



Dumfries and Galloway Licensing Boards' Annual Functions Report

Licensing (Scotland) Act 2005, Section 9A

01/04/2018 – 31/03/2019



INDEX

- 1. Introduction – Dumfries and Galloway Licensing Boards**
- 2. The Licensing Objectives**
- 3. Annual Function Report**
- 4. Summary of decisions made by the Boards**
- 5. Reviews**
- 6. Licensing Policy Statement**
- 7. Licensing Standards Officers**
- 8. Statement on how the Boards exercise their functions**
- 9. Conclusion**

1. Introduction – Dumfries and Galloway Licensing Boards

General

1.1 Dumfries and Galloway is a mainly rural area in South West Scotland. It covers approximately 2470 square miles with a population of around 148,790. The main settlements are Dumfries (including Heathhall/Locharbriggs) around 37,100 residents; Stranraer (approximately 10,600 residents) and Annan (approximately 8250 residents). All other settlements have populations under 6000. The region of Dumfries and Galloway is divided into four geographical areas (former District Council areas) as follows: Annandale and Eskdale, Nithsdale, Stewartry and Wigtownshire.

1.2 Each of these four areas has its own Divisional Licensing Board. The four Divisional Licensing Boards in Dumfries and Galloway are:

- Annandale & Eskdale
- Nithsdale
- Stewartry and
- Wigtown.

1.3 Each Licensing Board is responsible for the licensing and regulation of alcohol within their respective areas.

1.4 As at 31 March 2019, there were 620 licensed premises in Dumfries and Galloway. Within each Licensing Board Division, the breakdown is:-

Nithsdale - 191

Wigtown - 161

Annandale & Eskdale - 158

Stewartry - 110

Types of applications under the 2005 Act:

1.5 Under the 2005 Act, the four Divisional Licensing Boards are responsible for considering applications for:

- occasional licences
- provisional licences
- temporary licences
- personal licences
- transfer of premises licences
- variation of premises licences
- extension of licensing hours

2. The Licensing Objectives

2.1 The Act sets out the following five licensing objectives ("the licensing objectives"):-

- (i) preventing crime and disorder
- (ii) securing public safety
- (iii) preventing public nuisance
- (iv) protecting and improving public health
- (v) protecting children and young persons from harm

2.2 The licensing objectives provide a basis for the administration of the licensing regime. They also provide potential reasons for refusal of an application, for the grant or variation of a premises licence or an occasional licence. Breach of the objectives may provide grounds for reviewing a premises licence. Conditions attached to a premises licence or an occasional licence may be based on any one or more of the licensing objectives.

2.3 In exercising its functions under the Act, the Board must have regard to the licensing objectives.

3. Annual Function Report

3.1 In terms of section 9A 2005 Act, each Licensing Board must prepare and publish an Annual Function Report no later than 3 months after the end of each financial year.

3.2 Dumfries and Galloway's Divisional Licensing Boards must therefore prepare and publish an Annual Function Report by 30 June 2019 for the financial year 2018-2019 (being 1 April 2018 to 31 March 2019).

3.3 An Annual Function Report must include the following:

- a statement explaining how each Board has had regard to the licensing objectives;
- a statement explaining how each Board has had regard to the Statement of Licensing Policy and any Supplementary Policy Statement (including the Board's statement with regard to its duty to assess overprovision);
- a summary of the decisions made by (or no behalf of) the Board during the financial year;
- information about the number of licences held under the 2005 Act in each Board's area (including the number of occasional licences issued in each year);
- such other information about the exercise of each Board's functions as each Board considers appropriate.

3.4 In the year from 1 April 2018 to 31 March 2019, the Licensing Boards met as follows:-

Nithsdale - 9 times

Wigtown – 6 times

Annandale & Eskdale – 7 times

Stewartry – 4 times

Conjoined meeting of all 4 Divisional Licensing Boards – 1 time

3.5 Applications before each Board were dealt within in an open and transparent manner in accordance with the licensing legislation and the Boards Licensing Policy Statement.

3.6 Information and guidance was made available to persons wishing to apply for a licence, make representations or lodge objections.

