

Aberdeenshire Licensing Boards
North Aberdeenshire Divisional Licensing Board
Supplementary Statement of Licensing Policy
Operating Hours
30th November 2013– 29th November 2016

Operating Hours

- 4.1. The Board does not wish to inhibit unnecessarily the development of a thriving and safe evening and night-time local economy, which is important for investment, employment and tourism.
- 4.2. The Board considers that the operating hours set out in this Supplementary Policy Statement meet the needs of businesses to routinely trade, while, at the same time, not impacting on the needs of the community in such a way that would be detrimental to compliance with the five licensing objectives.
- 4.3. Licensed hours, and trading hours, must be detailed in the operating plan of every premises. Operating hours will be made up of core hours and regular seasonal variations. The Board expects applicants to be able to anticipate all such regular variations.
- 4.4. While each application is assessed on its own merits, the following sets out the Board's policy on licensed hours. For applications outwith the Board's policy, applicants will require to demonstrate to the Board that the additional requested hours are appropriate in the circumstances and will promote the licensing objectives.
- 4.5. The Act makes it very clear that routine, 24-hour opening, will NOT be allowed.

Off Sales

- 4.6. For applications relating to premises licences and to occasional licences, the maximum licensed hours for the sale of alcohol for consumption off the premises (off-sales hours) are 10.00a.m. to 10.00p.m., each day. **The Board has no discretion to permit licensed hours outwith these times.** In determining applications and licensed hours within these times, the Board will, in considering the merits, have particular regard to the effect (if any) which the proposed off-sales hours would have in promoting the licensing objectives.
- 4.7. There is no entitlement to a grant of maximum trading hours for off-sale premises. The hours granted by the Board to off-sale premises will reflect the actual hours of operation of the premises. There will be flexibility to build in extended or reduced trading to reflect seasonal variations, such as the Festive Season, or, public and local holidays.

On-Sales

4.8. For applications relating to premises licences, including extensions of hours, the licensed hours for the sale of alcohol for consumption on the premises (on-sales hours) the Board considers the commencement of the sale of alcohol shall generally be no earlier than 9.00a.m.

4.9. Licensed hours for on-sales premises in particular can have an impact not only within the individual premises, but also within the locality in which the premises are situated. Taking into account the five licensing objectives; the presumption against 24-hour drinking; the Guidance for Licensing Boards and Local Authorities issued by the Scottish Government; and the mandatory conditions specified by Regulation that apply to those premises opening after 1.00a.m. the Board considers the following to be appropriate for the terminal hour beyond which alcohol must not be sold on the premises or parts of the premises:-

4.9.1. **Restaurants**

Annually	1.00a.m. daily
Festive Season	1.30a.m.
Hogmanay	See Festive Hours

4.9.1.1. Restaurants, for the purposes of this section, are defined as premises, or parts of a premises, where the supply of alcohol for consumption is ancillary to a table meal taken by persons within the premises.

4.9.1.2. A table meal generally consists of a meal eaten by a person sitting at a table, counter or other structure which serves the purpose of a table. The meal must be eaten with cutlery or similar accoutrements. Snacks, sandwiches and crisps are not considered to constitute table meals.

4.9.2. **Premises Offering no significant Entertainment Facilities**

Annually	1.00a.m. daily
Festive Season	1.30a.m.
Hogmanay	See Festive Hours

4.9.2.1. These are premises or parts of the premises where the provision of alcohol is the principal activity and significant entertainment facilities are not provided. This includes public houses and members clubs.

4.9.3. **Premises Offering Significant Entertainment in Function Rooms or Subject to Close Down**

Annually	1.00a.m. daily
Private Functions	1.30a.m. daily
Festive Season	1.30a.m.
Hogmanay	See Festive Hours

4.9.3.1. Premises or parts of premises which ordinarily fall under "Premises offering no significant entertainment facilities" but which –

- Have a separate function room and/or
- Are closed down and cleared of patrons for at least one hour beforehand, for the purpose of entertainment and/or functions and
- Where the provision of alcohol is ancillary to the entertainment.

