

# Item: 5

**Orkney Islands Area Licensing Board: 5 October 2023.**

**Alcohol Licensing and Gambling – Functions Report.**

**Report by Clerk to the Board.**

## **1. Purpose of Report**

To present a report in relation to the exercise of the Licensing Board's functions in terms of the Gambling Act 2005 and the Licensing (Scotland) Act 2005.

## **2. Recommendations**

The Board is invited to note:

### **2.1.**

The report in relation to the exercise of the Board's functions in terms of the Gambling Act 2005 and the Licensing (Scotland) Act 2005, for the period from 1 July 2022 to 30 June 2023, attached as Appendix 1 to this report.

## **3. Introduction**

### **3.1.**

The Council's Licensing Team processes applications for licences, permits and registrations in terms of the Gambling Act 2005 and the Licensing (Scotland) Act 2005.

### **3.2.**

This report has been prepared for the information of the Board and narrates the significant areas of activity engaged in by the Licensing Service during the period from 1 July 2022 to 30 June 2023.

## **4. Functions Report**

The functions report for the period from 1 July 2022 to 30 June 2023 (the period) in relation to the exercise of the Board's functions in terms of the Gambling Act 2005 and the Licensing (Scotland) Act 2005, attached as Appendix 1 to this report, includes information regarding the following:

- The types of licences, permits and registrations governed by the legislation.
- Consultation requirements and periods.
- The number of licences, permits and registrations held under the legislation in the Board's area on 30 June 2023.

- The number of applications for licences, permits and registrations in terms of the legislation processed during the period.
- The number of annual fee invoices for licences, permits and registrations in terms of the legislation processed during the period.
- The number of applications for licences, permits and registrations in terms of the legislation refused during the period.
- Commitment of staff time in researching information and preparing reports on a number of matters during the period.
- Commitment of staff time in dealing with enquiries regarding any of the types of licences, permits and registrations governed by the legislation during the period.
- Published documentation available on the Council's website.

## **5. Financial Implications**

There are no direct financial implications to the Council arising from the recommendations of this report.

## **6. Legal Aspects**

### **6.1.**

Gambling activities in the UK are licensed in terms of the Gambling Act 2005. In Scotland, the licensing authority is the local licensing board.

### **6.2.**

Alcohol licensing in Scotland is governed by the Licensing (Scotland) Act 2005. The licensing authority is the local licensing board.

## **7. Contact Officers**

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Stuart Bevan, Solicitor, extension 2220, email [stuart.bevan@orkney.gov.uk](mailto:stuart.bevan@orkney.gov.uk)

Elaine Sinclair, Legal Clerk, extension 2232, email [elaine.sinclair-hill@orkney.gov.uk](mailto:elaine.sinclair-hill@orkney.gov.uk).

## **8. Appendix**

Appendix 1: Alcohol licensing and gambling functions report for the period 1 July 2022 to 30 June 2023.

## **Appendix 1.**

# **Orkney Islands Area Licensing Board**

## **Alcohol Licensing and Gambling – Functions Report.**

**Period: 1 July 2022 to 30 June 2023.**

### **1. Legislative Background**

The Council's Licensing Team processes applications for licences, permits and registrations in terms of:

- The Gambling Act 2005.
- The Licensing (Scotland) Act 2005.

### **2. Types of Licences, Permits and Registrations**

#### **2.1.**

Types of applications for licences, permits and registrations governed by the Gambling Act 2005 include:

##### **2.1.1.**

Premises Licences:

- Adult gaming centres.
- Betting premises.
- Bingo.
- Casinos.
- Licensed family entertainment centres.
- Provisional statements.
- Tracks.
- Travelling fairs.

##### **2.1.2.**

Permits and Temporary and Occasional Use Notices:

- Club gaming and club machine permits.
- Gaming machines on alcohol licensed premises.
- Occasional use notices.
- Prize gaming.
- Small society lotteries.
- Temporary use notices.
- Unlicensed family entertainment centres.

## **2.2.**

Types of applications for licences governed by the Licensing (Scotland) Act 2005 include:

- extensions of licensing hours;
- occasional licences;
- personal licences;
- premises licences;
- provisional premises licences;
- temporary licences;
- transfers of licences; and
- variations of licences,

all in respect of:

- the sale of alcohol by retail for consumption on or off premises; or
- the supply of alcohol in members' clubs.

