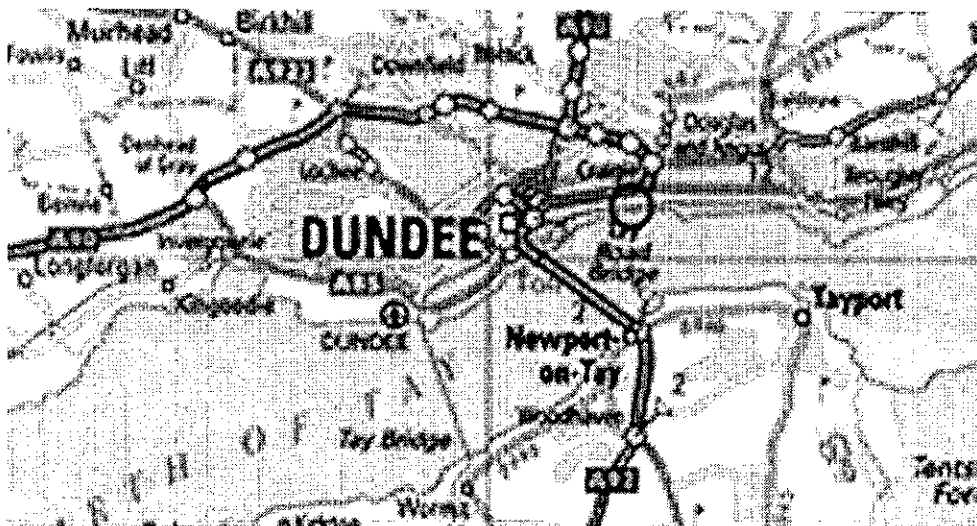


**DUNDEE CITY LICENSING BOARD
ANNUAL FUNCTIONS REPORT**

**In accordance with Air Weapons and
Licensing (Scotland) Act 2015**

1st Oct 2017 – 31st Oct 2018



1.0 INTRODUCTION – DUNDEE CITY LICENSING BOARD

- 1.1 Dundee City Licensing Board ("The Board") is the licensing authority for the local government area of the City of Dundee for the purposes of the Licensing (Scotland) Act 2005. The current Board, which was formed in May 2017, comprises ten members, all of whom are elected members of Dundee City Council. The Board is responsible for the functions set out in paragraphs 1.2 and 1.3 below within Dundee City.
- 1.2 The Licensing (Scotland) Act 2005 as amended ("the Act") makes provision for regulating the sale of alcohol and for regulating licensed premises and other premises on which alcohol is sold.
- 1.3 Under the Act, Licensing Boards are responsible for considering applications for:-
- Premises licences
 - Occasional licences
 - Provisional licences
 - Temporary licences
 - Personal licences
 - Transfer of premises licences
 - Variations of premises licences
 - Extensions of licensing hours in respect of:
 - The sale of alcohol by retail; and
 - The supply of alcohol in members clubs

2.0 THE LICENSING OBJECTIVES

- 2.1 The Act sets out the following five licensing objectives ("the licensing objectives"):-
- Preventing crime and disorder
 - Securing public safety
 - Preventing public nuisance
 - Protecting and improving public health
 - Protecting children and young persons from harm
- 2.2 The Licensing Objectives are the foundations of the administration of the licensing regime. They also provide potential reasons for refusal of an application for the grant or variation of a premises licence or an occasional licence. Breach of the objectives may provide grounds for reviewing a premises licence. Conditions attached to a premises licence or an occasional licence may be based on any one or more of the licensing objectives.
- 2.3 In exercising its functions under the Act, the Board are required to have regard to the Licensing Objectives.

3.0 ANNUAL FUNCTIONS REPORT 2017-2018

- 3.1 In the year from 1st April 2017 to 31st March 2018 ("the relevant period"), the Board met on a monthly basis. Applications before the Board were dealt with in an open and transparent manner in accordance with licensing legislation and its three year Statement of Licensing Policy 2013-2016, as extended under transitional arrangements.
- 3.2 Information and assistance was made available to persons wishing to apply for a licence, make representations or lodge objections.
- 3.3 The Board is aware of the need to ensure that the licensing process is accessible to all. Assistance is therefore always available on request for those who require special arrangements to access any part of the process. The Board always attempts to follow best practice in enforcement to seek to ensure this is proportionate, accountable, consistent, transparent and targeted.

