

**Falkirk Council Licensing Board**

**Subject:** Licensing (Scotland) Act 2005 – Scheme of Delegation Update  
**Meeting:** Licensing Board  
**Date:** 21 June 2017  
**Author:** Consumer Protection Manager

**1. Purpose of Report**

This purpose of this report is to ask the Board to approve an amended Scheme of Delegation for the Licensing (Scotland) Act 2005.

**2. Recommendation**

Members are requested to:-

- (1) note the contents of the report**
- (2) approve the Scheme of Delegation as outlined in Appendix I of this report.**

**3. Background**

- 3.1 The Scheme of Delegation was last approved by the Board as part of the first Statement of Licensing Policy at the commencement of the Licensing (Scotland) Act 2005 in 2009. When the policy was approved by the Board in 2016, it did not include the Scheme of Delegation.
- 3.2 The Scheme of Delegation in relation to gambling act functions is an appendix to the Statement of Gambling Principles approved by the Board on 15 February 2017.
- 3.3 Statistics relating to all applications dealt with both by the Board and delegated powers are provided to members on an annual basis in the report considered at the statutory meeting of the Licensing Board and the Local Licensing Forum.

**4. Considerations**

- 4.1 Paragraph 10 of Schedule 1 to the Licensing (Scotland) Act 2005 lists the functions of the Act that cannot be delegated to officers. These are detailed in the first section of the Scheme of Delegation.
- 4.2 The second section of the Scheme of Delegation details those functions that the Board has chosen to reserve.
- 4.3 All other matters are delegated to the Clerk or any staff member appointed to assist the Clerk.

## **5. Implications**

### Financial and Resources

- 5.1 In the absence of an effective Scheme of Delegation the administration of the licensing system and the associated cost will increase. An efficient Scheme of Delegation will save staff time and resources.

### Legal

- 5.2 Delegation of functions is set out within paragraph 10 of Schedule 1 to the Licensing (Scotland) Act 2005.

### Risk

- 5.3 The risk of not having a quick and efficient Scheme of Delegation in place is that the process will be delayed and the administration and costs of processing will be increased.

### Equalities

- 5.4 None.

### Sustainability/ Environmental Impact

- 5.5 None.

## **6. Conclusion**

- 6.1 The Board is being asked to approve an updated scheme of delegation for its functions under the Licensing (Scotland) Act 2005.

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**Consumer Protection Manager**

**Date: 8 June 2017**

**Contact Officer: Alison Barr, Consumer Protection Manager (telephone 501265)**

## **Appendix**

Appendix 1 - Draft Scheme of Delegation for the Licensing (Scotland) Act 2005

### **LIST OF BACKGROUND PAPERS**

Nil

**Licensing (Scotland) Act 2005 Schedule 1 Paragraph 10 and named sections of the Act**

**Delegation of the Licensing Board Functions**

<b>Functions of the Licensing Board</b>	
<b>The functions listed below are reserved to the Licensing Board by the Act</b>	
(a).	Determining the Board's policy for the purposes of the <b>licensing policy statement</b> or supplementary licensing policy statement.
(b)	Determining, for the purposes of the licensing policy statement or supplementary statement, whether there is <b>overprovision</b> of licensed premises or overprovision of licensed premises of any particular description, in any locality.
(c)	Determining a <b>premises licence</b> application.
(d)	Determining a <b>premises licence variation</b> application other than a minor variation.
(e)	Determining an application for <b>the transfer of a premises licence</b> where the applicant has been convicted of a relevant offence or foreign offence
(f)	Determining a <b>personal licence</b> application or a personal licence renewal application where the applicant has been convicted of a relevant or foreign offence.
(g)	<b>Conducting a hearing</b> under the Licensing (Scotland) Act 2005 and taking any of the following steps following hearing: issuing a written warning to a premises licenceholder; revoking or suspending a premises licence; making a variation of the premises licence; revoking, suspending or endorsing a personal licence.
(h)	Making a <b>closure order</b>
<b>In addition, the following functions are reserved to the Board.</b>	
(i)	Refusing an application for confirmation of a <b>provisional premises licence</b> .
(j)	Determining an <b>occasional licence</b> application where this is a notice of objection or representation in relation to the application, or a report from the Licensing Standards Officer (section 59).
(k)	Granting of <b>general extensions</b> of licensed hours for a special event of

	local or national significance (Section 67)
(l)	Determining an application for <b>extended hours</b> where there is notice of objection from the Chief Constable or report from the Licensing Standards Officer (Section 70).
<b>The Board has delegated all other functions to the Clerk</b>	

In this scheme

“Act” means the Licensing (Scotland) Act 2005

“Clerk” means the person appointed under Schedule 1 Paragraph 8 of the Act or any staff member appointed to assist the Clerk.