

# Public Document Pack

## NITHSDALE DIVISIONAL LICENSING BOARD

Meeting of Thursday, 31st August, 2023  
at 9.30 am - This meeting will be held online

Tony Berretti	-	Mid and Upper Nithsdale
John Campbell	-	Nith
Linda Dorward	-	Lochar
Ivor Hyslop (Convener)	-	Lochar
Emma Jordan	-	North West Dumfries;
Tracey Little	-	Lochar

**VLAD VALIENTE**  
Clerk to the Licensing Board

## Nithsdale Divisional Licensing Board

Meeting of Thursday, 31st August, 2023  
at 9.30 am - This meeting will be held online

- |     |   |         |
|-----|---|---------|
| 1.  | <b>SEDERUNT, APOLOGIES AND CONVENER'S APPROVAL OF MEMBERS' REMOTE PARTICIPATION</b>   |         |
| 2.  | <b>DECLARATIONS OF INTEREST</b>   |         |
| 3.  | <b>MINUTE OF MEETING 11 MAY 2023</b>  | 5 - 20  |
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| 4.  | <b>MINUTE OF MEETING 19 MAY 2023</b>  | 21 - 24 |
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Next Meeting Date: Thursday, 16 November 2023

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**NITHSDALE DIVISIONAL LICENSING BOARD**

**Minute of Meeting of Thursday 11 May 2023 at 10.30am  
Remote Hearing**

**MEMBERS PRESENT**

Tony Berretti	-	Mid and Upper Nithsdale
John Campbell	-	Nith
Linda Dorward	-	Lochar
Ivor Hyslop (Convener)	-	Lochar
Emma Jordan	-	North West Dumfries;
Tracey Little	-	Lochar

**IN ATTENDANCE**

T/Sergeant Gregg Armstrong	-	Police Scotland
Emma Connelly	-	Licensing Standards Officer
Cheryl Syme	-	Senior Licensing Officer
Caroline Treanor	-	Solicitor

**VLAD VALIENTE**  
**Clerk to the Licensing Boards**

1. **SEDERUNT, APOLOGIES AND CONVENER'S APPROVAL OF MEMBERS' REMOTE PARTICIPATION**

6 Members present via MS Teams, the Convener approved Members' remote participation at the Hearing.

2. **DECLARATIONS OF INTEREST**

**NONE**

3. **MINUTE OF MEETING 23 FEBRUARY 2023**

Decision

**AGREED**

4. **LICENSING (SCOTLAND) ACT 2005: APPLICATIONS FOR OCCASIONAL LICENCES AND EXTENDED HOURS (GRANTED UNDER DELEGATED AUTHORITY) – REPORT BY THE CLERK TO THE BOARDS**

Decision

**NOTED** that the following Occasional Licences and Extended Hours had been granted under delegated powers during the period from **6 February 2023 until 2 May 2023**:

**Occasional Licences : Applied for by a Personal Licence Holder**

Total number issued      86

**Occasional Licences : Applied for by a Premises Licence Holder**

Total number issued      15

**Occasional Licences : Applied for by a Voluntary Organisation**

Total number issued      12

**Extended Hours**

Total number issued      3

5. **LICENSING (SCOTLAND) ACT 2005: APPLICATIONS FOR MINOR VARIATIONS (GRANTED UNDER DELEGATED AUTHORITY) – REPORT BY THE CLERK TO THE BOARDS**

Decision

**NOTED** that the applications in **Appendix 1** were granted under delegated authority

6. **LICENSING (SCOTLAND) ACT 2005: APPLICATIONS FOR TRANSFER OF PREMISES LICENCE (GRANTED UNDER DELEGATED AUTHORITY) – REPORT BY THE CLERK TO THE BOARDS**

**Decision**

**NOTED** that the applications in **Appendix 2** were granted under delegated authority

7. **LICENSING (SCOTLAND) ACT 2005: APPLICATION FOR VARIATION OF PREMISES LICENCE – SOUTHERNESS HOLIDAY VILLAGE – REPORT BY THE CLERK TO THE BOARD**

**Decision**

Having heard from the applicant's representatives, Police Scotland and the Licensing Standards Officer, the Board **AGREED** to **GRANT** the application as detailed in **Appendix 3**

8. **LICENSING (SCOTLAND) ACT 2005: APPLICATION FOR NEW PREMISES LICENCE – POLISH SHOP DINO, UNIT 11, LOREBURN SHOPPING CENTRE, DUMFRIES - REPORT BY THE CLERK TO THE BOARD**

**Decision**

Having heard from the applicant, Police Scotland and the Licensing Standards Officer, the Board **AGREED** to **GRANT** the application as detailed in **Appendix 4**

9. **LICENSING (SCOTLAND) ACT 2005: APPLICATION FOR VARIATION OF PREMISES LICENCE – SPAR CONVENIENCE STORE, 1 ROSEVALE STREET, DUMFRIES - REPORT BY THE CLERK TO THE BOARD**

**Decision**

Having heard from the applicant's agent, Police Scotland and the Licensing Standards Officer, the Board **AGREED** to **GRANT** the application as detailed in **Appendix 5**

10. **LICENSING (SCOTLAND) ACT 2005: APPLICATION FOR PROVISIONAL PREMISES LICENCE – MERCURE SUMFRIES, CARGENHOLM HOUSE HOTEL, CARGEHOLM LODGE, NEW ABBEY ROAD, DUMFRIES – REPORT BY THE CLERK TO THE BOARD**

**Decision**

Having heard from the applicant's agent, Police Scotland and the Licensing Standards Officer, the Board **AGREED** to **GRANT** the application as detailed in **Appendix 6**

11. **LICENSING (SCOTLAND) ACT 2005 – APPLICATION FOR VARIATION OF PREMISES LICENCE – CHANCERS NIGHTCLUB, DUMFRIES – DECISION ON TRIAL PERIOD - REPORT BY THE CLERK TO THE BOARDS**

## Decision

Having heard from the applicant's agent, Police Scotland and the Licensing Standards Officer, the Board **AGREED** to **GRANT** the extension of the terminal hour from 3am to 4am seven days per week as detailed in **Appendix 7**

## 12. **EQUALITY ACT 2010: THE EQUALITY ACT 2010 (SPECIFIC DUTIES) (SCOTLAND) REGULATIONS 2012 – LICENSING BOARDS MAINSTREAMING REPORT**

The Solicitor spoke to the terms of the report.

## Decision

**ADOPTED AND AGREED TO PUBLISH**

Appendix 1

**DUMFRIES AND GALLOWAY LICENSING BOARDS  
NITHSDALE DIVISIONAL LICENSING BOARD**

**THE LICENSING (SCOTLAND) ACT 2005 : SECTION 29  
APPLICATIONS FOR MINOR VARIATION OF PREMISES LICENCES  
GRANTED UNDER DELEGATED AUTHORITY**

<b><u>Application No. 1 – Ref L.2/054N</u></b>	
<b>Name &amp; Address of Applicant or Agent</b>	Enya Mcglinchey The Flat The Steamboat Inn Carsethorn Dumfries DG2 8DS
<b>Name &amp; Address of Premises</b>	The Steamboat Inn Carsethorn Dumfries DG2 8DS
<b>Nature of variation</b>	Change of Designated Premises Manager to Blazej Reczko
<b>Effective Date of Minor Variation</b>	3 March 2023

<b><u>Application No. 2 – Ref L.1/028N</u></b>	
<b>Name &amp; Address of Applicant or Agent</b>	Daniel Berhane Queensberry Hotel 12/18 English Street Dumfries DG1 2BT
<b>Name &amp; Address of Premises</b>	Queensberry Hotel 12/18 English Street Dumfries DG1 2BT
<b>Nature of variation</b>	Change of Designated Premises Manager to Robert Hume
<b>Effective Date of Minor Variation</b>	15 March 2023

# Agenda Item 3

PUBLIC

<b><u>Application No. 3 – Ref L.1/017N</u></b>	
<b>Name &amp; Address of Applicant or Agent</b>	Julian Richard Hurley The George Hotel High Street Moniaive DG3 4HN
<b>Name &amp; Address of Premises</b>	The George Hotel High Street Moniaive DG3 4HN
<b>Nature of variation</b>	Change of Designated Premises Name from 'The george Hotel and Glenwhisk Café & Bistro' to 'The George Hotel'
<b>Effective Date of Minor Variation</b>	19 April 2023

<b><u>Application No. 4 – Ref L.2/005N</u></b>	
<b>Name &amp; Address of Applicant or Agent</b>	Nithsdale Properties Linden lea Islesteps Dumfries DG2 8ES
<b>Name &amp; Address of Premises</b>	8/10 Nith Place Dumfries DG1 2PN
<b>Nature of variation</b>	Change of Designated Premises Manager to Kayleigh Greirson and change of premises name to 'Saltire'
<b>Effective Date of Minor Variation</b>	21 April 2023

<b><u>Application No. 5 – Ref L.6/075N</u></b>	
<b>Name &amp; Address of Applicant or Agent</b>	Alliance Property Holdings Ltd Hilmore House Gain Lane Bradford West Yorkshire BD3 7DL
<b>Name &amp; Address of Premises</b>	Morrisons Daily Troqueer Mount Troqueer Road Dumfries DG2 7DF
<b>Nature of variation</b>	Change of premises name and change to layout plan resulting in a reduction in capacity to 17.34m <sup>2</sup>
<b>Effective Date of Minor Variation</b>	27 April 2023

Appendix 2

**DUMFRIES AND GALLOWAY LICENSING BOARDS  
NITHSDALE DIVISIONAL LICENSING BOARD**

**THE LICENSING (SCOTLAND) ACT 2005  
APPLICATIONS FOR TRANSFER OF PREMISES LICENCES  
GRANTED UNDER DELEGATED POWERS**

<b><u>Application No 1. – Ref L.2/054N – SECTION 33</u></b>	
<b>Name &amp; Address of Applicant or Agent</b>	Steamboat Inn Limited c/o Farries Kirk and McVean Chartered Accountants Dumfries Enterprise Park Dumfries DG1 3SJ
<b>Name &amp; Address of Transferee or Agent</b>	The New Steamboat Limited The Steamboat Inn Carsethorn Dumfries DG2 8DS
<b>Name &amp; Address of Premises</b>	The Steamboat Inn Carsethorn Dumfries DG2 8DS
<b>Effective Date of Transfer</b>	8 March 2023

**Nithsdale Divisional Licensing Board**  
**Application for Variation of Premises Licence**

<b>Applicant/Agent</b>	Popleston Allen For Southernness Holiday Village Limited c/o Womble Bond Dickinson (UK) LLP 2 Semple Street Edinburgh EH3 8BL
<b>Address of Premises</b>	Southernness Holiday Village Sandy Lane Southernness Dumfries DG2 8AZ
<b>Nature of Variation</b>	<p><b><u>Operating Plan</u></b></p> <p>Under Question 5 further details regarding activities outwith core hours to be amended from:-</p> <p>“The premises will be open 9am-10am Monday to Sunday for breakfast in the Coast bar and kitchen and in connection with provision of or access to light entertainment, children’s clubs, training sessions, weddings, social occasions and amusement arcade.”</p> <p>To be amended to read:-</p> <p>“The premises will be open from 8am daily for the service of breakfast and in connection with the provision of or access to light entertainment, children’s clubs, training sessions and conferences, weddings, social occasions and amusement arcade.”</p>
<b>Last Date for Objections/Representations</b>	<b>Friday 10 March 2023</b>