4. Summary of decisions made by the Boards

4.1 Each Divisional Licensing Board holds meetings to determine applications that cannot be dealt with via delegated powers (whereby a Licensing Board Hearing need not be held to determine an application and an authorised member of the licensing team may 'grant' certain applications).

4.2 The premises licences and provisional premises licences granted by the Boards in 2018/19 are detailed within Appendix 1.

4.3 During the course of the year, 1157 occasional licences were granted and 176 extended hours applications .

4.4 Any occasional licence and extended hours applications that attracted objections or representations, were considered by the Convener of each Licensing Board in line with the Board's scheme of delegation, detailed within the Licensing Policy Statement.

4.5 In the course of the year, the Licensing Board granted 314 personal licences. 70 were revoked due to non compliance with refresher training requirements.

4.6 In addition, the Board refused one application for a personal licence following receipt of a submission from the Chief Constable. The Board refused the application as they agreed that it was necessary for the purposes of Licensing Objection (b) "Securing Public Safety" to do so.

5. Reviews

Premises Licence Reviews

5.1 In the 2018-19 period, 2 applications for review of premises licence were considered by the Board. Having regard to the five Licensing Objectives, the Board took action on 1 occasion and determined that a written warning issued to the Premises Licence Holder was sufficient.

Personal Licence Reviews

5.2 In the 2018-2019 period, one review of a Personal Licence took place. The review hearing was arranged following confirmation by Police Scotland, that the Licence Holder had been convicted of a relevant or foreign offence. The Licensing Board were satisfied that it was necessary for the purpose of Licensing Objective (a) Preventing Crime and Disorder, to endorse Personal Licence. This endorsement remains on the licence for a period of 5 years.

6. Licensing Policy Statement

6.1 The Board completed the review of its Licensing Policy Statement in October 2018. Prior to doing so, the Board consulted widely, as well as conducting an online survey, to obtain as wide a range of views as possible to inform the terms of the new statement. The responses received to that consultation were published within a report which was then submitted to each Divisional Licensing Board.

6.2 The Board's reviewed Licensing Policy Statement can be found at <https://www.dumgal.gov.uk/article/15196/Divisional-Licensing-Boards>

6.3 Main changes to the Licensing Policy Statement include:-

6.3.1 Introduction of new local conditions in relation to premises having in place a drugs policy (on-sales) and also a refusals register.

6.3.2 With regard to Children and Young Persons' access to all on sales licensed premises, Wigtown Divisional Licensing Board now expects the following minimum criteria to be adhered to in pursuance of the Protecting Children and Young Persons from Harm Licensing Objective:

- Children must be accompanied by a responsible adult at all times;
- Young Persons must be accompanied by a responsible adult from 10pm onwards;
- Children and Young Persons must vacate the premises by 10pm;
- However, if there is a bona fide function/organised event to which Children and Young Persons are invited and its terminal hour is later than 10pm, then Children and Young Persons may vacate the premises by that later terminal hour for the purposes of the function/event only.

6.3.3 Nithsdale Divisional Licensing Board agreed to introduce a festive hours policy which allowed one extra hours trading following closing time for all on sales premises on the following days: 26 December; 31 December and 1 January.

Overprovision

6.4 The Licensing Boards are required to produce a statement as to the extent that they consider there to be overprovision of licensed premises or licensed premises of a particular description in any locality within the Board's area.

6.5 As part of the Licensing Policy Statement review undertaken in 2018, the Licensing Boards undertook an assessment of overprovision across the region.

6.6 The Board considered all material gathered during that assessment and, in particular, a report prepared by the Alcohol and Drug Partnership, NHS Dumfries and Galloway which set out recommendations to the Licensing Board on the levels of provision, and possible overprovision, of alcohol licences across Dumfries & Galloway based on analysis of available data including from local data sources: NHS, Police, Fire and Rescue Service and Dumfries and Galloway Council.

6.7 All four Divisional Boards determined that there is no overprovision of licensed premises or licensed premises of a particular description in any Board locality in Dumfries and Galloway.