## **2.3.**

### **2.3.1.**

All applications require consultation with Police Scotland and other appropriate agencies in accordance with the relevant legislation. For licences in terms of the Licensing (Scotland) Act 2005, the consultation period is prescribed as 21 days, apart from applications for:

- Confirmation of provisional premises licences.
- Extended hours of licensed premises.
- Minor variations of premises licences.

### **2.3.2.**

The minimum processing period for a number of applications in terms of the Licensing (Scotland) Act 2005 is accordingly approximately 6 weeks to allow for necessary administrative work to circulate applications, prepare reports for consideration by the Board (where required) and prepare the relevant licences at the conclusion of the determination period.

## **3. Contextual Information**

### **3.1.**

Numbers of licences, permits and registrations in force on 30 June each year:

|  | 2019. | 2020. | 2021. | 2022. | 2023. |
|--|-------|-------|-------|-------|-------|
| <b>Gambling Act 2005:</b>  |       |       |       |       |       |
| Number of club machine permits:  | 3.    | 3.    | 3.    | 3.    | 1.    |
| Notifications of automatic entitlement for gaming machines on alcohol licensed premises: | 10.   | 10.   | 10.   | 10.   | 10.   |
| Number of small society lottery registrations:   | 133.  | 126.  | 126.  | 125.  | 126.  |
| <b>Licensing (Scotland) Act 2005:</b>  |       |       |       |       |       |
| Number of premises licences (including members' clubs):                                  | 112.  | 113.  | 110.  | 104.  | 105.  |
| Number of provisional premises licences (including members' clubs):                      | 0.    | 0.    | 0.    | 0.    | 1.    |
| Number of personal licences:   | 357.  | 313.  | 304.  | 289.  | 290.  |

### 3.2.

Numbers of applications for licences, permits and registrations processed from 1 July to 30 June for each period:

| <b>Gambling Act 2005</b>   | <b>2018 – 2019</b> | <b>2019 – 2020</b> | <b>2020 – 2021</b> | <b>2021 – 2022</b> | <b>2022 – 2023</b> |
|--|--------------------|--------------------|--------------------|--------------------|--------------------|
| Cancellation of club machine permits:  | 0.                 | 0.                 | 0.                 | 0.                 | 0.                 |
| Renewal of club machine permits:   | N/A.               | N/A.               | N/A.               | 1.                 | 0.                 |
| Notifications of automatic entitlement for gaming machines on alcohol licensed premises: | 2.                 | 0.                 | 0.                 | 0.                 | 0.                 |
| Cancellation of automatic entitlement for gaming machines on alcohol licensed premises:  | 2.                 | 0.                 | 0.                 | 0.                 | 0.                 |
| Applications for small society lottery registrations:                                    | 6.                 | 2.                 | 5.                 | 5.                 | 5.                 |
| Applications for replacement small society lottery registrations:                        | 3.                 | 2.                 | 0.                 | 1.                 | 0.                 |
| Cancellation of small society lottery registrations:                                     | 2.                 | 6.                 | 5.                 | 6.                 | 4.                 |

| <b>Licensing (Scotland) Act 2005</b>   | <b>2018 – 2019</b> | <b>2019 – 2020</b> | <b>2020 – 2021</b> | <b>2021 – 2022</b> | <b>2022 – 2023</b> |
|--|--------------------|--------------------|--------------------|--------------------|--------------------|
| Applications for premises licences:  | 0.                 | 1.                 | 2.                 | 0.                 | 2.                 |
| Number of premises licences surrendered:   | 1.                 | 0.                 | 6.                 | 5.                 | 1.                 |
| Applications for provisional premises licences:  | 2.                 | 0.                 | 0.                 | 0.                 | 1.                 |
| Applications for confirmation of provisional premises licences (to make licences fully operational):                         | 4.                 | 0.                 | 0.                 | 0.                 | 0.                 |
| Applications for variations of provisional / premises licences which required to be determined by the Board:                 | 6.                 | 3.                 | 4.                 | 2.                 | 2.                 |
| Applications for variations of provisional / premises licences which did not require to be determined by the Board:          | 8.                 | 11.                | 5.                 | 12.                | 8.                 |
| Applications for transfers of premises licences (including variations to name new premises managers):                        | 6.                 | 4.                 | 4.                 | 4.                 | 7.                 |
| Applications for new personal licences:  | 30.                | 23.                | 17.                | 16.                | 21.                |
| Applications for replacement personal licences:  | 2.                 | 1.                 | 2.                 | 0.                 | 1.                 |
| Applications for refreshment of personal licences (provision of evidence of having undertaken mandatory refresher training): | 6.                 | 21.                | 14.                | 15.                | 7.                 |
| Applications for renewal of personal licences:   | 80.                | 3.                 | 6.                 | 5.                 | 6.                 |
| Revocations of personal licences (failure to provide evidence of having undertaken mandatory refresher training):            | 9.                 | 15.                | 18.                | 22.                | 4.                 |
| Personal licences surrendered:   | N/A.               | N/A.               | 3.                 | 2.                 | 5.                 |
| Personal licences expired:   | N/A.               | N/A.               | 5.                 | 7.                 | 11.                |

