

## The Highland Licensing Board

Meeting – 10 May 2016

Agenda Item	6.
Report No	HLB/034/16

### Highland Licensing Board Publication Scheme and Guide to Information

#### Report by the Depute Clerk to the Licensing Board

#### Summary

This report recommends the adoption of the latest Model Publication Scheme approved by the Scottish Information Commissioner in March 2016 and the revised Guide to Information available through this Model Publication Scheme.

#### 1. Background

- 1.1 The Freedom of Information (Scotland) Act 2002 (FOISA) requires Scottish public authorities (including Licensing Boards) to produce and maintain a publication scheme and a guide to the information available through the scheme. The Board is under a legal obligation to publish the classes of information that it makes routinely available and to tell the public how to access the information and what it might cost. Information can only be withheld where FOISA expressly permits it to be withheld.
- 1.2 The Board has always met this duty by adopting and maintaining the Model Publication Scheme (MPS) provided by the Scottish Information Commissioner.
- 1.4 The Board's existing Publication Scheme 2013 was approved by the Scottish Information Commissioner until 31 May 2017, at which stage an updated scheme would normally have been required and a further notification procedure to the Commissioner's office carried out.
- 1.5 However, the Commissioner has now revised her approach to the MPS following an internal review. The findings of the review highlighted the need for more advice and support for authorities about proactive publication and identified that checking compliance is more effective than administering notifications.
- 1.6 A new single MPS has accordingly been introduced by the Commissioner to replace the various previous editions, including the version which the Council previously adopted. Once this new MPS is adopted by the Board, the Commissioner's office will assume that the Board is continuing to operate it. The 4-yearly notification procedure will no longer be required.

**1.7** The new MPS and revised Guide to Information is accordingly attached for the Board's approval.

**2.0 Recommendation**

**2.1** The Board is invited to adopt the Highland Licensing Board Model Publication Scheme 2016 and revised Guide to Information

Date: 27 April 2016

Author: Susan Blease

Background Papers: Freedom of Information (Scotland) Act 2002

Appendices: 1. Model Publication Scheme 2016

2. Revised Guide to Information

## HIGHLAND LICENSING BOARD

### Model Publication Scheme 2016

#### Introduction

1. The Freedom of Information (Scotland) Act 2002 (the Act) requires Scottish public authorities to produce and maintain a publication scheme. Authorities are under a legal obligation to:
  - (i) publish the classes of information that they make routinely available
  - (ii) tell the public how to access the information and whether information is available free of charge or on payment.
2. The Act also allows for the development of model publication schemes which can be adopted by more than one authority. The Scottish Information Commissioner's current Model Publication Scheme was approved on 29 March 2016.
3. The Commissioner has issued a Guide for Scottish Public Authorities to accompany the model scheme. This is essential reading for authorities adopting the model scheme as it explains the requirements of the scheme in detail and provides lists of types of information the Commissioner expects authorities to publish.

#### Definition of “published” information

4. For the purposes of this Model Publication Scheme, to be “published”, information must be:
  - (i) already produced and prepared and
  - (ii) available to anyone to access easily without having to make a request for it.
5. Research and information services which involve the commissioning of new information are not “publications”.

#### Adopting this model scheme

6. It is expected that the model scheme will be adopted by any authority which is subject to the Freedom of Information (Scotland) Act 2002. For more information about which bodies this applies to, please visit <http://www.itspublicknowledge.info/YourRights/Whocanlask.aspx>
7. Adoption commits an authority to:
  - (i) adopting the model scheme, and any updates to it, without amendment,
  - (ii) publishing the information, including environmental information, that it holds and which falls within the classes of information below,
  - (iii) ensuring that the way it publishes its information meets the Model Publication Scheme Principles,

- (iv) producing a Guide to Information which sets out the information the authority publishes through the model scheme, how to access it, whether there is a charge for it and how to get help to access information.
  - (v) notifying the Scottish Information Commissioner that it has adopted the model scheme.
8. Where an authority fails to meet the above commitments, it cannot be considered to have adopted the Commissioner's model scheme and may be failing with the duty to adopt and maintain a publication scheme in line with section 23(1) of the Act.

