

Orkney Local Licensing Forum meeting

21 April 2023

REPORT OF THE LICENSING STANDARDS OFFICER

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1. Background

This report updates the Orkney Local Licensing Forum (The Forum) on the current staffing arrangements, activities and planned work to be undertaken by the council's Licensing Standards Officer(s). Please note that within this report the names of licence holders and premises have been removed to assist complying with data protection provisions. This report covers the period 01 April 2022 to 31 March 2023.

2. Functions of the LSO

The Council has a legal duty to appoint at least one person who is to be known as a "Licensing Standards Officer" (LSO). The functions of the LSO are set out in the Licensing (Scotland) Act 2005 and can be summarised as:

- Providing to interested persons information and guidance concerning the operation of the Licensing (Scotland) Act 2005
- Supervising compliance of licence holders with their licence and conditions
- Providing information to Licensing Board in response of applicants for personal licences
- Providing mediation services for the purposes of resolving disputes or disagreements between licence holders and other persons
- Issuing, in appropriate circumstances, a "compliance notice"

- Making an application for review of a licence

The LSO has a number of statutory powers to assist with delivering these functions, and is additionally required, or invited to make reports to the Licensing Board in particular prescribed circumstances. They are expected to build good working relationships with licence holders, Licensing Board, Legal Clerks, the police and other partner agencies.

3. Current staffing arrangements

The council does not have a full time LSO or an officer for whom undertaking the role of LSO is the main stated purpose of their job. The function of “licensing standards (alcohol)” is delegated to the Council’s environmental health team and 3 members of Environmental Health staff (including the Service Manager) have completed the statutory training and endeavour to carryout LSO functions in addition to their other work.

This means the LSO activities are at best, the bare minimum and it is recognised that this is not a sustainable position nor one which provides a good service to the public, licensees, partners or colleagues in the licensing team who deal with the administration of licences.

Although the LSO function sits within the Council’s environmental health team, it is independent and separate to environmental health work or Civic Government Act licensing work.

4. Review of activities 2022/23

In accordance with LSO functions, the following activities are of note:

The LSO has been requested to provide comments on the following applications:

Type of application	Number
Application for premises licence (including variations)	22
Application for occasional licence	203
Application for extended hours	2
Application for personal licence	30

The following reports have been made by the LSO to the Licensing Board:

Type of LSO report	Number
Section 38(4)(a) Licensing (Scotland) Act 2005 [LSO response to an application for review of a licence]	1
Section 69(3) Licensing (Scotland) Act 2005 [LSO comments on the determination of an application for extended hours]	1

Providing to interested persons information and guidance

It is not a function of LSO to provide legal advice, but guidance has been requested and provided on:

- Correct use and content of statutory signage and notices
- The use of a 16 year old for waiting tables where alcohol is to be served
- Use of temporary bar for a wedding reception
- The need for enhanced risk assessment should Heras fencing be covered with a scrim
- Dealing with toilet waste from marquee with an occasional licence
- Staff training requirements
- The need for correct kentledge (ballast) to secure temporary demountable structures against the wind
- Information and guidance has also been provided to new premises and premises who wish to change their operations.
- Follow up to complaints of excessive noise from licensed premises
- The LSO attended the partner liaison meeting for the County Show and event debrief meeting.
- The LSO has provided comments to the Licensing Board consultation on over provision.

Supervising compliance of licence holders with their licence and conditions

Given the current resources available, pro-active inspections of licensed premises are not being undertaken. Reactive inspections may be made in response to a specific application, case or investigation on a risk assessed basis – an example being visits to premises trading at the County Show.

Providing information to Licensing Board in response of applicants for personal licences

There have been no instances where the LSO has needed to provide information to the Board in this regard.

Providing mediation services for the purposes of resolving disputes or disagreements between licence holders and other persons

No requests for mediation services have been received. It is recognised good practice for council staff who may provide mediation services to have received recent and up to date mediation training. At present no staff have received such training and a request has been made to the council's Human Resources and Organisational Development team to assist with providing/sourcing such training.

Issuing, in appropriate circumstances a "compliance notice"

No compliance notices have been issued during the period covered by this report.

Making an application for review of a licence

No applications for review of a licence have been made by the LSO during the period covered by this report.

5. Work with partners

Working with partners to deliver licensing objectives is important and the LSO has been invited to attend the Alcohol and Drugs Partnership Strategy Group (ADP) meetings and has also met with the new police commander for Orkney.

The LSO would be keen to build relationships with Pubwatch, Street pastors and the Forum.

The LSO has been invited to attend 1 meeting of Licensing Board.

The LSO is a member of the North of Scotland LSO liaison group which is a useful forum for sharing best practice, new ideas and helping achieve a degree of consistency in the performance of LSO functions.

6. Forward look

As well as continuing to respond to applications the LSO is keen to have input into the review of the Licensing Board Policy including through working with the Forum.

We are also keeping a watching brief on the new protect duty (“Martyn’s law”) and how it may impact licensed premises and events.

We are hoping that a revised enforcement policy covering environmental health, trading standards and licensing activities will shortly be released for consultation with public, partners and business community.

7. Contact details for the LSO

As 3 officers are endeavouring to cover the LSO role, a specific shared email address LSO@orkney.gov.uk has been set up and this is probably the best way of contacting the LSO.