Appendix 4

<b>Applicant/Agent</b>	Polish Shop Dino Ltd Loreburn Shopping Centre Unit 11 High Street Dumfries DG1 2BD
<b>Address of Premises</b>	Polish Shop Dino Loreburn Shopping Centre Unit 11 High Street Dumfries DG1 2BD
<b>Description</b>	Groceries shop with Polish food, soft drinks and alcohol for consumption off the premises only.
<b>Core Times</b>	<u>Off Sales</u>  Monday 10.00am – 8.00pm Tuesday 10.00am – 8.00pm Wednesday 10.00am – 8.00pm Thursday 10.00am – 8.00pm Friday 10.00am – 8.00pm Saturday 10.00am – 8.00pm Sunday 10.00am – 8.00pm
<b>Activities</b>	Recorded Music both within and outwith core hours  <b><u>Activities Outwith Core Hours</u></b>  Recorded Music in background, very quiet as a shop environment requires.
<b>Children and Young Persons</b>	N/A
<b>Capacity</b>	10.14m <sup>2</sup>
<b>Last Date for Objections/Representations</b>	Friday 17 March 2023

**Nithsdale Divisional Licensing Board**  
**Application for Variation of Premises Licence**

<b>Applicant/Agent</b>	TLT Solicitors For C J Lang & Son Limited 78 Longtown Road Dundee DD4 8JU
<b>Address of Premises</b>	Spar Convenience Store 1 Rosevale Street Dumfries DG1 2EP
<b>Nature of Variation</b>	<p><b><u>Operating Plan</u></b></p> <p>Q4) Remove reference to seasonal variations</p> <p>Q5) amend and add the following wording – The premises may open for general trade prior to the commencement of core hours. Recorded music may be played, such as Spar Radio to the commencement of core hours. This is background level only. National Lottery tickets/cards can be purchased prior to the core hours.</p> <p>Q5f) amend and add the following wording ‘The primary activity undertaken in the premises is the general retail sale of the following: Groceries; confectionery, bread and cakes, crisps/snacks, non-foods, toiletries, frozen and chilled foods, fruit/vegetables/flowers, news and magazines, toys, tobacco and cigarettes, beer/wines/spirits and other alcoholic products, non-alcoholic drinks. Charity collection point and charitable events take place. Food to Go. Click &amp; Collect. Home Deliveries. Paypoint payment. National Lottery outlet. External automated cash machine. Sampling and promotional activities.</p>
<b>Last Date for Objections/Representations</b>	<b>Friday 14 April 2023</b>

Appendix 6

<b>Applicant/Agent</b>	Burness Paull For Synergy Hotels (Glasgow) Limited 51-59 York Place Edinburgh EH1 3JD
<b>Address of Premises</b>	Mercure Dumfries Cargenholm House Hotel Cargenholm Lodge New Abbey Road Dumfries DG2 8ER
<b>Description</b>	The premises is a newly converted and refurbished two storey hotel in Dumfries with 62 bedrooms, 1 restaurant and 1 bar area.
<b>Core Times</b>	<p><u>On Sales</u></p> <p>Monday 11.00am – 12midnight  Tuesday 11.00am – 12midnight  Wednesday 11.00am – 12midnight  Thursday 11.00am – 12midnight  Friday 11.00am – 1.00am  Saturday 11.00am – 1.00am  Sunday 11.00am – 12midnight</p> <p><u>Off Sales</u></p> <p>Monday 10.00am – 10.00pm  Tuesday 10.00am – 10.00pm  Wednesday 10.00am – 10.00pm  Thursday 10.00am – 10.00pm  Friday 10.00am – 10.00pm  Saturday 10.00am – 10.00pm  Sunday 10.00am – 10.00pm</p>
<b>Activities</b>	<p>Conference Facilities, Receptions, Club and Other Group Meetings, Recorded Music, Live Performances and Outdoor Drinking facilities within core hours</p> <p>Restaurant Facilities, Bar Meals and televised Sport both within and outwith core hours</p> <p>Outwith Core Hours information – Breakfast will be served</p>

	<p>in the bar lounge and restaurant area prior to the core licensed hours. Televised Sport may be shown outwith core hours if particular sporting events are on outwith the core licensed hours.</p> <p>Seasonal Variations – Extended hours over the festive period and any other key dates in accordance with the Board’s policy.</p>
<p><b>Children and Young Persons</b></p>	<p>TERMS – Children and Young Persons that are residents in the hotel will be allowed entry to the hotel rooms and all other areas of the premises that are not staff only areas when accompanied by a responsible adult. Children and Young Persons that are not residents of the hotel will be allowed entry to the bar lounge and restaurant areas coloured pink on the layout plan and the outdoor area coloured blue on the layout plan when accompanied by a responsible adult.</p> <p>AGES – Children aged 0-15 years will be allowed entry to the premises, at the premises managers discretion. Young Persons aged 16-17 years will be allowed entry to the premises, at the premises managers discretion.</p> <p>TIMES – Children and Young Persons (resident and non-resident) will be allowed entry to the bar lounge and restaurant areas coloured pink on the layout plan and the outdoor area coloured blue on the layout plan until 10pm when accompanied by a responsible adult.</p> <p>Where there is a bona fide function/organised event to which Children and Young Persons (resident and non-resident) are invited and its terminal hour is later than 10pm, then Children and Young Persons (resident or non-resident), when accompanied by a responsible adult, may vacate the premises at the later terminal hour for the purposes of the function/event only at the designated premises manager’s discretion.</p> <p>Children and Young Persons that are residents of the hotel are allowed entry to all other areas of the premises that are not staff only areas or the areas coloured pink and blue on the layout plan at all times when accompanied by a responsible adult.</p> <p>PARTS – Children and Young Persons that are residents of the hotel will be allowed entry to the hotel rooms and all other areas of the premises that are not staff only areas. Children and Young Persons that are not residents of the hotel will be allowed entry to the bar lounge and restaurant areas coloured pink on the layout plan and the outdoor area coloured blue on the layout plan.</p>

<b>Capacity</b>	248  Breakdown – Bedrooms – 130 Restaurant, Reception Lounge, Bar Lounge Area (coloured pink on the layout plans) – 98 Outdoor Terrace Area (coloured blue on the layout plan) – 20
<b>Last Date for Objections/Representations</b>	Friday 10 March 2023

<p><b>Applicant/Agent</b></p>	<p>Hill Brown Licensing The Forsyth Building 5 Renfield Street Glasgow G2 5EZ</p>
<p><b>Address of Premises</b></p>	<p>Chancers Nightclub 25 Munches Street Dumfries DG1 1ET</p>
<p><b>Nature of Variation</b></p>	<p><b><u>Conditions</u></b></p> <p><del>To amend the Specific Condition “Music not to start until 6pm” to “Music not to start until 12 noon”</del></p> <p><b><u>Operating Plan</u></b></p> <p><del>At Q1, amend part a) to NO and amend part c) to YES for alcohol to be sold both ON and OFF the premises.</del></p> <p><del>At Q2, amend the on-sales terminal hour from 3am to 4am, 7 days a week</del></p> <p><del>At Q3, amend the off-sales hours from N/A to 10am-10pm, 7 days a week</del></p> <p><del>At Q3, amend the Notes section at the end as follows: 5(c) to include theatre and 5(f) to include beer festivals, community events, craft fairs or similar events.</del></p> <p><del>At Q5c, include Theatre as YYY</del></p> <p><del>At the end of Q5 Further Details Box, add the following statement: Activities listed above may take place outwith the core licensed hours.</del></p> <p><del>At the end of Q5 Further Details Box, move the current wording to Q5(f) Any Other Activities.</del></p> <p><del>At Q5(f) Any Other Activities, include the following statements: The premises may hold beer festivals, community events, craft fairs or similar events. Activities listed above may take place outwith the core licensed hours including but not limited to music and food at the events listed at 5(f) but only with the sale of alcohol is authorised.</del></p> <p><del>At Q6(b) to amend the Terms to include events.</del></p> <p><del>At Q6c to amend the Ages to include events</del></p>

	<p>At Q6(d) to amend the Times to include events</p> <p>At Q6e to amend the Parts to include events</p> <p><b><u>Layout Plan</u></b></p> <p>Reconfiguration of basement (previously Lower Ground Floor) layout. The office is now a VIP seating area. Escape routes now included on plan. Plan no: 519.12</p> <p>Reconfiguration of ground floor layout. Staff toilet is now Accessible WC. Reconfiguration of fixed seating areas. Awnings to front of premises. Fire escape and stairs now included in plan. Plan no: 519.13</p> <p>Reconfiguration of Upper Ground Floor (previously Balcony) fixed seating areas. Stairway leading to area now included in plan. Plan no: 519.14</p> <p>Block &amp; Location Plan. Plan no: 519.07</p> <p><b><u>Variation to any other information contained or referred to in the licence</u></b></p> <p>To amend the description as follows: Chancers Night Club, 25 Munches St, Dumfries situated in 2 storey building with basement in the commercial centre of Dumfries. Premises comprising basement, ground floor and upper ground floor. Bar areas, dance floors and balcony as shown on the accompanying plans.</p>
<b>Last Date for Objections/Representations</b>	<b>Friday 17 June 2022</b>

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**NITHSDALE DIVISIONAL LICENSING BOARD**

**Minute of Meeting of Friday 19 May 2023 at 2.00pm  
Remote Hearing**

**MEMBERS PRESENT**

Tony Berretti	-	Mid and Upper Nithsdale
John Campbell	-	Nith
Linda Dorward	-	Lochar
Ivor Hyslop (Convener)	-	Lochar
Emma Jordan	-	North West Dumfries;

**APOLOGIES**

Tracey Little	-	Lochar
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**IN ATTENDANCE**

T/Sergeant Gregg Armstrong	-	Police Scotland
Julia Farroll	-	Licensing Standards Officer
Cheryl Syme	-	Senior Licensing Officer
Caroline Treanor	-	Solicitor

**VLAD VALIENTE**  
**Clerk to the Licensing Boards**

1. **SEDERUNT, APOLOGIES AND CONVENER'S APPROVAL OF MEMBERS' REMOTE PARTICIPATION**

5 Members present via MS Teams, the Convener approved Members' remote participation at the Hearing. Members Agreed to hear Item 4 first as requested by the applicant's agent.

