

Item: 4

Orkney Islands Area Licensing Board: 8 October 2020.

**Licensing (Scotland) Act 2005 – Alcohol Licensing.
Combined Annual Functions and Financial Report 2019/20.**

Report by Clerk to the Board.

1. Purpose of Report

To present the combined annual functions and financial report for financial year 2019/20 in relation to the exercise of the Licensing Board's functions in terms of the Licensing (Scotland) Act 2005, which regulates alcohol licensing.

2. Recommendations

The Board is invited to note:

2.1.

That, with effect from 15 May 2017, licensing boards have been required to publish an annual financial report in relation to the exercise of their functions in terms of the Licensing (Scotland) Act 2005, within three months of the end of the relevant financial year.

2.2.

That, with effect from 20 December 2017, licensing boards have been required to publish an annual functions report in terms of the Licensing (Scotland) Act 2005, within three months of the end of the relevant financial year.

2.3.

That, in terms of the Coronavirus (Scotland) Act 2020, the period for publishing the annual financial report and the annual functions report has been extended to nine months.

2.4.

The combined annual functions and financial report for the Licensing Board for financial year 2019/20 in terms of the Licensing (Scotland) Act 2005, attached as Appendix 1 to this report.

3. Background

3.1.

The Air Weapons and Licensing (Scotland) Act 2015 amended the Licensing (Scotland) Act 2005 to introduce a requirement that Licensing Boards produce and publish annual functions reports and annual financial reports. Boards may, if they consider it appropriate, prepare and publish combined annual functions and financial reports. The requirement to publish an annual financial report came into effect on 15 May 2017. The requirement to publish an annual functions report came into effect on 20 December 2017.

3.2.

The Board's annual functions report and annual financial report or combined annual functions and financial report must be prepared and published not later than three months after the end of each financial year. This period has been extended to nine months in terms of the Coronavirus (Scotland) Act 2020. This means that the Board's combined functions and financial report for financial year 2019/20 requires to be published by the end of December 2020.

4. Annual Functions Report

The annual functions report must include:

- A statement explaining how, in exercising its functions under the Licensing (Scotland) Act 2005 ("the Act") during the financial year, the Board has had regard to:
 - The licensing objectives.
 - Their licensing policy statement and any supplementary licensing policy statement (including the Board's statement under section 7(1) of the Act (duty to assess overprovision)).
- A summary of the decisions made by (or on behalf of) the Board during the financial year.
- Information about the number of licences held under the Act in the Board's area (including information about the number of occasional licences issued during the year).

5. Annual Financial Report

5.1.

The annual financial report must include:

- A statement of:
 - The amount of relevant income received by the Licensing Board during the financial year.

- The amount of relevant expenditure incurred in respect of the Board's area during the year.
- An explanation of how the amounts in the statement were calculated.

5.2.

In this context, "relevant income" means income received by the Board in connection with the exercise of the Board's functions under or by virtue of the Act. This involves a relatively straightforward tally of all of the fee income generated by licence applications, together with annual licensing fees, received in the course of the financial year.

5.3.

"Relevant expenditure" means any expenditure:

- Which is attributable to the exercise of the Board's functions under or by virtue of the Act and
- Which is incurred by the Board, the Council or the Licensing Standards Officers for the Board's area.

6. Financial Implications

6.1.

The annual financial report included within the combined annual functions and financial report, attached as Appendix 1 to this report, was compiled with the assistance of Orkney Islands Council's Finance service and follows a template that has been published by the Scottish Government.

6.2.

The annual financial report indicates a deficit in relation to the exercise of the Board's functions in terms of the Act.

7. Legal Aspects

The legal aspects are contained within the body of this report.

8. Contact Officers

Gavin Mitchell, Clerk to the Board, extension 2233, email gavin.mitchell@orkney.gov.uk.

Elaine Sinclair, Legal Clerk, extension 2232, email elaine.sinclair-hill@orkney.gov.uk.

9. Appendix

Appendix 1: Combined annual functions and financial report for the financial year 2019/20.