|  | 2018 – 2019 | 2019 – 2020 | 2020 – 2021 | 2021 – 2022 | 2022 – 2023 |
|--|-------------|-------------|-------------|-------------|-------------|
| Applications for occasional licences:  | 261.        | 126.        | 10.         | 128.        | 204.        |
| Applications for occasional licences for new outdoor areas to facilitate business re-opening in accordance with Scottish Government restrictions during COVID-19 for 6 premises: Auld Motor Hoose, Ayre Hotel, Ferry Inn, Murray Arms, Orkney Distillery and Standing Room 2019 – 2020 and 2020 – 2021 and for 3 premises: Ferry Inn, Orkney Distillery and Standing Room 2021 – 2022. | N/A.        | 34.         | 90.         | 32.         | 0.          |
| Applications for extended hours of licensed premises:  | 1.          | 1.          | 0.          | 0.          | 1.          |
| Total number of matters:   | 430.        | 253.        | 196.        | 263.        | 290.        |

### 3.3.

- 2018 – 2019: Of the 430 applications processed, 0 were refused.
- 2019 – 2020: Of the 253 applications processed, 0 were refused.
- 2019 – 2020: The following were not issued, although processed, as the relevant events could not take place in terms of Scottish Government public health provisions arising from the COVID-19 pandemic:
  - 14 applications for occasional licences.
- 2020 – 2021: Of the 196 applications processed, 0 were refused.
- 2021 – 2022: Of the 263 applications processed, 0 were refused.
- 2022 – 2023: Of the 290 applications processed, 0 were refused.

### 3.4.

- 2018 – 2019: Numbers of reviews of premises or personal licences processed:
  - Premises licence reviews resulting in written warning: 1.
  - Premises licence reviews resulting in no action: 1.
  - Personal licence reviews resulting in no action: 1.
- 2019 – 2020: Numbers of reviews of premises or personal licences processed: 0.
- 2020 – 2021: Numbers of reviews of premises or personal licences processed: 0.
- 2021 – 2022: Numbers of reviews of premises or personal licences processed:
  - Premises licence review resulting in revocation: 1.

- 2022 – 2023: Numbers of reviews of premises or personal licences processed:
  - Premises licence reviews resulting in no action: 1.
  - Personal licence reviews resulting in no action: 1.

### 3.5.

Numbers of annual fee invoices for licences, permits and registrations processed from 1 July to 30 June for each period:

|   | 2018 – 2019 | 2019 – 2020 | 2020 – 2021 | 2021 – 2022 | 2022 – 2023 |
|---|-------------|-------------|-------------|-------------|-------------|
| <b>Gambling Act 2005</b>  |             |             |             |             |             |
| Invoices issued for club machine permit annual fees:                | 3.          | 3.          | 3.          | 0.          | 1.          |
| Invoices issued for small society lottery registration annual fees: | 117.        | 114.        | 127.        | 123.        | 125.        |
| <b>Licensing (Scotland) Act 2005</b>                                |             |             |             |             |             |
| Invoices issued for premises licences annual fees:                  | 107.        | 105.        | 108.        | 101.        | 98.         |

### 3.6.

From 1 July 2022 to 30 June 2023 staff time (multiple hours) was spent researching information and preparing reports on a range of matters including the applications referred to in section 3.2 above and the following additional matters:

- Annual Combined Report in relation to the Board’s Financial information and its Functions in terms of the Licensing (Scotland) Act 2005.
- Annual Report in relation to the Board’s Functions in terms of the Gambling Act 2005 and the Licensing (Scotland) Act 2005.
- Review of Statement of Alcohol Licensing Policy.
- General extension of on-sale alcohol licensed hours for the King’s Coronation.

