

ABERDEENSHIRE LICENSING BOARDS

REPORT TO SOUTH, CENTRAL AND NORTH DIVISIONAL LICENSING BOARDS - 3rd April 2018, 4th April 2018 and 5th April 2018

Scottish Government Consultation : Licensing (Scotland) Act 2005 Section 142 Draft Revised Guidance for Licensing Boards

1 Recommendations

- 1.1 The Divisional Licensing Boards are asked to consider the terms of the Scottish Government consultation document on Guidance to Licensing Boards and agree to delegate the preparation and submission of a response on behalf of the three Aberdeenshire Licensing Board to the Depute Clerks in consultation with the Convenors to the Boards.**

2 Background

- 2.1 Under section 142 of the 2005 Act Scottish Ministers may issue guidance to Licensing Boards as to the exercise of their functions under the Act. Licensing Boards must have regard to guidance issued to them by the Scottish Ministers. The current version of the Guidance has been in place since 2007. It has not been substantially altered or updated. A considerable amount of primary and secondary legislation affecting alcohol licensing has been enacted since 2007 and the Scottish Government now wish to update the Guidance. On 19 March 2019 draft Guidance was published and views are now invited from interested parties. It should be noted that the draft Guidance will require to be approved by Scottish Ministers before it takes effect and this will not happen until after the Consultation exercise has been completed. In the meantime the 2007 Guidance continues to apply.
- 2.2 The Consultation can be accessed via the following link. Given the length of the document it is not reproduced with this report.

<https://consult.gov.scot/justice/draft-revised-guidance-for-licensing-boards>

- 2.3 It should be noted that the Scottish Government have said *“The draft revised guidance does not seek to instruct Licensing Boards exactly how to exercise their functions under the Act. It is simply intended to assist Licensing Boards as they carry out their responsibilities under the Act. Scottish Ministers wish Licensing Boards and their Clerks to be creative and innovative and to implement the Act in a way that best meets local needs and circumstances.”*
- 2.4 Consultees are asked to consider any areas within the draft revised guidance which are found to be unclear (suggestions for alternative wording are welcome) and other issues which it is believed should be taken into account within the draft revised guidance.

- 2.5 Responses are required by 11 June 2019. The Boards are asked to delegate the preparation and submission of a joint response on behalf of the Aberdeenshire Boards to the Depute Clerks in consultation with the Convenors of the three Boards. .

3. Governance

- 3.1 The Boards' Scheme of Governance does not make reference as to who responds to consultations on matters relating to the Licensing (Scotland) Act 2005. However, given that the Consultation will influence the final version of Guidance designed to assist the work of the Boards it is deemed appropriate that it is referred to them for their views.

4. Implications and Risk

- 4.1. There are no staffing implications as a result of the recommendations contained in this report. There are not direct resource implications at this time arising out of the consultation itself. However, there will be resource implications if any extension of the 4 metre rule is introduced by the Scottish Government.
- 4.2. An Equality Impact Assessment is not needed in this case because this report is for the purposes of responding to a Scottish Government consultation and will not have a differential impact on the protected characteristics of any persons.
- 4.3 The report will have no impact on levels of risk at either Corporate or Strategic level.
- 4.4 The Town Centre Principle does not apply in respect of this matter.

Karen Wiles

Clerk to the Board

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Date: 22 March 2019