### **Notifying the Commissioner**

9. Authorities adopting the model publication scheme for the first time must notify the Commissioner that they have done so. Thereafter no further notification is required unless the Commissioner has revoked approval (because the authority is not complying with the scheme).
10. The Commissioner will regularly review the model scheme and will consult authorities before making any substantive changes. The Commissioner will notify authorities of any changes.
11. The Commissioner will continue to monitor the effectiveness of authorities' application of the model publication scheme. As required, she may contact individual authorities about practice issues, in line with her Enforcement Policy.

### **Model Publication Scheme principles**

#### **Principle one: availability and formats**

12. Information published through this model scheme should, wherever possible, be made available on the authority's website.
13. There must be an alternative arrangement for people who do not wish to, or who cannot, access the information either online or by inspection at the authority's premises. An authority may, e.g., arrange to send out information in paper copy on request (although there may be a charge for so).

#### **Principle two: exempt information**

14. If information described by the classes cannot be published and is exempt under Scotland's freedom of information laws, e.g., sensitive personal data or a trade secret, the authority may withhold the information or provide a redacted version for publication, but it must explain why it has done so.

#### **Principle three: copyright and re-use**

15. The authority's Guide to Information must include a copyright statement which is consistent with the fair dealing provisions of the Copyright, Designs and Patents Act 1988. Where the authority does not hold the copyright in information it publishes, this should be made clear.
16. Any conditions applied to the re-use of published information must be consistent with the Re-Use of Public Sector Information Regulations 2015.

17. The Commissioner recommends that authorities adopt the Open Government Licence and/or the non-commercial Government Licence produced by The National Archives for their published information.

#### **Principle four: charges**

18. The Guide to Information must contain a charging schedule, explaining any charges and how they will be calculated.
19. No charge may be made to view information on the authority's website or at its premises, except where there is a fee set by other legislation, e.g., for access to some registers.
20. The authority may charge for computer discs, photocopying, postage and packing and other costs associated with supplying information. The charge must be no more than these elements actually cost the authority, e.g., cost per photocopy or postage. There may be no further charges for information in Classes 1 – 7 below. An exception is made for commercial publications (See Class 8 below) where pricing may be based on market value.

#### **Principle five: contact details**

21. The authority must provide contact details for enquiries about any aspect of the adoption of the model scheme, the authority's Guide to Information and to ask for copies of the authority's published information.
22. The Act requires authorities to provide reasonable advice and assistance to anyone who wants to request information which is not published. The authority's Guide to Information must provide contact details to access this help.

#### **Principle six: duration**

23. Once published through the Guide to Information, the information should be available for the current and previous two financial years. Where information has been updated or superseded, only the current version need be available (previous versions may be requested from the authority).

#### **The classes of information**

<b>CLASS 1: ABOUT THE HIGHLAND LICENSING BOARD</b>
Class description: Information about the Highland Licensing Board, who we are, where to find us, how to contact us, how we are managed and our external relations.

<b>CLASS 2: HOW WE DELIVER OUR FUNCTIONS AND SERVICES</b>
Class description: Information about our work, our strategy and policies for delivering functions and services and information for our service users.

### **CLASS 3: HOW WE TAKE DECISIONS AND WHAT WE HAVE DECIDED**

Class description:

Information about the decisions we take, how we make decisions and how we involve others.

### **CLASS 4: WHAT WE SPEND AND HOW WE SPEND IT**

Class description:

Information about our strategy for, and management of, financial resources (in sufficient detail to explain how we plan to spend public money and what has actually been spent).

### **CLASS 5: HOW WE MANAGE OUR HUMAN, PHYSICAL AND INFORMATION RESOURCES**

Class description:

Information about how we manage the human, physical and information resources of the authority.

### **CLASS 6: HOW WE PROCURE GOODS AND SERVICES FROM EXTERNAL PROVIDERS**

Class description:

Information about how we procure goods and services, and our contracts with external providers.

### **CLASS 7: HOW WE ARE PERFORMING**

Class description:

Information about how we perform as an organisation, and how well we deliver our functions and services.

### **CLASS 8: OUR COMMERCIAL PUBLICATIONS**

Class description:

Information packaged and made available for sale on a commercial basis and sold at market value through a retail outlet e.g, bookshop, museum or research journal.

### **CLASS 9: OUR OPEN DATA**

Class description:

Open data made available by the authority as described by the Scottish Government's Open Data Strategy and Resource Pack, available under an open licence.