2. **DECLARATIONS OF INTEREST**

**NONE**

3. **LICENSING (SCOTLAND) ACT 2005: PREMISES LICENCE REVIEW, THE RIVERSIDE BAR, DOCK PARK, DUMFRIES – Report by the Clerk to the Boards**

**Decision**

Having heard from the applicant, the Licence Holder's agent, Police, Licensing Standards Officer and Environmental Health Officer the Board **AGREED** that there were no grounds for review

4. **LICENSING (SCOTLAND) ACT 2005: WHITEHART, DUMFRIES – REVIEW OF THE EXTENSION OF 2AM-3AM Fri & SAT (TRIAL PERIOD FROM 25 NOVEMBER 2022 UNTIL 25 MAY 2023) – Report by the Clerk to the Boards**

**Decision**

Having heard from the applicant's agent, Police Scotland and the Licensing Standards Officer, the Board **AGREED** to **GRANT** the remaining part of the original application, shown in **Appendix 1** which had been under a trial period subject to the following conditions:

- The variation is granted for a six month trial period only until the Licensing Board holds a Hearing in or around March 2021;
- A personal licence holder must be present on the premises until 3am Fridays and Saturdays;
- Drugs Policy the licence holder must have in place and enforce the Drugs Policy formulated by Police Scotland and attached hereto and display a Notice to the effect that such a drugs policy is in operation;
- A refusals register must be maintained including a daily incidents log and said register must be made available for inspection by Police Scotland and/or a Licensing Standards Officer upon request.

APPENDIX 1

**Nithsdale Divisional Licensing Board**  
**Application for Variation of Premises Licence**

<b>Applicant/Agent</b>	Susan Jane McMillan Per TLT LLP 140 West George Street Glasgow G2 2HG
<b>Address of Premises</b>	White Hart Hotel 38 Brewery Street Dumfries DG1 2RP
<b>Nature of Variation</b>	<p><b><u>Change to layout plan</u></b>  Amended layout plan to show Children and Young Persons' access.</p> <p><b><u>Operating Plan</u></b></p> <ul style="list-style-type: none"> <li>• amending terminal hour from 2am to 3am on Friday and Saturday</li> <li>• <del>permit restaurant facilities, bar meals, receptions and club or other group meetings within and outwith core hours</del></li> <li>• <del>permit dance facilities and indoor/outdoor sports within core hours</del></li> <li>• <del>accommodation, snacks and breakfast available to hotel guests outwith core hours</del></li> <li>• <del>receptions such as wedding breakfasts or funeral purveys may take place prior to core hours</del></li> <li>• <del>club or group meetings may take place prior to core hours</del></li> </ul> <p><b><u>Children and Young Persons</u></b></p> <ul style="list-style-type: none"> <li>• <del>amendment of access re: children and young persons to allow children or young persons entry:-</del>  (i) when alcohol is being sold for consumption on the premises  (ii) when resident and accompanied by an adult</li> <li>• <del>all ages to be allowed entry</del></li> <li>• <del>resident children and young persons are permitted on the premises 24hrs; however, are only permitted in public parts for the duration of a meal they are consuming, and no later than 9pm</del></li> <li>• children and young persons are allowed entry to all public parts including accommodation areas</li> </ul>
<b>Last Date for Objections/Representations</b>	<b>Tuesday 1 September 2020</b>

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**DUMFRIES AND GALLOWAY LICENSING BOARDS  
NITHSDALE DIVISIONAL LICENSING BOARD**

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**THE LICENSING (SCOTLAND) ACT 2005 SECTION 56 AND 68  
APPLICATIONS FOR OCCASIONAL LICENCES AND EXTENDED HOURS  
GRANTED UNDER DELEGATED AUTHORITY**

For the information of the Licensing Board, during the period from 3 May 2023 until 8 August 2023 the following Occasional Licences and Extended Hours were granted:

**Occasional Licences : Applied for by a Personal Licence Holder**

Total number issued 45

**Occasional Licences : Applied for by a Premises Licence Holder**

Total number issued 23

**Occasional Licences : Applied for by a Voluntary Organisation**

Total number issued 25

**Extended Hours**

Total number issued 5

Cheryl Syme  
Senior Licensing Officer (Board Services)  
Licensing  
Ext: 63353

Vlad Valiente  
Clerk to the Licensing Boards  
Kirkbank House  
English Street  
Dumfries

Date of Report: 23 August 2023

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**DUMFRIES AND GALLOWAY LICENSING BOARDS  
NITHSDALE DIVISIONAL LICENSING BOARD**

**THE LICENSING (SCOTLAND) ACT 2005 : SECTION 29  
APPLICATIONS FOR MINOR VARIATION OF PREMISES LICENCES  
GRANTED UNDER DELEGATED AUTHORITY**

<b><u>Application No. 1 – Ref L.6/106N</u></b>	
<b>Name &amp; Address of Applicant or Agent</b>	Farhat Tabassum Ahmad Cronberry Schoolhouse Cronberry Cumnock KA18 3LP
<b>Name &amp; Address of Premises</b>	Premier Store 24-26 Main Street Kirkconnel DG4 6NF
<b>Nature of variation</b>	Change to layout plan, no change to capacity
<b>Effective Date of Minor Variation</b>	16 May 2023

<b><u>Application No. 2 – Ref L.2/010N</u></b>	
<b>Name &amp; Address of Applicant or Agent</b>	Young & Partners Business Lawyers 1 George Square Castle Brae Dunfermline KY11 8QF
<b>Name &amp; Address of Premises</b>	The Crown Inn 58 High Street Sanquhar DG4 6BL
<b>Nature of variation</b>	Change of Designated Premises Manager to Elizabeth Clark
<b>Effective Date of Minor Variation</b>	18 May 2023

<b><u>Application No. 3 – Ref L.2/072N</u></b>	
<b>Name &amp; Address of Applicant or Agent</b>	Craig Patterson 2 The Grove Heathhall Dumfries DG1 1TN
<b>Name &amp; Address of Premises</b>	The Clubhouse Bar Bankend Road Dumfries DG1 4TH
<b>Nature of variation</b>	Change of Designated Premises Manager to Craig Patterson
<b>Effective Date of Minor Variation</b>	22 May 2023

<b><u>Application No. 4 – Ref L.2/068N</u></b>	
<b>Name &amp; Address of Applicant or Agent</b>	Southerness Holiday Village Limited c/o Womble Bond Dickison (UK) LLP 2 Semple Street Edinburgh EH3 8BL
<b>Name &amp; Address of Premises</b>	Southerness Holiday Village Southerness Dumfries DG2 8AZ
<b>Nature of variation</b>	Change of Designated Premises Manager to Darren Gray
<b>Effective Date of Minor Variation</b>	30 May 2023

<b><u>Application No. 5 – Ref L.2/013N</u></b>	
<b>Name &amp; Address of Applicant or Agent</b>	Bar Elle Ltd 53 Kirkland Street St Johns Town of Dalry DG7 3UX
<b>Name &amp; Address of Premises</b>	Dickie's Bar 48 English Street Dumfries DG1 2BY
<b>Nature of variation</b>	Change of Designated Premises Manager to Julie Clanahan
<b>Effective Date of Minor Variation</b>	1 June 2023

<b><u>Application No. 6 – Ref L.2/047N</u></b>	
<b>Name &amp; Address of</b>	Mr Thomas Neeson

<b>Applicant or Agent</b>	21 Cassalands Dumfries DG2 7NT
<b>Name &amp; Address of Premises</b>	Salutation Inn Market Square Dumfries DG2 7AA
<b>Nature of variation</b>	Change of Designated Premises Manager to Anthony Crolla
<b>Effective Date of Minor Variation</b>	6 June 2023

<b><u>Application No. 7 – Ref L.6/112N</u></b>	
<b>Name &amp; Address of Applicant or Agent</b>	Dynamic Retail Limited 1598 Dumbarton Road Glasgow G14 9DR
<b>Name &amp; Address of Premises</b>	Scot Fresh Unit 1 78 Glasgow Street Dumfries DG2 9AQ
<b>Nature of variation</b>	Change of Designated Premises Manager to Kelly Beaully
<b>Effective Date of Minor Variation</b>	23 June 2023

<b><u>Application No. 8 – Ref L.2/038N</u></b>	
<b>Name &amp; Address of Applicant or Agent</b>	Hawthorn Leisure Scotco Limited One St Peter's Square Manchester M2 3DE
<b>Name &amp; Address of Premises</b>	Glenpark Carrick Road Lochside Dumfries DG2 9PR
<b>Nature of variation</b>	Change of Designated Premises Manager to Kathryn Halliday and change of premises name to 'Lochside Tavern'
<b>Effective Date of Minor Variation</b>	30 June 2023

Cheryl Syme  
Senior Licensing Officer (Board Services)  
Licensing  
Ext: 63353

Vlad Valiente  
Clerk to the Licensing Boards  
Kirkbank House  
English Street  
Dumfries

# Agenda Item 6

PUBLIC

Date of Report: 23 August 2023

**DUMFRIES AND GALLOWAY LICENSING BOARDS  
NITHSDALE DIVISIONAL LICENSING BOARD**

**THE LICENSING (SCOTLAND) ACT 2005  
APPLICATIONS FOR TRANSFER OF PREMISES LICENCES  
GRANTED UNDER DELEGATED POWERS**

<b><u>Application No 1. – Ref L.6/106N – SECTION 33</u></b>	
<b>Name &amp; Address of Applicant or Agent</b>	Farhat Tabassum Ahmad Cronberry Schoolhouse Cronberry Cumnock KA18 3LP
<b>Name &amp; Address of Transferee or Agent</b>	Muhammad Farhan Rana 9 Dunnotar Drive Kilmarnock KA1 2RZ
<b>Name &amp; Address of Premises</b>	Premier Store 24-26 Main Street Kirkconnel DG4 6NF
<b>Effective Date of Transfer</b>	16 May 2023

<b><u>Application No 2. – Ref L.2/010N – SECTION 33</u></b>	
<b>Name &amp; Address of Applicant or Agent</b>	Young & Partners Business Lawyers 1 George Square Castle Brae Dunfermline KY11 8QF
<b>Name &amp; Address of Transferee or Agent</b>	Elizabeth Clark 60 High Street Sanquhar DG4 6BL
<b>Name &amp; Address of Premises</b>	The Crown Inn 58 High Street Sanquhar DG4 6BL
<b>Effective Date of Transfer</b>	24 May 2023

<b><u>Application No 3. – Ref L.2/013N – SECTION 33</u></b>	
<b>Name &amp; Address of Applicant or Agent</b>	Mark Robertson Ladypark View Lockerbie Road Dumfries DG1 3PF
<b>Name &amp; Address of Transferee or Agent</b>	Bar Elle Ltd 53 Kirkland Street St Johns Town of Dalry DG7 3UX
<b>Name &amp; Address of Premises</b>	Dickie's Bar 48 English Street Dumfries DG1 2BY
<b>Effective Date of Transfer</b>	1 June 2023

Cheryl Syme  
Senior Licensing Officer (Board Services)  
Licensing  
Ext: 63353

Vlad Valiente  
Clerk to the Licensing Boards  
Kirkbank House  
English Street  
Dumfries

Date of Report: 23 August 2023

**DUMFRIES AND GALLOWAY LICENSING BOARDS  
NITHSDALE DIVISIONAL LICENSING BOARD**

**THE LICENSING (SCOTLAND) ACT 2005 : SECTION 28(6)  
SURRENDER OF PREMISES LICENCES**

<b><u>No. 1 – Ref L.4/001N</u></b>	
<b>Name &amp; Address of Licence Holder</b>	Buzz Holdings Limited Unit 1 Castle Marina Road Nottingham England NG7 1TN
<b>Name &amp; Address of Premises</b>	Buzz Bingo Shakespeare Street Dumfries DG1 2JJ
<b>Date Licence Surrendered</b>	10 May 2023