Appendix 1.

Orkney Islands Area Licensing Board

Licensing (Scotland) Act 2005.

Combined Annual Functions and Financial Report.

Financial Year: 2019 to 2020.

1. Requirement for Annual Functions Report

The Orkney Islands Area Licensing Board (the Board) is usually required under section 9A of the Licensing (Scotland) Act 2005 (the Act) to publish an annual functions report within 3 months of the end of the relevant financial year. This period has been extended to 9 months in terms of the Coronavirus (Scotland) Act 2020.

A functions report must include:

- A statement explaining how the Board has had regard to:
 - The licensing objectives.
 - Their licensing policy statement and any supplementary licensing policy statement (including the Board's statement under section 7(1) (duty to assess overprovision)).

in the exercise of their functions under the Act during the financial year,

- A summary of the decisions made by (or on behalf of) the Board during the financial year.
- Information about the number of licences held under the Act in the Board's area (including information about the number of occasional licences issued during the year).

2. Requirement for Annual Financial Report

The Board is usually required under section 9B of the Act to publish an annual financial report within 3 months of the end of the relevant financial year. This period has been extended to 9 months in terms of the Coronavirus (Scotland) Act 2020.

A financial report must include:

- A statement of:
 - The amount of relevant income received by the Licensing Board during the financial year.
 - The amount of relevant expenditure incurred in respect of the Board's area during the year.
- An explanation of how the amounts in the statement were calculated.

“Relevant income” means income received by the Board in connection with the exercise of the Board's functions under or by virtue of the Act.

“Relevant expenditure” means any expenditure:

- Which is attributable to the exercise of the Board’s functions under or by virtue of the Act and
- Which is incurred by the Board, the Council or the Licensing Standards Officers for the Board’s area.

This report has been prepared using financial data taken on 12 August 2020. The relevant budgets and other finance sources that the data has been extracted from have not yet been audited. Consequently, the figures provided in this report are indicative and cannot be relied upon as an accurate reflection of income and expenditure relative to the exercise of the Board’s functions under the Act.

3. Combined Annual Report

In discharging their duties under the Act, a Licensing Board may, if they consider it appropriate, prepare and publish a combined annual functions and financial report. Such a combined report must usually be published within 3 months of the end of the relevant financial year. This period has been extended to 9 months in terms of the Coronavirus (Scotland) Act 2020.

4. Contextual Information

“NR” means Not Recorded for that financial year.

	2016/17	2017/18	2018/19	2019/20
Number of premises licences (including members’ clubs) in force on 31 March 2017, 2018, 2019 and 2020, respectively:	109	110	112	113
Number of premises licences issued:	2	0	0	0
Number of premises licences surrendered:	NR	NR	2	0
Number of provisional premises licences issued:	2	3	2	0
Number of provisional premises licences taking full effect:	NR	NR	4	1
Number of variations of provisional / premises licences issued which required to be determined by the Board:	2	5	6	5
Number of variations of provisional / premises licences issued which did not require to be determined by the Board:	NR	7	9	16

	2016/17	2017/18	2018/19	2019/20
Number of transfers of premises licences (including variations to name new premises managers) issued:	NR	7	4	6
Number of premises licence reviews resulting in written warning:	0	0	1	0
Number of personal licences in force on 31 March 2017, 2018, 2019 and 2020, respectively:	347	341	345	306
Number of personal licences issued:	31	23	23	33
Revocations of personal licences (failure to provide evidence of having undertaken mandatory refresher training):	14	20	11	15
Number of personal licences reviewed following notification of convictions resulting in no action:	0	0	1	0
Number of occasional licences issued:	204	203	166	193
Number of extended hours of licensed premises issued:	1	1	1	1

5. Published Documentation

5.1.

The Board's information about alcohol licensing, including guidance, application forms and fee information, is published at https://www.orkney.gov.uk/Service-Directory/L/Alcohol_Licensing.htm.

5.2.

The Board's Statement of Alcohol Licensing Policy is published in the Related Downloads section of the following webpage:

<https://www.orkney.gov.uk/Service-Directory/L/licensing-board-policies.htm>.