### HIGHLAND LICENSING BOARD

#### GUIDE TO INFORMATION AVAILABLE THROUGH THE BOARD'S MODEL PUBLICATION SCHEME 2016

The Freedom of Information (Scotland) Act 2002 (the Act) requires Scottish public authorities to produce and maintain a publication scheme. Authorities are under a legal obligation to:

- publish the classes of information that they make routinely available
- tell the public how to access the information and what it might cost.

Highland Licensing Board has adopted the **Model Publication Scheme** produced by the Scottish Information Commissioner in March 2016.

You can see this scheme on our website at

[http://www.highland.gov.uk/info/1125/licences\\_permits\\_and\\_permissions/339/liquor\\_licence/8](http://www.highland.gov.uk/info/1125/licences_permits_and_permissions/339/liquor_licence/8)

or by contacting us at one of the addresses below.

The purpose of this Guide to Information is to:

- allow you to see what information is available (and what is not available) in relation to each class.
- state what charges may be applied.
- explain how you can find the information easily.
- provide contact details for enquiries and to get help with accessing the information.
- explain how to request information we hold that has not been published.

#### *Availability and formats*

The information we publish through the model scheme is, wherever possible, available on our website. We offer alternative arrangements for people who do not want to, or cannot, access the information online or by inspection at our premises. For example, we can usually arrange to send information to you in paper copy (although there may be a charge for this).

All our written information can also be made available, on request, in a range of different formats.

#### *Exempt information*

We will publish the information we hold that falls within the classes of information below. If a document contains information that is exempt under Scotland's freedom of information laws (for example sensitive personal information or a trade secret), we may remove or redact the information before publication but we will explain why.

#### *Copyright and re-use*

The Board holds the copyright for the vast majority of information in this publication scheme. The copyright in other information may be owned by another person or organisation, as indicated on the information itself.

You are free to use any information supplied for your own non-commercial research or private study purposes. The information may also be used for any other purpose allowed by a limitation or exception in copyright law, such as news reporting. However, any other type of re-use, for example by publishing the information in analogue or digital form, including on the internet, will require the permission of the copyright owner.

Where the Board holds the copyright in its published information, the information may be copied or reproduced without formal permission, provided that:

- it is copied or reproduced accurately;
- it is not used in a misleading context; and
- the source of the material is identified.

Where the Board does not hold the copyright in its published information, you must apply to the copyright owner to obtain their permission for any form of re-use for which permission is required.

## **Charges**

This section explains when we may make a charge for our publications and how any charge will be calculated.

There is no charge to view information on our website or at our premises or where it can be sent to you electronically by email.

We may charge for providing paper copies of information, or information in alternative formats, to you, e.g., photocopying and postage, but we will charge you no more than it actually costs us to do so. We will always tell you what the cost is before providing the information to you.

### **Reproduction costs:**

Black and white copy - 10p per A4 sheet; 20p per A3 sheet

Colour copy - 30p per A4 sheet; 60p per A3 sheet

### **Alternative formats**

Computer discs

£1 per CD-Rom / DVD

### **Postage**

Charged at the cost to the Board of sending the information by first class post

If providing copies of any pre-printed publications, we will charge no more than the cost per copy of the total print run.

We do not pass any other costs on to you in relation to our published information.

We do charge in relation to information not published under this scheme. These charges are as follows.

General information requests -

- There will be no charge for information requests which cost us £100 or less to produce.



- Where information costs between £100 and £600 to provide to you, you may be asked to pay 10% of the cost. That is, if you were to ask for information that cost us £600 to provide, you would be asked to pay £50, that calculated on the basis of a waiver for the first £100 and 10% of the remaining £500.
- We are not obliged to respond to requests for non-environmental information which will cost us over £600 to process.
- Where environmental information costs over £600 to provide to you, we may ask you to pay the additional cost over that amount in full. For example, if you were to ask us for information that costs us £800 to provide, you may be asked to pay £250. This fee would be calculated on the basis of a waiver for the first £100 costs of providing the information, 10% of the next £500 costs, and full cost recovery for cost over £600 (in this example, £200).
- In calculating any costs, staff time will be calculated at actual cost per staff member at their hourly salary rate up to a maximum of £15 per person per hour.
- We do not charge for the time to determine whether we hold the information requested, nor for the time it takes to decide whether the information can be released. Charges may be made for locating, retrieving and providing information to you.
- In the event that we decide to impose a charge we will issue you with notification of the charge (a fees notice) and how it has been calculated. You will have three months from the date of issue of the fees notice in which to decide whether to pay the charge. The information will be provided to you on payment of the charge. If you decide not to proceed with the request there will be no charge to you.