<b><u>No. 2 – Ref L.6/097N</u></b>	
<b>Name &amp; Address of Licence Holder</b>	St Michael's Services Limited St Michaels Services Station 9 St Michaels Street Dumfries DG2 1QD
<b>Name &amp; Address of Premises</b>	St Michaels Services Limited 9 St Michael Street Dumfries DG2 1QD
<b>Date Licence Surrendered</b>	6 July 2023

Cheryl Syme  
Senior Licensing Officer (Board Services)  
Licensing  
Ext: 63353

Vlad Valiente  
Clerk to the Licensing Boards  
Kirkbank House  
English Street  
Dumfries

Date of Report: 23 August 2023

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**DUMFRIES AND GALLOWAY LICENSING BOARDS  
NITHSDALE DIVISIONAL LICENSING BOARD**

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**THE GAMBLING ACT 2005  
SURRENDER OF PREMISES LICENCES**

<b><u>No. 1 – Ref L.11/001N – Betting Premises Licence</u></b>	
<b>Name &amp; Address of Licence Holder</b>	Buzz Holdings Limited Unit 1 Castle Marina Road Nottingham England NG7 1TN
<b>Name &amp; Address of Premises</b>	Buzz Bingo Shakespeare Street Dumfries DG1 2JJ
<b>Date Licence Surrendered</b>	10 May 2023

Cheryl Syme  
Senior Licensing Officer (Board Services)  
Licensing  
Ext: 63353

Vlad Valiente  
Clerk to the Licensing Boards  
Kirkbank House  
English Street  
Dumfries

Date of Report: 23 August 2023

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**DUMFRIES AND GALLOWAY LICENSING BOARDS  
NITHSDALE DIVISIONAL LICENSING BOARD**

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**THE LICENSING (SCOTLAND) ACT 2005 : SECTION 46  
APPLICATION FOR CONFIRMATION OF PROVISIONAL PREMISES LICENCE  
GRANTED UNDER DELEGATED POWERS**

<b>Application No 1. – Ref L..6/116N</b>	
<b>Name &amp; Address of Applicant or Agent</b>	St Michael's Services Limited St Michael's Service Station 9 St Michael Street Dumfries DG2 1QD
<b>Name &amp; Address of Premises</b>	St Michael's Service Station 9 St Michael Street Dumfries DG2 1QD
<b>Date of Grant of Provisional Licence</b>	22 November 2022
<b>Effective Date of Confirmation</b>	14 July 2023

Cheryl Syme  
Senior Licensing Officer (Board Services)  
Licensing  
Ext: 63353

Vlad Valiente  
Clerk to the Licensing Boards  
Kirkbank House  
English Street  
Dumfries

Date of Report: 23 August 2023

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**DUMFRIES AND GALLOWAY LICENSING BOARDS  
NITHSDALE DIVISIONAL LICENSING BOARD**

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**LICENSING (SCOTLAND) ACT 2005 (2005 Act): SECTION 45**

**APPLICATION: PROVISIONAL PREMISES LICENCE**

**APPLICANT: ICELAND FOODS LIMITED, SECOND AVENUE, DEESIDE INDUSTRIAL PARK, DEESIDE, FLINTSHIRE**

**PREMISES TO BE LICENSED: FOOD WAREHOUSE, UNIT 3 CUCKOO BRIDGE RETAIL PARK, DUMFRIES**

**1. Reason for Report**

1.1 As this is an application for a provisional premises licence, the Board must in law hold a Hearing.

1.2 Members are asked to consider the application received 22 May 2023 and detailed at **Appendix 1** to this report.

**2. Background**

2.1 As is required by law, a copy of the application was sent to:

- Police Scotland
- The Local Authority
- Scottish Fire and Rescue Service (SFRS)
- NHS Dumfries & Galloway
- Community Council (Disestablished)
- Neighbours: Persons having notifiable interest in neighbouring land (within 4 metres in any direction of any boundary of the premises).

2.2 Both Section 50(5) Provisional Planning Certificate and Disabled Access and Facilities Statement have been received.

2.3 In accordance with statutory advertising requirements, the Board is required to display a notice on its website for a period of 21 days and the applicant is also required to display a site notice at or near the premises and in a place and height where it can conveniently be read by the public for the same period.

2.4 Notice of the application was published on the Board's webpage from **Friday 2 June 2023 to Saturday 24 June 2023**.

2.5 Signed Confirmation of Site Notice has been received.

**3. Objections and Representations**

3.1 The last date for objections/representations was **Friday 23 June 2023**.

3.2 No Objections have been received

**4. Responses**

The following responses have been received:

- LSO Report – no adverse comments (**Appendix 2**)
- Police Scotland – clear report

- Planning – No planning issues
- Building Standards – no adverse comments
- Environmental Health – no objections
- SFRS – no comments

## 5. Determination of the Application

5.1 As democratically elected individuals, ultimate decision making power rests with elected Members and not Council Officers. Whilst Officers can give advice, they cannot clearly make decisions at Hearings. Ultimately, the Board must come to a lawful decision and take into account the following:

5.2 The key consideration in reaching a decision is to determine whether or not a ground of refusal applies.

- (i) If no ground of refusal applies, then the Board must GRANT the application.
- (ii) If any ground of refusal applies, the Board must REFUSE the application

5.3 In terms of section 23 (5) the grounds for refusal are:-

- The premises are excluded premises
- The application must be refused under
  - Section 25(2) (where the Board has refused a premises licence and this is a subsequent application received within 12 months of the refusal)
  - Section 64(2) (where the application is for 24 hour operation and exceptional circumstances have not been shown to justify that operation)
  - Section 65(3) (the application relates to off sales outwith 10am to 10pm)
- That the Licensing Board considers, having regard to the licensing objectives, that the applicant is not a fit and proper person to be the holder of a premises licence;
- The Licensing Board considers that the granting of the application would be inconsistent with one or more of the licensing objectives, namely: (preventing crime and disorder/securing public safety/preventing public nuisance/protecting and improving public health/protecting children and young persons from harm);
- That having regard to:-
  - i) The nature of the activities proposed to be carried on in the premises
  - ii) the location, character and condition of the premises; and
  - iii) the persons likely to frequent the premisesthe Board considers that the premises are unsuitable for use for the sale of alcohol
- The Board considers that, if the application were to be granted, there would, as a result, be overprovision of licensed premises in the locality.

## 6. Recommendation

Members are asked to either GRANT or REFUSE the application.

Vlad Valiente  
Clerk to the Licensing Boards  
Kirkbank House  
English Street  
Dumfries

23 August 2023

**Appendix**

<b>Applicant/Agent</b>	Iceland Foods Limited Second Avenue Deeside Industrial Park Deeside Flintshire CH5 2NW
<b>Address of Premises</b>	Food Warehouse Unit 3 Cuckoo Bridge Retail Park Dumfries DG2 9BF
<b>Description</b>	A retail supermarket type premises providing customers with a wide range of foodstuffs, goods and other services including the sale of alcoholic products for consumption off the premises.
<b>Core Times</b>	<b><u>Off Sales</u></b>  Monday 10.00am – 10.00pm Tuesday 10.00am – 10.00pm Wednesday 10.00am – 10.00pm Thursday 10.00am – 10.00pm Friday 10.00am – 10.00pm Saturday 10.00am – 10.00pm Sunday 10.00am – 10.00pm
<b>Activities</b>	Recorded Music both within and outwith core hours.  Recorded Music is to be provided throughout the premises, such music shall be provided at all times the premises is open to the public and whilst store staff are working within the premises. The music shall only be played internally so as to avoid disruption to our neighbours.  <b><u>Any other Activities</u></b>  Sale of groceries, including fresh and frozen foods and other non-food items to be provided both in and outwith the core hours. The sale of alcohol by retail for consumption off the premises is ancillary to the sale of groceries and other non-food items. The above shall include deliveries made using our home delivery and ecommerce services, subject

	to compliance with Sections 119 & 120 Licensing (Scotland) Act 2005. The premises will also on occasion be used to launch new products, have product sampling and food tasting events and host friends and family evenings.
<b>Children and Young Persons</b>	N/A
<b>Capacity</b>	35.2m <sup>2</sup>
<b>Last Date for Objections/Representations</b>	Friday 23 June 2023

**DUMFRIES & GALLOWAY LICENSING BOARDS  
LICENSING STANDARDS OFFICER REPORT**

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**LICENSING (SCOTLAND) ACT 2005:  
APPLICATION FOR PROVISIONAL PREMISES LICENCE,  
PREMISES: FOOD WAREHOUSE, UNIT 3, CUCKOO BRIDGE RETAIL  
PARK, DUMFRIES, DG2 9BF**

1. This application has been submitted by Iceland Foods Limited, Second Avenue, Deeside Industrial Park, Deeside, Flintshire, CH5 2NW in respect of the premises Food Warehouse, Unit 3, Cuckoo Bridge Retail Park, Dumfries, DG2 9BF seeking a provisional premises licence.
2. The premises is located approximately one and a half miles from the town centre and sits within a retail park with other commercial premises. The building itself is currently being converted and renovated.
3. The application seeks off sales only between 10am and 10pm Monday to Sunday.
4. The premises intend to provide recorded music during the times open to the public and also whilst store staff are working within the premises. This music is to only be played internally to avoid disruption to any neighbours.
5. Other activities are to include the sale of groceries, including fresh and frozen foods, and other non-food items are to be available both within and outwith core licensing hours. The off sale of alcohol is to be ancillary to the sale of groceries and other non-food items.
6. Deliveries are also to be conducted from the premises using home delivery and ecommerce services.
7. It is intended that the premises will also be used, on occasions, to launch new products, have product sampling and food tasting events alongside hosting friends and family evenings.
8. The application seeks a total 'off-sales' capacity of 35.2m<sup>2</sup> and in comparison, the overall size and layout of the premises, the display area is not deemed excessive.
9. The application was advertised on the Board's website page from Friday 2<sup>nd</sup> June 2023, simultaneously a notice was displayed at the premises.  
  
The notice was checked on Monday 26<sup>th</sup> June 2023 during which time it was found to be correctly displayed.
10. The application has been submitted in keeping with Nithsdale Divisional Licensing Board policy.

11. There are no adverse comments to be made in respect of this application.

*Emma Connelly*  
Licensing Standards Officer

6<sup>th</sup> July 2023

**DUMFRIES AND GALLOWAY LICENSING BOARDS  
NITHSDALE DIVISIONAL LICENSING BOARD**

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**LICENSING (SCOTLAND) ACT 2005: SECTION 30**

**APPLICATION: MAJOR VARIATION**

**PREMISES: SHELL COLLIN, ANNAN ROAD, DUMFRIES**

**PREMISES LICENCE HOLDER: SHELL UK OIL PRODUCTS LIMITED, SHELL CENTRE, LONDON**

**1. Reason for Report**

1.1 As this is a major variation application, the Board is statutorily obliged to hold a Hearing.

1.2 Members are asked to consider the application received 7 July 2023 and detailed in **Appendix 1** to this report.

**2. Background**

2.1 As is required by law, a copy of the application was sent to:

- Police Scotland
- The Local Authority
- Scottish Fire and Rescue Service (SFRS)
- Local Community Council
- NHS Dumfries and Galloway
- There was no neighbour notification as there are no persons having notifiable interest in neighbouring land (within 4 metres in any direction of any boundary of the premises).