- 4.9.3.2. Entertainment/functions considered acceptable for this purpose include dances, discos, dinner-dances, wedding receptions and parties where a disco or band is provided. This includes Snooker Halls, Bingo Halls and Leisure Facilities. Entertainment/functions not considered acceptable for this purpose include darts, dominoes or pool competitions, karaoke evenings, parlour derbies, or private parties where there is no significant entertainment. Where live entertainment is not an integral part of the function then this would also not be acceptable e.g. background piano music.
- 4.9.4. Premises Offering Significant Entertainment Facilities and Subject to Conditions the Board may impose
- Nightclub hours will be -
- Annually 2.00a.m. Sundays-Thursdays; 3.00a.m. Fridays-Saturdays
Festive Season 3.00a.m. Sundays-Thursdays; 4.00a.m. Fridays-Saturdays
Hogmanay See Festive Hours
- 4.9.5. Premises or parts of premises where the provision of alcohol to persons frequenting the premises for consumption on the premises is ancillary to the significant entertainment provided and subject to conditions the Board may impose in relation to such premises. This primarily relates to **nightclubs** only.
- 4.9.6. The Board considers that a differential requires to be maintained between public houses and hotels offering significant entertainment and the hours operated by nightclubs to ensure that all business attracts a fair share of the trade. No evidence has been presented to the Board by any consultee that has convinced the Board to remove this differential. The Board is, further, of the view that staggering closing times in this way promotes the prevention of crime and disorder licensing objective by reducing footfall on the streets. For this reason public houses and hotels offering significant entertainment will only attract 1.00a.m. opening on a daily basis.
- 4.9.7. Such premises will be subject to mandatory late opening conditions and the Board may attach further conditions. The later that a premises wish to open, the more the Board will expect applicants to demonstrate measures that promote the licensing objectives and justify the request for the late hours. The Board further considers that it would be difficult for any application to justify the sale of alcohol after 3.00a.m., with the exception of Festive Season hours, unless there are exceptional circumstances.
- 4.9.8. The Board will continue to support local schemes such as Pubwatch, Safer Towns Initiatives, Shopwatches, Best Bar None and similar schemes, radio-links and Door Safe Schemes. The Board recognises that such schemes help to reduce public disorder and nuisance offences taking place within local communities, thereby promoting the licensing objectives. The Board expects responsible licence holders to **actively participate** in such schemes and expects membership thereof. Participation includes complying with the rules and regulations set up by the organisation. Any bans from premises should be actively enforced. The Board will consider taking action against licence holders who constantly flout such regulations as part of any review which comes before the Board.

Early Morning Hours

- 4.10. 9.00a.m. is considered by the Board to be the norm for early morning opening.
- 4.10.1. Applications seeking licensed hours before 9.00a.m. would require strong evidence before being granted by the Board.
- 4.10.2. The Board will consider extending the commencement of the sale of alcohol in premises from 9.00a.m. to 7.00a.m. on condition that the sale of alcohol is ancillary to a table meal taken by persons within the premises.
- 4.10.3. Table meal has the same definition as outlined under "Restaurant" above.
- 4.10.4. The Board may attach conditions to such licences. The earlier that a premises wishes to open, the more the Board will expect applicants to demonstrate measures that promote the licensing objectives and justify the request for the early hours. The Board further considers that it would be difficult for any applicant to justify the sale of alcohol before 7.00a.m.

Festive Hours

- 4.11. The Board's Festive Hours will apply each year only on the undernoted dates:-

24th December
25th December
26th December
31st December (see paragraph below)
1st January
2nd January

- 4.11.1. Section 64 of the Licensing (Scotland) Act 2005 contains a presumption against 24-hour drinking unless the Board is satisfied that there are exceptional circumstances which justify allowing the sale of alcohol on the premises during such a period.