4.0 DECISIONS OF THE BOARD

- 4.1 Each application for a new premises licence or a variation of licence (other than a minor variation) was decided on its own merits. Full minutes of the meetings of the Licensing Board (both for the period covered by this report and for earlier meetings) can be found on the Dundee City Council website at www.dundeeecity.gov.uk/minutes. All the applications were granted because the Board was satisfied that no grounds for refusal existed under either Sections 23 or 30 of the 2005 Act. In the case of applications for new premises licences, in each instance the Board considered whether to grant the application would result in an overprovision of licensed premises (or licensed premises of the same or similar description as the application premises) in the locality in which the subject premises were situated. The Board had before it a map showing potential localities and the respective geographical locations and capacity figures of the premises already licensed within the relevant localities. The Board did not consider, in any of the cases before it, that to grant the applications would result in overprovision. This case-by-case approach was necessary following the decision of the Sheriff in the appeal by Aldi Stores Limited –v- Dundee City Licensing Board (12 August 2016) which ruled that the Board's previous provision on overprovision failed to fill the requirements of the 2005 Act and therefore could not be applied. The Board did, however, go on to adopt a new overprovision policy at its meeting on 18 January 2018 and this is more fully explained in Section 5 below.
- 4.2 During the course of the year, the Board received a number of applications for Occasional Licences under Section 56 of the 2005 Act. In total, 577 Occasional Licences were granted during the relevant period. In addition, 117 applications for Extended Hours were granted.
- 4.3 In assessing applications, the Board has had regard to a number of different sources of information. These included objections which had been lodged to applications, information provided by officers of Dundee City Council (including Environmental Health, Planning and Building Control), the Licensing Standards Officers, Police Scotland, National Health Service and, of course, Licensing Board Members' own local knowledge.
- 4.4 In a number of the applications for variations (other than minor variations) to premises licences, although none were refused by the Board, many were subject to additional conditions in order to ensure that what was being applied for conformed to the Board's Statement of Licensing Policy previously referred to. In all cases, all applicants were happy to accept these amendments to bring their applications within policy.
- 4.5 In addition to the above, the Board has also dealt with a number of applications for personal licences. These are issued by the Board on application to individual persons and authorise the individual in question to supervise or authorise the sale of alcohol. It is a requirement of the 2005 Act that each premises manager of licensed premises must be the holder of a personal licence. The Board has the power to refuse an application if satisfied that it is necessary to do so for the purposes of any of the licensing objectives. The Board can also take action against an existing personal licence holder (up to and including revocation of the licence) if it considers that this would also be necessary for the purposes of the licensing objectives. The Board also considered review applications in respect of premises licences. These applications were at the behest of a number of persons and organisations such as Police Scotland, other departments of Dundee City Council and members of the public. All decisions in relation to personal licence applications, reviews of personal licences and reviews of premises licences can be accessed on Dundee City Council's Minutes page of its website referred to in Paragraph 4.1 above.

5.0 OVERPROVISION POLICY

- 5.1 At its meeting on 18 January 2018, the Licensing Board adopted the following policy in terms of Section 7 of the 2005 Act concerning the overprovision of licensed premises in Dundee – "The Board considers that the whole of its area is overprovided in relation to premises selling alcohol for consumption off the premises".

- 5.2 The Board had previously consulted on a proposal that the whole of its area was overprovided in relation to off-sales and “public house” – type premises. This followed a presentation to the Board at its meeting on 15 June 2017 by the Dundee Alcohol and Drugs Partnership (“ADP”) detailing information of alcohol-related harm in the City, in respect of both health issues and crime. The consultation ran until 29 December 2017. The results of the consultation are summarised in Report No 24-2018 which was submitted to the Board on 18 January 2018 and a copy of which can be found on the Minutes page of the Council’s website using the link previously referred to.
- 5.3 Following consideration of the contents of that report, the Board decided to amend its original proposal to cover premises selling alcohol for consumption off the premises only. The majority of those who responded agreed with the whole of the Board’s area being the overprovision locality for the purposes of Section 7(1) and (2) of the 2005 Act. Also, most of those responding to the consultation agreed that off-sales premises, in particular, were overprovided.
- 5.4 The ADP Report to the Board in June 2017 had contained evidence of a relationship between alcohol-related harm in the City and the density of off-sale outlets. The Board was satisfied that this established a causal link for the purposes of assessing overprovision of such premises. Taking that into account, together with the then (January 2018) total capacity of 6,498.488 sq m from a total number of 129 off-sales premises, the results of the consultation exercise and, having regard to the guidance issued by Scottish Ministers under Section 142 of the 2005 Act, the Board was satisfied that there was an overprovision of off-sales premises throughout the whole of its area. The Board also decided, in fairness to those who had applications pending, that the policy should only apply to new applications or applications for variation (other than minor) received on or after 18 January 2018.
- 5.5 Notwithstanding the adoption of the policy, it is, of course, open to applicants for off-licence sales premises to seek to persuade the Board that it should not apply in an individual case. The effect of the policy is simply to create a rebuttable assumption against the grant of such licences. Equally, for those applications which may be received in respect of other types of licences (ie other than off-sales) which are not covered by the policy, the Board reserved the right to consider there may be overprovision of such premises on a case-by-case basis should there be relevant material in this regard. The locality which would be adopted for the purposes of assessing overprovision in any such individual case not subject to the policy would generally be a 500 metres radius from the application premises since this is considered an appropriate area for an application in an urban setting such as the City of Dundee. However, applicants will specifically be invited to address the Board on the appropriate locality to be adopted before the Board makes a decision on the locality to be used.
- 5.6 This statement regarding overprovision in the City is a supplement to the Licensing Board’s Statement of Licensing Policy 2013-2016 which can also be found on the Dundee City Council website Licensing pages. In accordance with the transitional arrangements, the policy is about to be the subject of a fresh consultation and it is intended to report back to the Board later in 2018 on the results of the consultation and any amendments to the policy which may be proposed as a result thereof.