaming Machine Permit for 3 or more machines in a licensed premises Application. (No Representation Made or, Representation Made Then, Withdrawn)		To determine a Gaming Machine Permit for 3 or more machines in respect of licensed premises where no relevant representations have been made or, where relevant representations have been made and then withdrawn.
3.5	Family Entertainment Centre Gaming Machine Permit (No Representation Made or, Representation Made Then, Withdrawn)		To determine an application for a Family Entertainment Centre Gaming Machine Permit where no relevant representations have been made or, where relevant representations have been made and then withdrawn.
3.6	Prize Gaming Permit Application (No Representation Made or, Representation Made Then, Withdrawn)		To determine an application for a Prize Gaming Permit where no relevant representations have been made or, where relevant representations have been made and then withdrawn.
3.7	Registrations for the grant and renewal of registrations for the promotion of lotteries by small, non-profit making societies. (No Representation Made or, Representation Made Then, Withdrawn)		To issue registrations for the grant and renewal of registrations for the promotion of lotteries by small, non-profit making societies, where no relevant representations have been made or, where relevant representations have been made and then withdrawn.

4. Other matters.

Any matters which are not the subject of a specific delegation in terms of this Scheme of Delegation and are not prescribed by the Gambling Act 2005 shall be determined by the Clerk (or any person appointed to assist the Clerk) as appropriate unless the nature of such matter is considered to be appropriate to be determined by the Licensing Board at a meeting arranged by the Clerk in consultation with the Convenor of the Licensing Board.

5. Exercise of delegated power.

The Clerk, the Depute Clerks and any other member of staff appointed to assist them may elect not to use their delegated powers in a particular case, in which case the matter will be referred to the Licensing Board.

6. Legislation.

These delegations are subject to any necessary alterations arising from amendments to Legislation, Regulations, Codes of Practice or Government Circulars. In the event of a conflict between the terms of this Scheme of Delegation and the relevant legislations, the Scheme of Delegation shall be deemed amended to accord with the provisions of the said relevant legislation.