#### Requests for your own personal data -

- The Act does not give a person the right to obtain copies of information which the Board may hold about them personally. You are however entitled to request your personal data from the Board under the subject access provisions contained in Section 7 of the Data Protection Act 1998.
- The Board may charge a maximum fee of £10 for providing your own personal data.
- Requests for information in terms of Section 7 of the Data Protection Act must -
  1. be made in writing,
  2. give your name and address,
  3. include proof of your identity,
  4. specify the information or documents sought, and
  5. include any fee applicable.

Such requests should be addressed to the Clerk to the Licensing Board at the address shown below.

#### **Contact us**

You can contact us for assistance with any aspect of this publication scheme:

Email: [susan.blease@highland.gov.uk](mailto:susan.blease@highland.gov.uk)

Telephone: 01349 868538

Write To: The Clerk to the Licensing Board  
Council Offices  
High Street

Dingwall  
Ross-shire  
IV15 9QN

We can also advise you how to ask for information that we do not publish, or how to complain if you are dissatisfied with any aspect of this publication scheme.

### **The classes of information that we publish**

We publish information that we hold within the following classes. Once information is published under a class we will continue to make it available for the current and previous two financial years.

Where information has been updated or superseded, only the current version will be available. If you would like to see previous versions, you may make a request to us for that information.

### **CLASS 1: ABOUT HIGHLAND LICENSING BOARD**

The Highland Licensing Board is a Scottish public authority as defined in Part 3 of Schedule 1 of the Act.

The Board has a number of offices throughout the Highland Council area, contact details for which are:

#### **Highland Licensing Board - Clerk's Office**

Susan Blease, Clerk to the Licensing Board  
Council Offices  
High Street  
DINGWALL  
Ross-shire IV15 9QN  
Tel: 01349 868 538  
E-mail: [susan.blease@highland.gov.uk](mailto:susan.blease@highland.gov.uk)

#### **Area Offices**

##### *Caithness, Sutherland and Ross:*

Highland Licensing Board  
Caithness House  
Market Place  
WICK  
Caithness  
KW1 4AB  
Tel: 01955 609508

Highland Licensing Board  
Council Offices  
Drummuie  
GOLSPIE  
Sutherland  
KW10 6TA  
Tel: 01408 635205

##### *Skye and Lochaber*

Highland Licensing Board  
Council Offices  
Tigh na Sgìre  
Park Lane

Highland Licensing Board  
Council Offices  
Lochaber House  
High Street

PORTREE  
Isle of Skye  
IV51 9GP  
Tel: 01478 613824

FORT WILLIAM  
PH33 6EL  
Tel: 01397 707233

*Inverness, Nairn and Badenoch and Strathspey:*

Highland Licensing Board  
Council Offices  
Town House  
INVERNESS  
IV1 1JJ  
Tel: 01463 785088

The email address for all of the Board's area offices is [licensing@highland.gov.uk](mailto:licensing@highland.gov.uk)

### **Licensing Standards Officers (LSO)**

Ian Cox, LSO – South  
Council Offices  
Town House  
INVERNESS  
IV1 1JJ  
Tel: 01463 785089  
Email: [ian.cox@highland.gov.uk](mailto:ian.cox@highland.gov.uk)

Dave Inglis, LSO - North  
Council Offices  
High Street  
DINGWALL  
IV15 9QN  
Tel: 01349 868644  
Email: [david.inglis@highland.gov.uk](mailto:david.inglis@highland.gov.uk)

The Board comprises ten elected members of The Highland Council. Details of the current membership are available at [http://www.highland.gov.uk/info/20003/committee\\_information/488/highland\\_licensing\\_board/4](http://www.highland.gov.uk/info/20003/committee_information/488/highland_licensing_board/4)