2.2 In terms of the law, the Board is obliged to advertise notice of the application on its website for a continuous period of 21 days. The dates of display were **Friday 21 July 2023 to Saturday 12 August 2023**.

2.3 The applicant is also obliged to display a site notice of A4 size at or near the premises in a place and at a height where the notice can conveniently be read by the public on the same dates as the Board's notice.

2.4 On expiry of the 21 day advertising period the applicant must submit to the Board signed Confirmation of Site Notice before the Board may determine the application.

2.5 Signed Confirmation of Site Notice has been received.

**3. Objections and Representations**

3.1 The last date for objections/representations was **Friday 11 August 2023**.

3.2 No Objections have been received

**4. Responses**

- LSO report: no adverse comments (**Appendix 2**)
- Police Scotland: no adverse comments
- Planning: no planning issues
- Building Standards: no adverse comments
- SFRS: no comments

**5. Determining the application**

5.1 As democratically elected individuals, ultimate decision making power rests with elected Members and not Council Officers. Whilst Officers can give advice, they cannot clearly make decisions at Hearings. Ultimately, the Board must come to a lawful decision taking into account the following:

5.2 The Board must consider whether any of the grounds for refusal apply and

- (i) If NO ground of refusal applies, the Board must GRANT the application
- (ii) If ANY ground of refusal applies, the Board must REFUSE the application.

5.3 **The section 30(5) grounds for refusal are:-**

- The application must be refused under
  - Section 32(2) (where the Board has refused a premises licence variation application in respect of the same premises and seeking the same variation and this is a subsequent application received within 12 months of the refusal)
  - Section 64(2) (where the application is for 24 hour operation and exceptional circumstances justifying the sale of a 24 hour operation have not been proven)
  - Section 65(3) (the application is for off sales outwith 10am to 10pm)

- Licensing Objectives ground of refusal

The Licensing Board considers that the granting of the application would be inconsistent with one or more of the licensing objectives (preventing crime and disorder/securing public safety/preventing public nuisance/protecting and improving public health/protecting children and young persons from harm)

- Unsuitability of the premises

That having regard to:-

- a) the nature of the activities proposed to be carried on in the premises
- b) the location, character and condition of the premises; and
- c) the persons likely to frequent the premises

the Board considers that the premises are unsuitable for use for the sale of alcohol in accordance with the proposed variation.

- Overprovision

That the Board considers that, if the application were to be granted, there would, as a result, be overprovision of licensed premises, or licensed premises of the same or similar description as the subject premises (taking account of the variation), in the locality.

## 6. Recommendation

Members are asked to either GRANT or REFUSE the application.

Vlad Valiente  
Clerk to the Licensing Boards  
Kirkbank House  
English Street  
Dumfries

23 August 2023

**Nithsdale Divisional Licensing Board**  
**Application for Variation of Premises Licence**

<b>Applicant/Agent</b>	Lockett & Co For Shell UK Oil Products Limited Shell Centre London SE1 7NA
<b>Address of Premises</b>	Shell Collin Annan Road Dumfries DG1 3SE
<b>Nature of Variation</b>	<p><b><u>Operating Plan</u></b></p> <p>Increase off-sales capacity from 4.248m<sup>2</sup> to 5.4m<sup>2</sup>.</p> <p><b><u>Layout Plan</u></b></p> <p>Changes to layout plan to include an increase in the spirits area located behind the counter (inaccessible). This has increased the whole capacity to 5.4m<sup>2</sup>.</p>
<b>Last Date for Objections/Representations</b>	<b>Friday 11 August 2023</b>

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**DUMFRIES & GALLOWAY LICENSING BOARDS  
LICENSING STANDARDS OFFICER REPORT**

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**LICENSING (SCOTLAND) ACT 2005 :  
APPLICATION FOR VARIATION OF PREMISES LICENCE  
PREMISES: SHELL COLLIN DG1 3SE  
APPLICANT: SHELL UK OIL PRODUCTS LIMITED**

1. This is a convenience store on a petrol station forecourt. A Premises Licence has been in force since July 2017.
2. The variation application is in respect of an Increase in off-sales capacity from 4.248m<sup>2</sup> to 5.4m<sup>2</sup> and the resultant change to the layout plan to the spirits area located behind the counter.
3. The application was advertised on the Board's website page from 21 July 2023, simultaneously a notice must be displayed at the premises.
  - 3.1 The Notice was checked on 22 July 2023 at which time it was noted several notices were prominently displayed. One within the store, one in the external window at the side of the store and one on each of the pumps.
4. I have no adverse comments to make.

*Julia Farroll*  
Licensing Standards Officer

24 July 2023

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**DUMFRIES AND GALLOWAY LICENSING BOARDS  
NITHSDALE DIVISIONAL LICENSING BOARD**

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**LICENSING (SCOTLAND) ACT 2005 (THE ACT): SECTION 83(7A)  
PERSONAL LICENCE HOLDER: CALLAN MALONEY**

**1. Reason for Report**

To ask the Board to consider, in terms of its powers under section 83(7A) to the Act, whether it wishes to take no further action or hold a Hearing following receipt of a notice from the Chief Constable in respect of personal licence holder Callan Maloney.

**2. Background**

2.1 It will be recalled that a Personal Licence issued by a Licensing Board authorises the licence holder to supervise or authorise the sale of alcohol.

2.2 On 15 June 2023, the Chief Constable, in terms of his power under section 83(4)(b) to the Act, submitted to the Board a notice advising that Callan Maloney has been convicted of a relevant offence (**Appendix**).

2.3 When the Board receives from the Chief Constable a section 83(4)(b) notice which does not include a section 83(5) recommendation (no such recommendation is contained within the police notice in this instance), then the Board has two options in law. It must either:

- (a) hold a hearing, or
- (b) decide to take no further action in relation to the conviction.

2.4 If the Board holds a hearing, then it *may*:

- (a) having regard to the conviction and
- (b) after giving the licence holder concerned, and the Chief Constable an opportunity to be heard, and
- (c) if satisfied that it is necessary to do so for the purposes of any of the licensing objectives, make an order:

- revoking the licence;
- suspending the licence for a maximum 6 month period as the Board considers appropriate or
- endorsing the licence.

2.5 It is also open to the Board to take no further action.

2.6 Where, at the hearing, the Licensing Board are satisfied that, having regard to the licensing objectives, the licence holder is not a fit and proper person to be the holder of a personal licence, the Board must make an order revoking the licence.

### **3. Recommendations**

3.1 Members are asked to decide whether they wish to:

3.2 revoke the licence

3.3 suspend it

3.4 endorse the licence or

3.5 take no further action and

3.6 note that if a determination is made that the licence holder is not a fit and proper person to be the holder of a licence then they must, in law, revoke the licence.

Vlad Valiente  
Clerk to the Licensing Boards  
Kirkbank House  
English Street  
Dumfries

23 August 2023

**OFFICIAL SENSITIVE: POLICE AND PARTNERS**15<sup>th</sup> June 2023

Your Ref: DG/N/1065

Our Ref: HM/HJR

Democratic Services Manager  
Nithsdale Divisional Licensing  
Chief Executive Service  
Kirkbank House  
Council Offices  
English Street  
Dumfries  
DG1 2HS



Dumfries & Galloway Division  
Police Headquarters  
Cornwall Mount  
Dumfries  
DG1 1PZ

Dear Sir/Madam,

**LICENSING (SCOTLAND) ACT 2005 - PERSONAL LICENCE HOLDER DUTY TO NOTIFY  
LICENSING BOARD OF CONVICTIONS**

**LICENCE HOLDER: CALLAN MICHAEL MALONEY, BORN 16.04.1988  
LIGHTHOUSE LEISURE, SOUTHERNESS, DUMFRIES, DG2 8AZ**

I refer to the above and your correspondence. In terms of Section 83(4)(b) of the Licensing (Scotland) Act 2005, I have to advise you that Callan Michael Maloney has been convicted of the following relevant offence.

Date	Court	Crime/Offence	Disposal
26.04.2023	Dumfries Sheriff Court	Licensing (Scotland) Act 2005 Section 63(1)	Admonished

On the 28 June 2022 Callan Maloney obtained a personal licence from Dumfries and Galloway Council

On Friday 2<sup>nd</sup> September 2022 at about 0100 hours Police Officers attended at the licensed premises known then as Jambarz, 8 Nith Place, Dumfries due a report of an assault having taken place within the premises.

On police arrival at the premises they found a female well under the influence of alcohol outside the premises with an apparent injury to her hand which she stated that resulted from a cut from a glass.

Whilst within the premises Police officers spoke with Callan Maloney who also had a facial injury. He informed police that he was in charge of the premises as the Designated Premises Manager. On being asked more about how he had sustained his injuries, he verbally stated that the female outside had punched and kicked him when he tried to remove her from the premises a short time earlier. Callan Maloney refused to provide any witness statements, however verbal corroboration was given by a member of bar staff.

**OFFICIAL SENSITIVE: POLICE AND PARTNERS**

It was the opinion of Police officers present that Callan Maloney was heavily under the influence of alcohol and was in charge of the premises at that time and had identified himself as such.

Around this time the Police Officers also observed a member of bar staff pouring alcohol and consuming same, and a member of the public consuming alcohol, whilst out with the licensed hours of 1000 hours – Midnight.

There was no doubt to the Police officers that Callan Maloney was in charge at the material time as he identified himself as being in charge and had tried to eject the female who in turn had assaulted him, whilst he was under the influence of alcohol.

Due to the offences Callan Maloney was informed that a report would be submitted to the Procurator Fiscal outlining the circumstances of this incident.

On the 26/4/23 Callan Maloney was convicted of Licensing Scotland Act 2005 Sec 63(1) which is the offence of prohibiting sale/consumption of alcohol out with core hours. The sentence was admonishment (no further action).

In terms of Section 83(5)(a)&(b) of the Licensing (Scotland) Act 2005, and in taking regards of the information provided above I am requesting that this report is considered for a review and any further action Dumfries and Galloway Council as a licensing authority deem appropriate.

Yours faithfully

Carol McGuire  
Chief Superintendent

**DUMFRIES AND GALLOWAY LICENSING BOARDS  
NITHSDALE DIVISIONAL LICENSING BOARD**

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**LICENSING (SCOTLAND) ACT 2005 (THE ACT): SECTION 84A  
CONDUCT INCONSISTENT WITH THE LICENSING OBJECTIVES  
PERSONAL LICENCE HOLDER: GARRY GIBSON**

**1. Reason for Report**

As the Board has received a section 84A report from the Chief Constable it must, in law, hold a Hearing.