Since 2000, the Board has had a policy of allowing 24-hour opening on 31st December (Hogmanay). No evidence has been provided by any consultee that would suggest that that numbers of incidents relating to the continual supply of alcohol on Hogmanay has increased due to the increased opening hours. In some years, incidents relating to crime and disorder decreased slightly. Premises are able to stagger their closing times. The risk of crime and incidents of public nuisance are greatly reduced due to smaller numbers of patrons on the streets at any one time during the course of the night.

Additionally, there have been indications that binge drinking is lessened as people drink more slowly over the extended period of time. There are also more restrictions on the drinks promotions on offer.

- 4.11.2. The Board considers that the 24-hour opening on the 31st December promotes a number of the licensing objectives, for example prevention of crime and disorder and preventing public nuisance. It is the only day of the year on which the Board considers it appropriate to allow such a relaxation. The Board's policy is that the nature of Hogmanay constitutes exceptional circumstances for the purposes of Section 64 of the Act and any premises wishing to do so, should include 24-hour opening for Hogmanay only in their operating hours
- 4.11.3. Premises opening after 1.00a.m. during the Festive Season may be subject to mandatory conditions and the Board may attach additional conditions.

- 4.11.4. **The Board wishes to make it clear that the Festive Season hours should be accounted for within the seasonal variations section of the operating plans and should not be the subject of extended hours applications.**

Occasional Extensions

- 4.12. The Licensing Board may extend the licensed hours in respect of premises by such period as the Board considers appropriate. The Board will normally **only** do so in connection with (i) a special event or occasion to be catered for on the premises, or (ii) a special event of local or national significance. The grant of an extension of licensed hours can only last for one month.
- 4.12.1. The Board will not normally grant extended hours in relation to requests for the types of entertainment provided for within the operating plan of the premises. For example, if the operating plan specifies live bands as a normal activity, extended hours for a specific band playing at the premises will be rejected as not being a special event to be catered for on the premises, or being an event of local significance.
- 4.12.2. Occasional extensions should be a rare occurrence, most types of entertainment and the hours relating thereto being capable of being catered for within the operating plan attached to the premises licence.
- 4.12.3. The Board considers the commencement of the sale of alcohol shall not be earlier than 9.00a.m. For the terminal hour beyond which alcohol must not be sold on the premises, the Board considers the following to be appropriate –
- Where there is no specific entertainment – 1.00a.m. daily
Where there is specific entertainment – 1.30a.m. daily
- 4.12.4. Applicants seeking licensed hours for times outwith the Board's policy, will require to demonstrate to the Board that the additional requested hours are appropriate in the circumstances.
- 4.12.5. For further detailed information on Occasional Extensions, please see the Board's Guidance at <http://www.aberdeenshire.gov.uk/licensing/occasionalextensions.asp>.
- 4.12.6. The Board will have complete discretion as to whether to grant the application taking into account any Police objections and LSO comments and having regard to the licensing objectives. The Board may hold a hearing for the purposes of determining any application, but this is not mandatory. Where the Board does not hold a Hearing, the Board will ensure that before determining the application, the applicant is given an opportunity to comment on any objections from the Police or adverse comments from the LSO.
- 4.12.7. To allow time to consult the Police and the LSO, applications should be submitted as far in advance of the event as possible but **not later than six weeks** before the event is due to take place.
- 4.12.8. On occasions of national, local or possibly international significance the Board have the authority to apply a general extension of licensing hours.
- 4.12.9. The Board will notify those affected of the granting of any general extension of hours. Such grants will always be posted on the Licensing Section of Aberdeenshire Council's website at:-
- <http://www.aberdeenshire.gov.uk/licensing/>
- 4.12.10. In addition, in respect of either sector or local specific grants, the Board will notify premises individually. The Board may also publish details in local newspapers as it sees fit.