As Councillors, the Board members are required to adhere to the Councillors' Code of Conduct set by the Standards Commission for Scotland and available at <http://www.highland.gov.uk/councillorsconduct>

The Board is a separate legal entity from the Council. It is the licensing authority for all alcohol licensing in Highland and for the licensing of certain types of gambling activities. The Board does not employ any staff or own any assets. All staff carrying out the Board's responsibilities are recruited and employed by the Council. The Council provides accommodation for the meetings of the Board and necessary expenses for the work of the Board. All revenue received by the Board from licence application fees must be transferred to the Council and the Board's budget is held by the Council. For alcohol licensing, the Board determines its own fees (where these are not prescribed by legislation) and in doing so has regard to the desirability of ensuring that the total fees payable in respect of any period are likely to be broadly equivalent to the expenses incurred by the Board, and Highland Council, in administering the Licensing (Scotland) Act 2005 generally during that period. For licensing under the Gambling Act 2005, the fees are all prescribed by legislation.

The Board makes decisions on licensing policies and on licence applications. It is assisted and advised in its work by its Clerk, who is a Principal Solicitor within the Council. The Clerk is assisted by a Depute and other officers of the licensing team, which forms part of the Council's Legal Service.

Normal working hours for the Board and its staff are 9am to 1pm and 2pm to 5pm Mondays to Fridays inclusive.

Any enquiries or complaints regarding the Board's work can be directed to the postal, email or telephone contact details shown above.

The Board's Model Publication Scheme and this Guide to Information are available at [http://www.highland.gov.uk/info/1125/licences\\_permits\\_and\\_permissions/339/liquor\\_licence/8](http://www.highland.gov.uk/info/1125/licences_permits_and_permissions/339/liquor_licence/8)

The Board's charging schedule for published information and environmental information is shown in the Charges section above.

To contact the Board or ask for advice about how to request information from us, please use the contact details shown in the Contact Us section above.

The Board is required to publish a statement of its licencing policy, both for alcohol licencing and gambling licencing, setting out the policies the Board will generally take into account when determining licence applications. The current policy statements are published at

Alcohol licencing:

[http://www.highland.gov.uk/info/1125/licences\\_permits\\_and\\_permissions/339/liquor\\_licence/8](http://www.highland.gov.uk/info/1125/licences_permits_and_permissions/339/liquor_licence/8)

Gambling Act licencing:

[http://www.highland.gov.uk/downloads/file/3665/policy\\_statement\\_2013-16](http://www.highland.gov.uk/downloads/file/3665/policy_statement_2013-16)

## **CLASS 2: HOW WE DELIVER OUR FUNCTIONS AND SERVICES**

The Board is responsible for administering the alcohol licencing system under the Licencing (Scotland) Act 2005 within the Highland Council area and is also the licencing authority for certain types of licences, notifications and registrations under the Gambling Act 2005 in Highland.

The Board carries out these functions having regard to its published statements of policy.

Alcohol licencing:

[http://www.highland.gov.uk/info/1125/licences\\_permits\\_and\\_permissions/339/liquor\\_licence/8](http://www.highland.gov.uk/info/1125/licences_permits_and_permissions/339/liquor_licence/8)

Gambling Act licencing:

[http://www.highland.gov.uk/downloads/file/3665/policy\\_statement\\_2013-16](http://www.highland.gov.uk/downloads/file/3665/policy_statement_2013-16)

The Board has also made Schemes of Delegation which provide that some decisions are delegated to the Clerk to the Board, whilst others must be made by the Board.

Alcohol licencing Scheme of Delegation:

[http://www.highland.gov.uk/downloads/file/3749/highland\\_licencing\\_board\\_-\\_scheme\\_of\\_delegation](http://www.highland.gov.uk/downloads/file/3749/highland_licencing_board_-_scheme_of_delegation)

Gambling Act licencing Scheme of Delegation:

[http://www.highland.gov.uk/downloads/file/3671/scheme\\_of\\_delegation](http://www.highland.gov.uk/downloads/file/3671/scheme_of_delegation)

We are also required to publish a policy on how we are complying with the equality requirement under the Equality Act 2010. Our Equality Strategy is published at

[http://www.highland.gov.uk/info/1125/licences\\_permits\\_and\\_permissions/339/liquor\\_licence/8](http://www.highland.gov.uk/info/1125/licences_permits_and_permissions/339/liquor_licence/8)