**2. Background**

2.1 On 12 July 2023, the Chief Constable, in terms of his power under section 84A the Act, submitted to the Board a report alleging that Garry Gibson, the holder of a personal licence, has acted in a manner that is inconsistent with the licensing objectives, (1) Preventing Crime and Disorder and (2) Securing Public Safety (**Appendix**).

2.2 A Personal Licence issued by a Licensing Board authorises the licence holder to supervise or authorise the sale of alcohol.

2.3 In terms of procedure, both the letter and Notice of Hearing have been sent to the licence holder.

**3. Determination**

3.1 At its Hearing the Board may, after giving

- the licence holder concerned and
- such other persons as they consider appropriate an opportunity to be heard and
- if satisfied that it is necessary to do so for the purposes of any of the licensing objectives, make an order to:
  - a) revoke the licence;
  - b) suspend the licence for a maximum 6 month period as the Board considers appropriate; or
  - c) endorse the licence. (an endorsement expires after five years)

3.2 It is also open to the Board to take no action.

3.3 If, at the Hearing, the Board is satisfied that, having regard to the licensing objectives, the licence holder is not a fit and proper person to be the holder of a personal licence then the Board must make an order revoking the licence.

## 4. Recommendations

4.1 Members are asked to consider whether they wish to:

- revoke
- suspend
- endorse the licence or
- take no further action; and

4.2 Note that if a determination is made that the licence holder is not a fit and proper person to be the holder of the personal licence then the Board has no discretion as to which action it wishes to take as it must, in law, revoke the licence.

Vlad Valiente  
Clerk to the Licensing Boards  
Kirkbank House  
Dumfries

23 August 2023

**OFFICIAL SENSITIVE: POLICE AND PARTNERS**

12th July 2023

Your Ref: DG/N/1023

Our Ref: AR/HJR

Democratic Services Manager  
Nithsdale Divisional Licensing  
Chief Executive Service  
Kirkbank  
Council Offices  
English Street  
Dumfries  
DG1 2HS



**POLICE  
SCOTLAND**

Keeping people safe

Dumfries & Galloway Division  
Police Headquarters  
Cornwall Mount  
Dumfries  
DG1 1PZ

Dear Sir/Madam,

**LICENSING (SCOTLAND) ACT 2005 - SECTION 84A  
REPORT OF CONDUCT INCONSISTENT WITH LICENSING OBJECTIVES  
PERSONAL LICENCE HOLDER:  
GARRY GIBSON, CHAPELHILL FARM, GLENCAPLE, DUMFRIES, DG1 4QT  
PERSONAL LICENCE NO: DG/N/1023**

The Chief Constable hereby reports to the Licensing Board in terms of Section 84A of the Licensing (Scotland) Act 2005 that Garry Gibson has acted in a manner which is inconsistent with the licensing objective(s) articulated at Section 4(1) of Act, namely:

- Preventing Crime and Disorder
- Securing Public Safety

Mr Gibson applied for the grant of his Personal Licence which Police Scotland received on or around 30<sup>th</sup> July 2021 where there was no objection submitted and the Personal Licence was granted/issued on 9<sup>th</sup> August 2021 with the expiry of 8<sup>th</sup> August 2031.

On 30<sup>th</sup> September 2021 a Minor Variation was granted for the Anchor Hotel, Kippford, Dumfries, DG5 4LN for a new Designated Premises Manager, namely Garry Gibson.

The following information is provided for the Board's consideration.

On 22<sup>nd</sup> April 2023 Police Scotland received a complaint in relation to the conduct of Garry Gibson from a female who was employed at the Anchor Hotel between April 2022 and December 2022 as a chef alongside doing housekeeping work.

The complaint related to allegations of communicating indecently, sexual harassment and sexual assault, all of which were reportedly perpetrated within the workplace during her period of employment there.

**OFFICIAL SENSITIVE: POLICE AND PARTNERS**

Owing to the complainer feeling uncomfortable as a result Garry Gibson's inappropriate behaviours towards her, together with a reduction in her hours, the female resigned in December 2022.

Following investigation, on 30<sup>th</sup> June 2023 there was sufficient evidence to charge Mr Gibson with Sexual Offences (Scotland) Act 2009 Section 7(1) (Communicate Indecently). The circumstances of this charge relates to a request being made by Mr Gibson for the complainer to create an online account where sexualised images of her could be viewed by him.

As this matter is sub judice, I am unable to furnish any further specific information regarding the case.

The Chief Constable's view is that a suspension or revocation of the Personal Licence is appropriate.

In signing this report, I confirm that this report is made under the authority of the Chief Constable of Police Service of Scotland:

Yours faithfully

Carol McGuire  
Chief Superintendent

## DUMFRIES AND GALLOWAY LICENSING BOARDS NITHSDALE DIVISIONAL LICENSING BOARD

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### LICENSING (SCOTLAND) ACT 2005: SECTIONS 6 AND 7 RENEWAL OF LICENSING POLICY STATEMENT AND DUTY TO ASSESS OVERPROVISION (2023-2028)

#### 1. REASON FOR REPORT

1.1 To ask Members to discuss and consider responses received to two public consultations that were undertaken during 2023 with regard to all four Divisional Boards' legal duty to review the current Licensing Policy Statement and

1.2 Following a presentation given to the Board by NHS Dumfries and Galloway and after giving full consideration to its Assessment on Overprovision, make a determination as to whether or not there is overprovision of licensed premises in Dumfries Central for both on and off sales as suggested by the NHS or for any other locality within Nithsdale.

#### 2. BACKGROUND

2.1 All four Boards' current Licensing Policy Statement (2018 – 2023) was finalised and published November 2018 and requires to be renewed and published no later than 18 months after the last Scottish Local Government election. As the last Local Government election was 5 May 2022, the date by which all four Boards must legally publish a new Policy Statement is **4 November 2023**.

2.2 The current Licensing Policy statement can be found at [Dumfries and Galloway Licensing Boards' Policy Statement \(dumgal.gov.uk\)](https://www.dumgal.gov.uk)

2.3 In preparing a Licensing Policy Statement the Board must ensure that the policy stated in the statement seeks to promote the licensing objectives and the Board must consult with:

- the Local Licensing Forum for the Board's area;
- if the membership of the Forum is not representative of the interests of:
  - premises licence holders;
  - personal licence holders;
  - the Chief Constable;
  - persons having functions relating to health, education or social work;
  - young people (aged 16 and 17 years) and
  - local people (persons resident within the Forum's area)

then the Boards must consult with representatives of the above persons whose voice is not heard at the Local Licensing Forum.

- the relevant health board, and
- such other persons as the Board thinks appropriate.

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2.4 At a Conjoined Meeting of all four Divisional Licensing Boards 19 January 2023, Members agreed a consultation programme towards finalising the terms of their renewed Licensing Policy Statement (2023-2028) and agreed the list of consultees for this purpose (**Appendix 1**).

## 3. INITIAL CONSULTATION

3.1 It was agreed that an initial Consultation would take place and this occurred 31 January to 28 February 2023. The objective of this Consultation was to seek the public's general views on the terms of the new Licensing Policy Statement and a Consultation Notice was advertised via social media and posted on the Licensing Service's webpage.

3.2 One generic response was received to this consultation from Alcohol Focus Scotland in respect of all four Boards (**Appendix 2**)

## 4. SECOND CONSULTATION

4.1 It was further agreed that a second, more comprehensive Consultation would be undertaken and this took place 1 April to 15 June 2023 asking specific questions in policy areas including whether there is overprovision of licensed premises in each of the four Board areas including Nithsdale.

4.2 This second Consultation included sending letters/emails to consultees giving details of how to respond to the consultation and undertaking an online questionnaire (which was also available in hard copy if required by persons) and advertising the consultation on social media and the Licensing webpage.

4.3 Responses received to the second Consultation are as follows:

- LSO response in respect of all four Boards: **Appendix 3**
- Alcohol Focus Scotland response **Appendix 2**
- 46 public responses in total were received in respect of all four Boards.

4.4 Specific to the Nithsdale Board, **16** responses were received from the following persons:

- Organisation/Group/Trade: 5 persons
- Individual: 11 persons

4.5 A breakdown of the **AGE** of the 16 respondees is shown as follows:

- 18 to 29 years: 1 person
- 30 to 49 years: 3 persons
- 50+: 8 persons (one of which states that it is an Organisation/Group/Trade)

4.6 The Consultation Survey covered a number of areas and the questions that were asked and the responses received are detailed below.

## 4.7 Licensed Hours

Each of the four Divisional Boards has its own Licensed Hours Policy to reflect local circumstances.

The current Policy Hours with regard to each Divisional Board is set out in Section 1.7 of the current Policy Statement (2018 – 2023).

Note that, in terms of Section 64 of the 2005 Act, there is a presumption against the grant of routine 24 hour opening of licensed premises unless exceptional circumstances justify allowing the sale of alcohol for a continuous 24 hour period.

The statutory maximum hours for OFF SALE premises (usually shops/supermarkets/convenience stores) is 10am to 10pm seven days per week.

#### 4.7.1 Q. Do you think that current licensed hours are:

NOT LONG ENOUGH	3 persons
OK	9 persons
TOO LONG	4 persons

Reasons given are as follows:

- Not long enough: Dumfries is losing trade when it desperately needs it;
- Not long enough: we are losing our young at the weekends to Carlisle where they enjoy longer hours;
- Ok: seems to work fine;
- Ok: as there is a current downturn in hospitality trade i feel the operating hours for the region are applicable with the option of applying for extended hours if required for a certain event in the area being allowed
- Ok: the current hours allow for late night events, nightclubs etc but there isn't any need for them to be any longer.
- Ok: the current hours seem to be acceptable to most however loud music from some pubs after 10pm, particularly at weekends is a nuisance. However this is more to do with noise than the drinking hours. If pubs are to remain open till 12 or 1am then perhaps more control of noise is needed.
- Too long: too much disorder & burden placed on emergency services
- Too long: socialising hours have moved later over the years. People only go out when we used to go home.
- Too long: 4am nightclubs are ridiculous
- Too long: we live next to a hotel with a licence inside and outside to 1am - in a small village. They have events and amplified music to 1am and the noise and disruption is dreadful for the village.

#### 4.7.2 Q. If you would like to see current policy hours change, what would you suggest and what are the reasons for this suggestion?

Responses received with reasons are as follows:

- No (no reason given)
- Late night hours cut to 2am (reason: To reduce the amount of disorder caused)

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- Stop the ludicrous practice of off sales not allowed till after 10am (reason: Absolutely nonsensical)
- Allow late night bars and nightclubs to remain open until 4.00, especially at weekends (reason: A longer opening period would allow people to exit the premises in a staggered fashion, hopefully reducing anti social activities)
- Only have late night extended opening on special occasions (no reason given)
- No later than 3am, but 1am would be better (reason: Reduce the demand on the police)
- As above the hours are OK - it is noise that is likely to be the problem (reason: OK)
- Live music till 11pm and beer garden closed by 12am (reason: We can't sleep, my children have to go to bed with earplugs in, we can't use our garden because of the noise and this also impacts others in the village).
- Longer hours please to keep our young in the town (reason: As a mother the boys moan all the time as the 3 late night premises close too early compared to Carlisle where they tend to go at weekends to enjoy later evenings)
- Even an extra hour at weekends (reason: Too many of our young are heading to Carlisle at a weekend)

## 4.8 Outdoor Drinking Areas

In respect of an application for a Premises Licence or for a Variation to a Premises Licence which proposes an outdoor drinking area, none of the four Boards have a specific policy with regard to outdoor drinking areas as each case is determined on its own merits.