Occasional Licences

4.13. Detailed information on applying for Occasional Licences can be found within the Guidance at <http://www.aberdeenshire.gov.uk/licensing/occasional.asp>

4.13.1. To allow time to consult the Police and the Licensing Standards Officer, applications should be submitted as far in advance of the event as possible but **not later than six weeks** before the event is due to take place. Applicants should be aware that they may also require a public entertainment licence and/or a late hours catering licence issued by Aberdeenshire Council in terms of the Civic Government (Scotland) Act 1982.

4.13.2. The Board considers that activities such as dances, discos, dinner dances, wedding-receptions, parties where a disco or band is provided are generally acceptable for granting an occasional licence. This list is not exhaustive.

4.13.3. If the Board sees a pattern of applications for occasional licences or extensions developing for functions or days or hours that could otherwise be accommodated within the operating plan for the premises, the Board may decline to deal with such applications and instead advise that the applicant apply for a major variation of their premises licence to accommodate such events.

4.13.4. The Board considers the commencement of the sale of alcohol shall not be earlier than 9.00a.m. For the terminal hour beyond which alcohol must not be sold on the premises, the Board considers the following to be appropriate –

Where there is no specific entertainment – 1.00a.m. daily

Where there is specific entertainment – 1.30a.m. daily

4.13.5. Applicants seeking licensed hours for times outwith the Board's policy, will require to demonstrate to the Board that the additional requested hours are appropriate in the circumstances.

4.13.6. Where a representative of a voluntary organisation applies either for an occasional licence;-

- For a barn dance, or marquee dance where more than 100 persons are expected or
- On more than four occasions in any calendar year

the Board expects there to be a person in charge of the bar at the event who has completed training to the same standard as that required to obtain a personal licence under the Act, and evidence of that training must be submitted to the Board with the application for the occasional licence. Any person who holds a training certificate must complete a refresher training course within a period of 3 months following the 5 year anniversary of the date of the initial training certificate. A copy of the refresher training certificate should be provided to the Depute Clerk within 28 calendar days of receipt of the updated certificate.

4.13.7. Registered Clubs should ensure that occasional licences applied for in respect of their premises are for events for the benefit of the club or their members, to which members of the public are admitted or for which there are insufficient numbers of members attending the event to sign in the required number of guests.

Occasional Licence Conditions

4.14. The Board is aware of the mandatory conditions which are set out both in the Act and in Regulations. In addition the Board will consider on an individual basis whether it is necessary or expedient to impose conditions, to promote one or more of the licensing objectives or otherwise to give effect to the provisions of this policy statement or to the provisions of the Act.

- 4.14.1. The decision whether to impose a condition will be made on an objective basis, any representations made and any other relevant information available to the Board when considering the application. The Board will seek to avoid the imposition of disproportionate conditions.
- 4.14.2. The Board has agreed a pool of local conditions that may attach to occasional licences granted by the Board. These are published on the Board's website at <http://www.aberdeenshire.gov.uk/licensing/occasional.asp>. Not every condition may be attached and there may also be occasions in respect of which none will apply. These local conditions have been approved following consultation with the Police and the Licensing Standards Officers and relate directly to the five licensing objectives. The Local conditions also form part of the Guidance Pack for Applicants seeking to apply for Occasional Licences.
- 4.14.3. In responding to consultation on an application for an Occasional Licence, the Police and the Licensing Standards Officer will recommend which of the Local Conditions should apply to the licence for that particular event. The Licensing Service then writes to the applicant with a copy of the local conditions, a cross marking which of the conditions are recommended to attach to the licence. The applicant is asked to confirm in writing if the conditions are agreed or to advise if there are any that are not agreed and the reasons why. Where the applicant rejects all or some of the recommended conditions, the application will then be put to the Convenor of the Board in the first instance to determine if the conditions can be removed. If the Convenor declines to deal with the matter under delegated powers, the application will be put to special hearing of the Board for a final determination. The applicant will be cited to attend any hearing of the Board in those circumstances to put forward their reasons for rejecting the recommended conditions.