### 3.7.

#### 3.7.1.

The Council’s Licensing Team deals with many enquiries regarding requirements for licences, permits and registrations under the relevant legislation. These are dealt with by telephone, email, or letter. Not all enquiries result in applications.

#### 3.7.2.

Information regarding average numbers of enquiries received and time taken to process is provided in the following table:



| Matter.   | Average Time (Hours).                     | Average No. of Enquiries. |                     |                     |                     |
|---|---|---------------------------|---------------------|---------------------|---------------------|
|   |   | 2019 – 2020               | 2020 – 2021         | 2021 – 2022         | 2022 – 2023         |
| New premises or provisional premises licences (alcohol):                                      | 1.00 but complex can take 4.00+.          | 1 per month.              | 1 every two months. | 1 every two months. | 1 every two months. |
| Confirmation of provisional premises licences (to make licence fully operational):            | 1.00.                                     | 2 per annum.              | 0 per annum.        | 0 per annum.        | 1 per annum.        |
| Variation of premises or provisional premises licences (alcohol):                             | 2.00 but complex can take 4.00+.          | 1 per month.              | 1 per month.        | 1 per month.        | 1 per month.        |
| Transfer of premises licences (alcohol) (including variations to name new premises managers): | 1.00.                                     | 1 per month.              | 1 every two months. | 1 every two months. | 1 every two months. |
| Personal licences (alcohol):  | 0.25.                                     | 2 per day.                | 2 per month.        | 2 per month.        | 3 per month.        |
| Occasional licences (alcohol):  | 0.25.                                     | 2 per day.                | 1 per week.         | 1 per week.         | 2 per week.         |
| Extended hours of licensed premises (alcohol):  | 0.50.                                     | 1 per annum.              | 0 per annum.        | 0 per annum.        | 1 per annum.        |
| Lotteries (gambling):   | 0.25 but complex can take multiple hours. | 1 per week.               | 1 per month.        | 1 per month.        | 1 per month.        |

## 4. Future Developments

### 4.1.

As a second phase in the development of the Customer Service Platform, licensing applications are in the process of being automated to the extent that this is possible in law.

## **4.2.**

In terms of the draft Immigration (Alcohol Licensing and Late Hours Catering) (Scotland) Regulations 2018, currently before the UK Parliament, the Board may be required to reject applications for either a premises licence or a personal licence by individuals not entitled to work in the UK. In terms of the proposed legislation an information sharing system will require to be established between the Board and the Home Office. This would enable the Home Office to object to licence applications being granted if it is “satisfied that granting the licence would be prejudicial to the prevention of illegal working in licensed premises.” The proposed legislation will impose an additional pressure on the Licensing Service who will require to notify applications to the Secretary of State and arrange for the consideration of any representations received.

## **5. Published Documentation**

### **5.1.**

The Board’s information about gambling licensing, including betting offices, bingo, bookmakers’ permits, gaming machines and lotteries, is published in links [here](#).

### **5.2.**

The Board’s information about alcohol licensing, including guidance, application forms and fee information, is published at [here](#).

### **5.3.**

The following Board documents are published in the Related Downloads section [here](#):

- Annual Reports in relation to the Board’s Financial information and its Functions in terms of the Licensing (Scotland) Act 2005.
- Statement of Alcohol Licensing Policy.
- Statement of Gambling Policy.

### **5.4.**

The Board’s Registers of premises and personal licences are published in the Related Downloads section [here](#).

### **5.5.**

The Board’s Registers of occasional licences are published in the Related Downloads section [here](#).

### **5.6.**

The Board’s Gaming Machines Register is published in the Related Downloads section [here](#).

## 5.7.

The Board's Small Society Lotteries Register is published in the Related Downloads section [here](#).

## 5.8.

Information about the members of the Board, together with agendas, reports and Minutes relating to meetings of the Board, are published through links [here](#).

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