Information about the types of alcohol licence applications we deal with, application forms, criteria, fees and guidelines are published at

[http://www.highland.gov.uk/info/1125/licences\\_permits\\_and\\_permissions/339/liquor\\_licence](http://www.highland.gov.uk/info/1125/licences_permits_and_permissions/339/liquor_licence)

Information about the types of gambling applications we deal with, application forms, criteria and fees and guidance are published at

[http://www.highland.gov.uk/info/1125/licences\\_permits\\_and\\_permissions/298/entertainment\\_licences/3](http://www.highland.gov.uk/info/1125/licences_permits_and_permissions/298/entertainment_licences/3)

Any concerns or queries regarding the Board's work can be directed to the postal, email or telephone contact details shown in the Contact Us section above.

### **CLASS 3: HOW WE TAKE DECISIONS AND WHAT WE HAVE DECIDED**

The Board takes decisions in accordance with the Licensing (Scotland) Act 2005 and the Gambling Act 2005. All Board meetings are open to the public and decisions are taken publicly, unless taken by officers under delegated powers.

All decisions are recorded in public registers available for inspection at Board Offices.

For alcohol licensing, an on-line register is also available at

[http://www.highland.gov.uk/info/1125/licences\\_permits\\_and\\_permissions/339/liquor\\_licence/2](http://www.highland.gov.uk/info/1125/licences_permits_and_permissions/339/liquor_licence/2)

Agendas, reports and minutes of the Board's meetings are also published at

[http://www.highland.gov.uk/info/1125/licences\\_permits\\_and\\_permissions/339/liquor\\_licence/7](http://www.highland.gov.uk/info/1125/licences_permits_and_permissions/339/liquor_licence/7)

The Board is required to advertise some types of application to allow public comment. The Board also carries out, from time to time, public consultations on matters such as its policies. Applications and consultations are published at

[http://www.highland.gov.uk/info/1125/licences\\_permits\\_and\\_permissions/339/liquor\\_licence/2](http://www.highland.gov.uk/info/1125/licences_permits_and_permissions/339/liquor_licence/2)

### **CLASS 4: WHAT WE SPEND AND HOW WE SPEND IT**

The Board is a separate legal entity from the Council. It does not own any assets. The Council provides accommodation for the meetings of the Board and necessary expenses for the work of the Board. All revenue received by the Board from licence application fees must be transferred to the Council and the Board's budget is held by the Council.

### **CLASS 5: HOW WE MANAGE OUR HUMAN, PHYSICAL AND INFORMATION RESOURCES**

The Board is a separate legal entity from Highland Council.

It comprises ten elected members of the Council.

It does not employ any staff or own any assets.

It is assisted and advised in its work by its Clerk, who is a Principal Solicitor within the Council. The Clerk is assisted by a Depute and officials of the Licensing Team within Legal Services.

All staff carrying out the Board's responsibilities are recruited and employed by the Council.

The Council provides accommodation for the meetings of the Board.

The Board's Model Publication Scheme and this Guide to Information are available at [http://www.highland.gov.uk/info/1125/licences\\_permits\\_and\\_permissions/339/liquor\\_licence/8](http://www.highland.gov.uk/info/1125/licences_permits_and_permissions/339/liquor_licence/8)

#### **CLASS 6: HOW WE PROCURE GOODS AND SERVICES FROM EXTERNAL PROVIDERS**

The Board does not hold information within this class. Goods and services are procured by the Council rather than the Board.

#### **CLASS 7: HOW WE ARE PERFORMING**

The Board processes applications in accordance with timescales provided under alcohol and gambling licensing legislation.

The Board produces policies in accordance with timescales provided under legislation dealing with alcohol and gambling licensing, the equality duty and the publication of a scheme explaining how to access information which it holds.

The primary and secondary legislation setting these timescales are published at [www.legislation.gov.uk](http://www.legislation.gov.uk)

If you would like help to locate specific information on this please contact us using the contact details shown in the Contact Us section above.

#### **CLASS 8: OUR COMMERCIAL PUBLICATIONS**

The Board does not hold information within this class.

#### **CLASS 9: OPEN DATA**

The Board does not hold any additional data which is not already publicly available either on The Highland Council website at the links given above or on request.