

ANGUS LICENSING BOARD – 25 MARCH 2021

PREMISES IN EXCESS OF FOUR OCCASIONAL LICENCE APPLICATIONS

REPORT BY CLERK TO THE BOARD

ABSTRACT

The purpose of this report is to present information to the Board regarding premises who have had more than four Occasional Licences granted, contrary to the Board's Statement of Licensing Policy.

1. RECOMMENDATION

It is recommended that the Board note the information as detailed in the attached **Appendix**.

2. BACKGROUND

At the meeting of the Board on 18 February 2021, it was agreed that officers prepare a report demonstrating how many premises had received four or more Occasional Licence applications.

The Licensing Standards Officer being a statutory consultee in respect of Occasional Licence applications has prepared information in this regard for Members as detailed in the attached **Appendix**.

The Board's Statement of Licensing Policy reads at 4.4.4:

The Angus Licensing Board acknowledges that the Licensing (Scotland) Act 2005 does not provide regulations on the type of event an occasional licence may apply to. However, the Board will generally look to the applicant to demonstrate that the occasional licence is required for a special event. This is to avoid the occasional licence process being used as a means to circumvent the full (premises) licence process. The Board will expect the applicant to submit a full premises licence application following the submission of no more than 4 occasional licence applications. Notwithstanding this, the Board will consider and determine each application on its own merits

It should be noted, however, even in the face of this, non-compliance with this section does not constitute a ground for refusal of an application in terms of the Licensing (Scotland) Act 2005.

3. COVID-19 AND APPROACH

There have been two types of situations where Occasional Licences have been frequently applied for:

a) Outdoor drinking areas

The Scottish Government took a decision to permit the re-opening of outdoor drinking areas from 6 July 2020.

There are 102 premises in Angus that have outdoor drinking listed as an activity on their operating plan. That said, however, not every premises licenced in terms of their operating plan has an outdoor area licenced on the layout plan.

Some premises that were not licenced for outdoor drinking did have areas that could reasonably be turned into outdoor drinking areas with extra precautions and conditions in place. The department received an increased number of Occasional Licence applications over a very short period of time to licence outdoor drinking areas.

Given the nature of the guidance from the Scottish Government in relation to other areas of law when considering outdoor drinking areas being licenced via Occasional Licence, such as planning and building standards requirements being relaxed, it was felt an equally pragmatic approach would be warranted in terms of licensing law to permit premises to operate as soon as possible and without any undue financial burden on them.

b) Off sales

There are some premises that are not licenced by premises licence but have applied for several occasional licences throughout the pandemic. This has partly been due to entrepreneurs being unable to attend the same number of farmers markets they would normally attend in the Angus area. They have opted to licence their own premises for off-sales to permit online orders and delivery of alcohol.

In other circumstances, there have been applications from persons who wish to ascertain the viability of their business before making an application for a full premises licence.

To assist existing businesses and potential new businesses, the department adopted a pragmatic as possible approach to these applications. The department did not wish to place undue financial strain on a premises given that a premises licence application can often cost in excess of £1000.

The pragmatic approach adopted by the department in granting occasional licences has resulted in 16 premises having been granted more than four occasional licences. Of those 16, three have successfully applied for a major variation to their licence to licence an outdoor area. There has been one provisional premises licence application and one full premises licence granted to premises who have operated with an excess of four occasional licences. In circumstances where applicants have made sufficient effort towards obtaining either a major variation or premises licence, occasional licences have continued to be granted as they are complying with the statement of policy. Often there would be an application granted in between the application being received and it being heard by the Board.

There are also three premises who have had four occasional licences each but as yet have not applied for any further.

The department have been acutely aware of the impact of COVID-19 on the liquor licensing trade and have sought where possible to assist. That said, there has been discussion between Legal Officers in terms of the Board's Policy and Occasional Licence applications and an understanding that permanent solutions must now start to be sought.

4. FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

5. HUMAN RIGHTS IMPLICATIONS

There are no human rights implications arising from this report.

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APPENDIX TO REPORT NO LB15/21
ANGUS LICENSING BOARD – 25 MARCH 2021

Licensing Standards Officer Report

The following licenced premises have applied for more than four occasional licences since April 2020, as at 16 March 2021:

Premises Name	Total Applied For
Corn Exchange	18 (Major Variation applied for)
Thrums Hotel	15
Anchor Arms	12 (Major Variation now granted)
Airlie Arms Hotel	8 (Major Variation now granted)
Portcullis Bar	8
Queen Street Tavern	8
Brown Horse Hotel	8 (has asked for information on how to apply for a Major Variation on 24/2/21)
Kinloch Arms	20
Stag Hotel	20
Lochside Bar	7 (Major Variation granted)

The following non licenced premises have applied for more than four occasional licences since April 2020, as at 16 March 2021:

Premises Name	Total Applied For
Toll House Spirits	24 (provisional licence now in force)
Carnoustie Distillery	26
Shed 53 Brewery	6
Lost Orchards Cidery	11 (premises licence now in force)
Jonathan Calder (private property)	7 (has asked for information on how to apply for a Premises Licence on 24/1/21)
Elements Cocktails	5

In respect of this matter, I have contacted each of the Licence Holders and Entrepreneurs to encourage them to submit the appropriate application. I have set out to them the Board's Policy in relation to this matter.

There have been some occasional licence applications that have been held on file until such time the licence will be able to be used. Once it becomes apparent what date outdoor areas will be permitted to re-open, these non-granted licences we currently have on file will be amended so that the applicant does not lose out on the fee they have paid. The premises are:

Thrums Hotel: 2
 Corn Exchange: 5
 Stag Hotel: 10

These applications have been paid for. It was determined the most pragmatic and equitable solution was to hold these applications on file not granted until such time they could be used. With that in mind, these licences will not appear on previous delegated reports as they have yet to be granted. Licences which are already granted and issued cannot be amended.

As a statutory consultee of all occasional licence applications, I am in receipt of each application and am fully aware of the Board's Statement of Licensing Policy. The granting of the occasional licence applications has been done in an effort to assist the trade so that they could open quickly where at all possible and to the smallest financial detriment to them.