5.3.

The Board's Annual Reports in relation to Financial information and its Functions are also published in the Related Downloads section of the following webpage:

<https://www.orkney.gov.uk/Service-Directory/L/licensing-board-policies.htm>.

5.4.

The Board's Registers of premises and personal licences are published in the Related Downloads section of the following webpage:

<https://www.orkney.gov.uk/Service-Directory/C/Current-Register-of-Premises.htm>.

5.5.

The Board's Registers of occasional licences are published in the Related Downloads section of the following webpage:

<https://www.orkney.gov.uk/Service-Directory/O/Occasional-Licences.htm>.

5.6.

Information about the members of the Board, together with agendas, reports and Minutes relating to meetings of the Board, are published through links on the following webpage:

<https://www.orkney.gov.uk/Council/C/orkney-islands-area-licensing-board.htm>.

5.7.

Orkney Islands Council publishes agendas, reports and Minutes relating to meetings of the Orkney Local Licensing Forum through links on the following webpage:

<https://www.orkney.gov.uk/Service-Directory/O/Orkney-Local-Licensing-Forum-Agendas-and-Reports.htm>.

6. The Licensing Objectives and Board Policy

The Board is required in terms of the Act to publish and maintain, at regular intervals, a statement of their policy to assist in the implementation and administration of the licensing of the sale and supply of alcohol within their area and to outline the way they intend to exercise their functions under the Act. A link to the Board's published Policy is provided at section 5.2 above.

The Act requires the Board to carry out its various licensing functions so as to promote the five licensing objectives. These are:

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

The objectives provide a basis for refusal of an application for the grant of a premises licence or of an occasional licence and a breach of condition in a licence may lead to the imposition of sanctions on a personal licence holder or provide grounds for the review of a premises licence. The attachment of conditions to a premises licence or occasional licence may be based on any of the objectives.

All reports to the Board regarding applications for determination refer the Board to its Policy provisions and contain advice about the licensing objectives and grounds for objection, as well as for grant or refusal. The reports contain advice that applications must be refused if they are inconsistent with any of the licensing objectives. The reports draw attention to pertinent provisions of the Board's statement of licensing policy which are to provide guidance to the Board in considering matters presented to the Board.

Whilst the Board can provide a summary of decisions made, as provided in the section on Contextual Information above, it is more difficult for it to provide detailed analysis of all decisions. The Board's Licensing Policy Statement can assist; Board meetings are held in public; agendas and reports are published; Minutes of meetings are published; and Statements of Reasons, which are very detailed documents, can be requested in accordance with the Act for specific decisions on applications.

7. Income

	2016/17	2017/18	2018/19	2019/20
Income (alcohol licensing application fees and annual fees):	£38,703.81	£41,494.01	£44,423.84	£43,813.77

8. Expenditure

	2016/17	2017/18	2018/19	2019/20
Staff costs:	£73,654.98	£76,118.31	£80,834.03	£79,257.75
Supplies and services:	£598.41	£614.83	£510.52	£980.36
Travel and subsistence:	£534.48	£283.60	£440.09	£564.17
Stationery:	£896.80	£423.94	£902.19	£959.67
Training and development:	£200.00	£62.50	(£62.50)	£70.00
Total costs:	£75,884.67	£77,503.18	£82,624.33	£81,831.94

9. Deficit

	2016/17	2017/18	2018/19	2019/20
Deficit for the respective financial years:	(£37,180.86)	(£36,009.17)	(£38,200.49)	(£38,018.17)

Staff costs: salary, superannuation and national insurance costs associated with the Board Clerk and other Legal Services staff, the Licensing Standards Officer and a portion of central administration staff allocated to the Board function.

Other costs: the identified direct budgetary costs associated with the exercise of the Board function under each category provided.

Contact: The Licensing Team, Legal Services, Orkney Islands Council, Council Offices, Kirkwall, Orkney KW15 1NY.

Email: licensing@orkney.gov.uk.

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