7. Licensing Standards Officers

7.1 Dumfries and Galloway Licensing Boards have 3 Licensing Standards Officers:-

Julia Farroll, Council Offices, Sun Street, Stranraer
 Mary Irving, Council Offices, Sun Street, Stranraer
 Michael Collins, Municipal Chambers, Buccleuch Street, Dumfries

7.2 The Licensing Standards Officers general roles are:-

- Providing information and guidance concerning the operating of the Licensing (Scotland) Act 2005
- Supervising the compliance by licence holders of the conditions of their licence and other requirements of the legislation
- Providing mediation services for the purposes of resolving or avoiding disputes or disagreements between licence holders and any other persons.

7.3 The Licensing Standards Officer have dealt with numerous enquiries and complaints throughout the year with the majority being resolved without having to proceed formally to the Licensing Boards. Issues which repeatedly arise are:-

- Noise complaints from licensed premises
- Inadequate staff training
- General compliance with the legislation
- Non payment of annual fees

7.4 Minimum Unit Pricing (MUP) of Alcohol was introduced in Scotland with effect from 1 May 2018. As well as the introduction of MUP being widely publicised, information was also sent out to licence holders by Licensing Standards Officers, prior to it coming into effect.

7.5 The Licensing Standards Officers commenced a programme of visits to all off-sales premises in Dumfries and Galloway. These visits included providing further guidance and checking compliance with the legislation. A minority of premises were noted to have failed to comply with the MUP requirements. However, any issues were rectified either at the time of the visit or within a short period of time prior to the next visit by the Licensing Standards Officer.

7.6 Licensing Standards Officers continue to visit premises to ensure that they are

complying with the legislation as required and also monitoring the MUP requirements and ensuring that they are being properly observed.

8. Statement on how the Boards exercise their functions

8.1 The Licensing (Scotland) Act 2005 as amended (“the Act”) sets out regulations for the sale of alcohol and regulations for licensed premises and other premises on which alcohol is sold.

8.2 The Act is underpinned by five licensing objectives which the Board must have regard to when exercising its functions. These objectives are: -

- (i) Preventing crime and disorder
- (ii) Securing public safety
- (iii) Preventing public nuisance
- (iv) Protecting and improving public health
- (v) Protecting children and young persons from harm

8.3 The Licensing Boards are required by law to have a Licensing Policy Statement outlining how they will exercise their functions and duties under the Licensing (Scotland) Act 2005 (the 2005 Act) in order to promote each of the Licensing Objectives.

8.4 The current Policy Statement contains a range of issues pertaining to alcohol licensing and how the Board exercises its functions under the Licensing Scotland Act 2005 and can be found at <https://www.dumgal.gov.uk/article/15196/Divisional-Licensing-Boards>

8.5 The Boards deal with all applications in accordance with the legislation, and in particular the five above objectives, together with its Statement of Licensing Policy which is based on the objectives.

9. Conclusion

9.1 Each of the four Divisional Licensing Boards in Dumfries and Galloway are pleased to report that licensed premises are generally well run in their respective areas.

9.2 Overall, the Boards are generally satisfied that the licensed trade is upholding and promoting the five licensing objectives which underpin the functioning of the whole licensing system.

9.3 The Boards also recognise the efforts of the Licensing Service and external stakeholders (including Police Scotland) to ensure that licensed premises comply with the legislation and continue to uphold the licensing objectives.

9.4 Whilst the Boards recognise generally the good practice and effort of licence holders to ensure that the licensing objectives are upheld and promoted, they fully expect that licence holders ensure that this good practice continues.

Appendix 1

**List of Applications granted by the Licensing Boards for Premises
Licences and Provisional Premises Licences – 2018-2019**

Nithsdale

Scotfresh, Unit 1, 78 Glasgow Street, Dumfries	Off sales (Provisional)
The Boathouse Restaurant & Shop, Glencaple, Dumfries	On and off sales

Wigtown

The View, Port William Inshore Rescue Service, Harbour Road, Port William	On sales
Wig Bay Holiday Park, Loch Ryan, Stranraer	On and off sales (Provisional)

Annandale & Eskdale

Just Be Bistro, 53 High Street, Lockerbie	On and off sales
---	------------------

Stewartry

Carsphairn Shop & Tearooms, Main Street, Carsphairn	On and off sales
New Galloway Community Shop, High Street, New Galloway	Off sales