Outdoor drinking areas can provide an enjoyable experience for customers, but this must be balanced against the needs of local residents and the impact that outdoor drinking areas may have e.g. possible nuisance and disturbance. Since the Covid Pandemic, premises have made greater use of outdoor areas.

### 4.8.1 **Q. Do you believe that the Board should have a policy on outdoor drinking areas?**

- YES: 13 persons
- NO: 2 persons

Reasons given are as follows:

- YES: only if the premises have an enclosed beer garden should outdoor drinking be allowed on the premises (no drinking in streets as this will encourage littering and noise pollution in streets)
- YES: Outside drinking is more popular since Covid
- YES: To ensure compliance with the law & to ensure people aren't drinking wherever they want
- YES: Some of them are awful
- YES: It should be encouraged as a safe way to socialise.
- YES: It must be monitored to ensure all parties effected are protected.

- YES: Board should control where people can drink alcohol in all public spaces
- YES: Outdoor drinking areas can potentially have more impact on surrounding areas. Also, give the difficulties with outdoor vs indoor areas during Covid, a policy could include a defined distinction between outdoor and indoor to allow for easier application of any future rules (not necessarily pandemic, but any change in rules for smoking etc)
- YES: Outdoor areas need to be subject to the conditions of licence that apply inside. If premises are to allow drinking outside, then this area should be clearly indicated on the operating plan. The area should be properly designated and controlled. It should be roped or fenced off so the public can clearly see the area concerned. These outdoor areas should also have public indemnity insurance as they are part of the licensed premises. It is clear that in Dumfries, this is not properly regulated, monitored, or controlled. This is a failure of the current policy. This is problematic when the outside area is also part of the public pavement.
- YES: In small villages and where people live the noise and disruption is dreadful. We have a beer garden over the wall of our garden in a small village, my youngest (10) has learned a lot of new swearwords.
- YES: They need to be a safe space for people to enjoy
- YES: This should be encouraged when there's no disturbance identified to neighbours
- NO: Most outdoor areas can be covered under the licenced premises

#### **4.8.2 Q. Should the Board apply a time limit on the use of Outdoor Drinking Areas?**

- YES: 12 persons
- NO: 3 persons

#### **4.8.3 Q. If yes to the above, up until what time would you suggest?**

Out of the 12 persons who stated yes, suggested times are as follows:

- 11.30pm
- Sunset
- 12.
- 10pm (2 persons)
- If the premises are nearby to any residential properties then this should be stopped at around 10pm.
- 11pm (3 persons)
- 11pm depending on it being in a built up area
- Depends on surrounding buildings. If residential then 11pm to allow peaceful sleep
- This may be dependent on location

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## 4.8.4 Q. In what circumstances do you believe there should be flexibility with regard to any proposed time limit on an outside drinking area?

12 responses were received as follows:

- festivals, bank holidays, weddings
- the premises that have enclosed beer gardens and terraces should be allowed to continue the current license for drinking outdoors as some of these premises have smoking areas and also there are some customers who prefer to drink outside in beer gardens for fresh air
- None
- During summer months & other special events
- 12 midnight
- Special events! Limit the number in a year.
- Where it is a special event/away from all residential premises. E.g. a concert/event at the Crichton or in an industrial estate.
- Major events (locally or national)
- Preplanned events, such as Guid Nychburris, Dumfries Show etc.
- There should be no flexibility if this will result in nuisance to nearby residential properties. This is one of the core values of your policy and needs to be enforced consistently in all premises.
- one off special events but a maximum in a year
- Where it is situated

## 4.8.5 Q. Do you believe the following factors should generally be taken into account when determining an application for outdoor drinking area?

	<b>Yes</b>	<b>No</b>	<b>No View</b>
Location of the licensed premises	<b>15</b>	<b>1</b>	
Location of the proposed outside drinking area	<b>15</b>	<b>1</b>	
Proximity of residential dwellings (i.e.the closeness of those who live nearby)	<b>12</b>	<b>3</b>	<b>1</b>
Whether removable barriers should be put in place to clearly identify the outside drinking area	<b>6</b>	<b>4</b>	<b>5</b>
Whether amplified music should be prohibited in outside drinking areas	<b>12</b>	<b>2</b>	<b>2</b>
Whether specific monitoring mechanisms should be put in place (eg: staff are physically able to monitor or the area is caught within CCTV)	<b>14</b>	<b>1</b>	<b>1</b>
Whether the use of glassware should be excluded after a certain time	<b>7</b>	<b>4</b>	<b>4</b>

Consultees were then given asked if they had answered YES to any of the above or of if they had any other comment, then to provide details.

The following 7 comments were received:

- Amplified music should have a cut off point if close neighbours
- I believe amplified music to a certain decibel should be allowed as long as its not causing nuisance to occupied housing nearby
- How much of a negative impact to residents balanced against supporting business and encouraging trade.
- Please refer to previous comments. Outside areas are part of the licensed premises and must be controlled and managed to (at least) the same standard as indoor areas. They are more likely to cause nuisance to nearby properties and thus should be the subject of stricter conditions if necessary.
- As someone with a beer garden over our garden wall, residents should absolutely be taken into account. Particularly with amplified music and lateness - we knew there was a hotel there but if we had real visibility of the hotel as a 'venue' we would not have bought the house. Many people in the village are unhappy but too scared to complain.
- Theses areas have to be safe and monitored to make sure underaged children don't have access unless it's in there operating plan
- Safe outdoor space

#### 4.8.6 LSO Response (Appendix 3)

- Since Covid, more premises are creating or expanding outdoor drinking areas, some with large capacities.
- In pursuance of Licensing Objective, Preventing Public Nuisance, it may be that consideration should be given to restricting the terminal hour for use of these areas unless they are in a remote location where there is no likelihood of noise causing a nuisance to neighbours. An informal policy of 10pm terminal hour during Covid was applied to Occasional Licences for outdoor drinking areas.

#### 4.9 The Licensing Objectives

The Boards must seek to ensure that their Licensing Policy Statement promotes the five Licensing Objectives which underpin the whole alcohol licensing system.

The Questionnaire asked:

##### 4.9.1 **Do you have any suggestions for promoting the Licensing Objective Preventing Crime and Disorder?**

YES: 8 persons

NO: 8 persons

Comments/Reasons for comments were as follows:

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- YES: I would suggest a 3 strikes and your out policy in that if a person has acted abusively and has been removed from the premises on 3 occasions then such person should be reported to licensing board and local police force and then receive at least a 1 year ban from all licensed premises in the area all dates and times off offences should be reported in writing to licensing board and the offender in order to notify the offender of the consequences of their actions and also notify licensing board of the offence and if the police deem the offence as a crime then they will prosecute [ sometimes a warning of behaviour is enough to prevent another occurrence of certain behaviour]
- YES: Additional or improved public space cctv which can be monitored 24/7 around these area
- YES: Being drunk is not a defence.
- YES: Reduce the hours nightclubs can remain open
- YES: All premises should have CCTV coverage indoors and out.
- YES: Shorter hours - not after midnight and outside areas cleared earlier.
- YES: Security on doors after a certain time
- YES: Security on doors

## 4.9.2 Do you have any suggestions for promoting the Licensing Objective Securing Public Safety?

YES: 5 persons

NO: 10 persons

Comments/Reasons for comments:

- YES: all licensed premises should have notices on show of all behaviour policies warning of consequences of behaviour in licensed premises
- YES: Outdoor areas if they are on the public footpath should be subject to a Health & Safety check regularly. They should be clearly designated and public liability insurance should be in place for these areas.
- YES: Shorter hours - not after midnight and outside areas cleared earlier. Limit glass use after 11pm.

## 4.9.3 Do you have any suggestions for promoting the Licensing Objective Preventing Public Nuisance?

YES: 6 persons

NO: 8 persons

Comments/reasons for comments:

- YES: Penalties for repeat offenders. Being banned from one premises could include all premises within an area for a period of time.
- YES: Volume limits on licensed premises (e.g. a volume limit outside of the premises)
- YES: In a residential area, have stricter guidance on amplified music outside (not till 1am!), and have beer gardens that border on residential houses and gardens closed by 11pm.

- YES: Let security help on the streets
- NO: There will always be 1 who doesn't know how to behave

#### 4.9.4 Do you have any suggestions for promoting the Licensing Objective Protecting and Improving Public Health?

YES: 8 persons

NO: 6 persons

Comments/reasons for comments:

- YES: all customers to be monitored visually by staff on the manner of their drinking and encouraged to drink alcohol free drinks if identified of drinking too quickly
- YES: Ensure staff are aware of drug issues and drink spiking.
- YES: If possible, do not permit smoking/vaping in outdoor areas - appreciate this may not be possible, but would allow non-smokers to enjoy outdoor facilities.
- YES: Drinking glass cleaning if not properly done can spread infections. We would like to see every licensed premises equipped with a steam cleaning glass facility to ensure the highest cleanliness of drinking glasses.
- YES: In a residential area, have stricter guidance on amplified music outside (not till 1am!), and have beer gardens that border on residential houses and gardens closed by 11pm.  
As a resident with a premises with a 1am licence my (and my family's) health and wellbeing is being adversely impacted by noise, we can't sleep, it's stressful, and causing real anxiety.
- YES: Stop selling alcohol to underage kids at off licences
- YES: Refusing service and offering a good selection of non alcoholic drinks

#### 4.9.5 Do you have any suggestions for promoting the Licensing Objective Protecting Children and Young Persons from Harm?

YES: 6 persons

NO: 8 persons

Comments and reasons for comments were as follows:

- YES: all children should be accompanied by at least 1 adult to 2 children under age of 18
- YES: Make sure staff do not serve underage drinkers.
- YES: Children's areas in public houses should only be allowed in exceptional circumstances. Generally, children should be excluded from public houses. If kids are allowed then proper areas must be set aside and enforced.
- YES: Limit noise, limit amplified music in residential areas to reasonable hours.
- YES: Ensuring ID's are checked

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## 4.10 Overprovision : Are there too many licensed premises?

Overprovision is where there are too many licensed premises in a locality within a Board's area.

The Boards must undertake an assessment as to whether or not they consider there to be too many licensed premises within their areas.

The last assessment of overprovision took place in 2018. At that time, all four Divisional Licensing Boards agreed that there was no overprovision in their respective Board areas throughout Dumfries and Galloway.

### Categories of Premises

At the Conjoined Board meeting 19 January 2023, all four Boards agreed that they would divide consideration of licensed premises into two categories:

- (i) Off sales (usually shops and supermarkets) and
- (ii) On sales (usually bars and restaurants)

### Factors to take into account in the assessment

Whilst the Boards must consider the *number* and *capacity* of licensed premises they decided not to include licensed hours in their overprovision assessment.