Lack of Demand and Flexible Trading Hours

- 4.15. Applicants should be aware that premises should routinely remain open for the licensed hours they apply for and which are granted by the Board. These hours form part of the licence and there is a reasonable expectation on the part of members of the public, both tourists, and locals, that these are the hours that will be routinely traded.
- 4.15.1. The Board recognises that there will always be circumstances that will reasonably cause a temporary deviation from the licensed hours given in the operating plan. Such circumstances will not ordinarily be considered a breach of the operating plan.
- 4.15.2. The Board also recognises the need for businesses, especially in a rural environment, to remain economically viable when faced with a lack of demand. Licensed premises may wish to close early owing to a lack of customers and, therefore, not trade for their full complement of licensed hours. Again, this will not ordinarily be treated as breach of the operating plan.
- 4.15.3. The Board expects applicants to apply for the hours they normally or usually trade in their operating plan. As indicated earlier, there is no automatic entitlement to the maximum trading hours for off-sales or the maximum hours set in terms of the Board's policy for on-sales. Provision can be built into operating plans for longer or shorter opening at certain times of the year, such as the Festive Season, or over winter months. Premises may choose not to have core hours and rely entirely on seasonal variations.
- 4.15.4. However, in considering such issues, the Board will give particular attention to whether any "unused" hours are preventing new entrants to the market or premises are closing early on a regular basis. If so, it may be appropriate to vary the operating plan of the premises concerned.
- 4.15.5. The information provided in operating plans will enable the Board and the LSO to determine if a breach of the operating plan and/or the licence conditions has occurred. Where this is the case the LSO or the Board will initiate a review of the licence.

- 4.15.6. Applicants should note that the Act allows *anyone* to apply to the Board for a review of the licence on any of the grounds set out in Section 36 of the Act. Applicants should not, for example, grossly overestimate their licensed hours "just in case" they may be required.

Drinking Up Time and Dispersal Policy

- 4.16. Drinking up time is 15 minutes normally and 30 minutes where alcohol is being consumed with a meal. The Board requires licence holders to give customers plenty of notice about last orders and time.
- 4.16.1. The Board expects all premises licence holders to consider whether or not a formal, written dispersal policy is appropriate for their premises.

British Summer Time

- 4.17. On such date as is prescribed as the date in Spring when the clocks go forward to mark the changeover to British Summertime, licence holders who enjoy licensed hours beyond 1.00a.m. (the official time for clock changes) will be judged by reference to the number of hours after midnight which their operating plan authorises them to be open, rather than by the actual time shown on the clock.
- 4.17.1. On such date as is prescribed as the date in Autumn when the clocks go back to mark the changeover from British Summertime to British Wintertime, licence holders who enjoy licensed hours beyond 1.00a.m. will similarly close according to the number of hours after midnight which their operating plan authorises them to be open, rather than by the actual time shown on the clock.
- 4.17.2. Any licence holder who enjoys hours up to 1.00a.m. is unaffected by the change of the clocks. The Board does not accept that those licensed until 1.00a.m. gain an additional hour on the changeover to British Wintertime.

Additional Considerations

- 4.18. In determining applications where different parts of the premises have different uses, or where parts of premises fall under different categories for operating hours, as specified in this Supplementary Policy Statement, the Board will have regard to when the activities take place and the principal activity taking place. The Board may impose further conditions to ensure other activities do not take place or remain ancillary to the principal activity for those licensed hours.
- 4.18.1. Premises where more than one of the categories applies in different parts of the same premises will be given careful consideration. The Board may impose conditions and/or different licensed hours to those parts of premises to ensure the activities remain separate. In some circumstances, the Board may attach different operating plans to cover different floors, or sections of premises, depending on the nature of the activities taking place within the premises.