

Statement of Practice for Occasional Licences and Extended Hours

North Ayrshire Licensing Board is concerned that Applications are sometimes lodged without leaving enough time for the legal procedure to be followed, and on 25 May 2010 approved the following Statement of Practice. This was reviewed by the Board on 25 June 2012 and applies to all Applications made on or after that date.

The revised procedure means that preliminary decisions to relax the Board's policy may be made by the Convenor, Vice-Convenor, or another Member of the Board.

Applicants should understand:

- a) **the recommended minimum notice is 28 days. If less than notice is given, Applicants should supply a written explanation for lateness;**
 - b) **the decision of the Board Member to allow the Application to be accepted late is only a preliminary, and is not the 'grant' of the request;**
 - c) **giving the Board less than 28 days recommended minimum notice may mean that the legal requirements cannot be completed in time, meaning that the request cannot be granted even if the Board Member has agreed to accept the Application. The Board cannot relax the legal requirements.**
 - d) **each decision is treated in isolation. The Board is not obliged to allow a late application just because it has done so in the past for the same Applicant, event or Premises.**
1. This Statement of Practice does not apply where the only reason for the Application is to cater for a funeral.
 2. The Board's advice to Applicants remains that an Application should be made at least 28 days before the date, or the earliest date, requested.

Where less than 14 days notice is given

3. If an Application is made on a date which is not at least 14 days before the date, or the earliest date, requested, then the Board's staff will proceed as follows:
 - a) If the Applicant **personally** tenders the Application to Board staff:

- he will be told of the 28/14 day policy,
- he must decide whether or not to proceed with the Application.
- if he decides to proceed no further, the Application will be treated as withdrawn and any fee he has paid will be refunded.
- if he decides to proceed, the Application will be accepted by the Board's staff for the sole purpose of placing the Application before a Member of the Board to decide the preliminary question of whether or not the Application should be accepted.

b) In any case other than (a) (e.g. if the Application is sent by post), the Board will proceed on the basis that:

- the Applicant is aware of the 28/14 day policy,
- he wants the Board to decide whether or not to proceed with the Application,
- he accepts that the fee will not be refunded, whether or not the Board accepts the late Application for processing.

4. The Board staff will then contact the Convenor (whom failing the Vice-Convenor, and whom failing any Member of the Board):

- a) If the Member decides that the Application should be accepted despite the breach of policy, the Application will be accepted and processed as usual; the reason given for lateness will be recorded;
- b) If the Member does not agree, then the Application will be rejected. The fee will **not** be refunded.

Only one Member of the Board will be contacted in each case (so if there are several Applications using the same form, there will be only one contact).

Where less than 28 days notice (but 14 days or more) is given

5. Where an Application is lodged giving less than 28 days (but 14 days or more notice (a 'Late Application')):

- a) "three strikes" rule: If an Applicant makes a Late Application and within the period of two years immediately preceding the date requested has had two or more events where

Occasional Licences or Extended Hours (or any combination of them) were granted following Late Applications, the same procedure involving possible withdrawal, preliminary decision by a Board Member, and possible rejection, will be followed (see Paragraphs 3 and 4);

- b) in any other case, the Late Application will be accepted and will be processed as usual. However, the '28 day' advice is to be repeated in a covering letter when the Licence is issued, and a record of the lateness is to be kept.

6. The Clerk will decline to grant an Application where Board staff have contacted the Applicant to clarify some issue and the Applicant has failed, within 7 days of that contact, to supply clarification to the reasonable satisfaction of the Clerk;

7. The Convenor (whom failing the Vice-Convenor, and whom failing any Member of the Board) may authorise departure on a case-by-case basis from the Board's Policy on hours or any other matter;

8. The Clerk is entitled to disregard the fact that the Applicant has failed to do anything required of him by this Statement of Practice, where in the opinion of the Clerk the failure is justified by exceptional circumstances;

9. When an Application is rejected for any of these reasons, the Applicant will be informed of the reason. If the Application is accepted by the Board, the Police will be told anyway;

10. In this Statement of Practice, 'Clerk' includes the Senior Manager, Legal Services, Solicitor (Licensing), and any Solicitor or officer of the Board authorised by the Clerk.

11. Procedure

Applications are copied to the Police and Licensing Standards Officer, who report to the Board. Also, with Occasional Licences, the Application is advertised for 7 days on the Board's website, so it is possible that third parties (e.g. neighbours) might object. There is no objection procedure for Extended Hours.

The Board will not make a decision to grant or refuse the request until it has reports from both Police and L.S.O. (and, with Occasional Licences, until the period for objections has expired).

Where there are any adverse comments, the request is considered by the Board. This can be at a Meeting at Council Offices (there are scheduled meetings around every six weeks), but sometimes

this is not possible (e.g. the Board timetable might mean that there is no scheduled Meeting to deal with applications made with 28 days notice).

12. Special procedure

To deal with that situation, the Board has adopted a special procedure, authorised by the legislation:

- a) the Applicant will be sent copies of the adverse comments, or advised orally or by email of their contents
- b) the Applicant will be invited to lodge written or email comments within 3 days
- c) the Convenor, and whom failing the Vice-Convenor, and whom failing any Member of the Board, may determine the Application, and may add to or vary the Conditions of the Licence

This procedure is authorised by the Licensing (Scotland) Act 2005, Section 59(5) (for Occasional Licences) and Section 70(3) (for Extended Hours).