The Questionnaire asked:

#### **4.10.1 Q. Do you think there is overprovision of ON SALE licensed premises generally?**

YES: 1 person  
NO: 13 persons  
NO VIEW: 2 persons

The Questionnaire then stated if yes, please state where and why you consider there to be overprovision. No responses were received to this.

#### **4.10.2 Q. Do you think there is overprovision of OFF SALE licensed premises in Nithsdale?**

YES: 2 persons  
NO: 12 persons  
NO VIEW: 2 persons

The Questionnaire then stated if yes, please state where and why you consider there to be overprovision. The responses received were:-

- YES: Too many off-sales/supermarkets undermining the prices of On-sales premises
- YES: Everywhere sells it,

## 4.11 Any other views and comment

The questionnaire then asked whether anyone had any further views and comment that they wished to have taken into account with regard to the new Statement of Licensing Policy and, if so, to state what they were.

The following responses were received:

- We agree with the 5 main objectives of the policy but must point out that these policies are not being fulfilled in the Dumfries area. Noise nuisance in particular, late at night, is the worst. However we have also witnessed pubs playing music so loud during the day that it can be heard hundreds of yards away causing massive nuisance to residential properties. The Board fails to enforce the conditions of licensing and thus the policies are ineffective and relatively useless. We want to see a commitment from the Board to properly monitor licensing conditions and to take enforcement action where required. The Human Right to a peaceful family life is important for town centre residents just as much for those in more rural locations. All licensed premises should have a duty to keep amplified noise within their premises and the council has a duty to ensure that this is done effectively. This will require a change of operational activity by council officers and this must be available to complainers, even at weekends and late hours.
- I would ask that the real, human impact is taken into account here. We had no idea how completely disruptive this noise would be - I am anxious because I never know when or how late/loud it will be. It affects our sleep, it keeps my children awake and it's literally a nightmare.
- There needs to be a better working relationship with outside powers as we seem to get the blame for anything that happens on the street even when we are closed.
- The provision of well run licensed premises should be encouraged particularly in town centre locations where their provision can help to regenerate these areas and improve the night time economy.

## **4.12 Summary of responses received to the consultation**

### **4.12.1 Licensed Hours:**

The majority of persons (9 out of 16 = approximately 56%) believe that the current licensed hours are OK with no need to increase or scale back those hours. 3 persons advise that they are not long enough and 4 persons that they are too long.

### **4.12.2 Outdoor Drinking Areas**

The Board has no Policy in place in respect of outdoor drinking and deals and each application is determined on its own merits.

The majority of persons (13 out of 15 = 86% approximately) are of the view that the Board should have a Policy with regard to outside drinking areas and the reasons given are variable (detailed within paragraph 4.8.1).

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12 persons out of 15 (80%) also believe that a time limit should be imposed and suggested times are mainly 10pm or 11pm.

In respect of a suggested time limit, the LSO response also suggests that consideration should be given to restricting the terminal hour for use of outside drinking areas unless they are in a remote location where there is no likelihood of noise causing a nuisance to neighbours. The response states that an informal policy of 10pm terminal hour during Covid was applied to Occasional Licences for outdoor drinking areas.

In respect of flexibility being given to the closing time for outside drinking areas, whilst reasons given are variable, most refer to the holding of events.

In respect of factors that should be taking into account when determining an application for an outside drinking area, those factors which receive a strong majority support (15 persons out of 16 = approximately 93%) are the location of the licensed premises and location of the proposed outside drinking area. 12 persons (75%) also believe that the closeness of those who live nearby should be taken into account. and the same number of persons also believe that whether amplified music should be prohibited in outside drinking areas is a factor that should be taken into account. Approximately 87% (14 persons) also believe that whether specific monitoring mechanisms should be put in place (eg: CCTV coverage) is a factor that should be considered. There are more balance views with regard to whether glassware should be excluded after a certain time and whether removeable barriers should be put in place.

If, after consideration, the Board agrees to have a Policy in place with regard to the operation of outside drinking areas, then suggested factors that it may wish to take into account in shaping this Policy could be brought before the Board at the Conjoined meeting October 2023 for its consideration. This is, of course, a matter for elected Members to determine.

## 4.12.3 The Licensing Objectives

With regard to suggestions for promoting the Licensing Objective of Preventing Crime and Disorder, 50% (8 persons) suggest yes and their suggestions are variable, including security on doors after a certain time (the law provides that SIA registered door stewards are required in respect of certain premises open after 1am); CCTV coverage is also suggested and, again, the requirement to have CCTV is also a legal requirement in respect of certain premises open after 1am. The Board also retains the legal power to attach reasonable conditions on a case by case basis. Ten persons (66%) have stated that they do not have any suggestions for promoting the Licensing Objective of Securing Public Safety. Of the five who advise Yes, reasons given are variable including limiting glass use after 11pm and undertaking regular health and safety checks on outside drinking areas.

With regard to promoting the Licensing Objective Preventing Public Nuisance, 8 persons advise No and 6 persons Yes. Reasons for Yes are variable and suggest penalties for repeat offenders and letting security help on the street.

A majority of 8 persons state that they have suggestions for promoting the Licensing Objective Protecting and Improving Public Health and their comments are variable, including ensuring that staff are aware of drug and drink spiking issues. 6 persons state no to suggestions.

With regard to promotion of the Protecting Children and Young Persons from Harm Licensing Objective, 6 persons advise Yes to having suggestions and 8 persons No. Reasons for Yes include ensuring ID's are checked and making sure that staff do not serve underage drinkers. Members will be aware that a mandatory condition of a premises licence is age verification – if a person appears to be under the age of 25 then steps must be taken to establish that they are at least 18 years of age.

#### 4.12.4 Overprovision

13 persons out of 16 (approximately 81%) have expressed a view that there is no overprovision of on sales licensed premises in Nithsdale.

With regard to off sales licensed premises, 12 persons (75%) are of the opinion that there is no overprovision of licensed premises in Nithsdale.

#### 4.13 Overprovision Assessment

4.13.1 In terms of section 7 2005 Act, the Statement of Licensing Policy must, in particular, include a statement as to the extent to which the Board considers there to be overprovision of licensed premises, or licensed premises of a particular description, in any locality within the Board's area (an Overprovision Assessment).

4.13.2 It is for the Boards to determine the 'localities' within their areas for the purposes of the overprovision assessment and the Boards may determine that the whole of their respective areas is a locality. Likewise, they may determine that the whole Dumfries and Galloway region constitutes a locality or a locality in a rural area may be larger than a locality in an urban area.

4.13.3 In considering whether there is overprovision in any locality, the Boards **must**:

- (i) Have regard to the number and capacity of licensed premises in the locality and
- (ii) Consult with the following persons:
  - the Chief Constable
  - the relevant Health Board
  - such persons as appear to the Board to be representative of the interests of:
    - holders of premises licences in respect of premises within the locality;
    - persons resident in the locality and
    - such other persons as the Board thinks fit.

The Boards **may** have regard to:

- (i) Other matters as the Boards think fit including, in particular,
- (ii) the licensed hours of licensed premises in the locality.

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4.13.4 At the Conjoined meeting on 19 January 2023, all four Boards agreed that:

- Consultation for the Overprovision Assessment would take place simultaneously with (the second) Consultation for review of the Licensing Policy Statement (1 April to 15 June 2023);
- Consultees for the purpose of the Overprovision Assessment would remain the same as those for review of the Licensing Policy Statement (**Appendix 1**);
- Intermediate data zones within each Board area would constitute a locality – therefore mirroring the historical position to date;
- licensed hours shall not be taken into account and
- categories of licensed premises shall be both on and off sales;

4.13.5 **2018 Overprovision Assessment** : The last overprovision assessment took place in 2018 and involved a presentation given on behalf of NHS Dumfries and Galloway by the Alcohol and Drugs Partnership (ADP). The ADP recommendations in respect of Nithsdale was that there was overprovision of licensed premises as follows:

- Dumfries Central (both on and off sales) and Summerville (off sales)

4.13.6 After considering all information before it (including the terms of the overprovision presentation), the Nithsdale Board decided that there was no overprovision of licensed premises in Nithsdale and accordingly did not adopt the ADP 2018 recommendations to the contrary.

4.13.7 There were **2** more licensed premises in Nithsdale in 2018 compared to current 2023 as follows:

	2018		2023	
	Number	Capacity	Number	Capacity
Off Sales	50	1998m2	51	2111m2
On Sales	123	34417	120	30048
<b>Total</b>	<b>173</b>		<b>171</b>	

4.13.8 It will be recalled that Occasional licences and Members' Clubs are not included in the Overprovision Assessment.

4.13.9 It will further be recalled that overprovision is a ground of refusal in terms of the 2005 Act. Therefore, if an application is submitted in relation to premises that fall within overprovided localities then there is a rebuttable presumption against the grant of that application on the grounds of overprovision – though each case is determined on its own merits.

4.13.10 An Assessment of Overprovision in Dumfries and Galloway 2023

The NHS Assessment of Overprovision in Dumfries and Galloway 2023 is detailed at Appendix 4 to this report.

In brief, the key findings of the assessment with regard to whether there is overprovision of licensed premises throughout Dumfries and Galloway are stated at page 3 and, in respect of Nithsdale, para 4.4.2 provides as follows:

- Dumfries Central is overprovided in both on and off sales licences

#### 4.13.11 Statutory Guidance (published January 2023)

The Board will be aware that it must, in the exercise of its functions under the 2005 Act, have regard to section 142 Scottish Government Guidance.

Chapter 5 to the statutory Guidance addresses Overprovision and this is detailed at **Appendix 5** to this report. In particular, the undernoted paragraphs are extracted from Chapter 5 for the Board's attention:

Paragraph 5.6:

*'An overprovision assessment must be evidenced base. It is a matter for each Licensing Board to determine what their overprovision policy will be and how the evidence it has ingathered will be interpreted and weighted. When undertaking this work Licensing Boards should be mindful of the five licensing objectives: preventing crime and disorder; securing public safety; preventing public nuisance; protecting and improving public health; and protecting children and young persons from harm. Licensing Boards Licensing Board should ensure the approach to ingathering, weighing and interpreting evidence, and consultation responses is robust, all of the relevant evidence before them is taken into account, and the rationale for regarding/disregarding that evidence in developing Licensing Policy Statements (LPS) is clearly set out.'*

Paragraph 5.31:

- *There are a number of underlying principles that the Licensing Board should take into account as they approach the development of their statement of overprovision:*
- *Licensing Boards should use alcohol-harm information (or potential alcohol-harm information) to identify localities and then proceed to consider the number, type and capacity of premises in those areas.*
- *It is the potential for undesirable consequences which is intended to be addressed through overprovision assessments as a requirement within the 2005 Act. This can be thought of as the cumulative effect of more and more licences being granted in a locality and what this means in respect of the effect on life in that area. It is the cumulative effect rather than the actions of any single operator that is key.*
- *If a Licensing Board considers there is at least potential for, or a reasonable basis for, concluding that there will be a risk of adverse impact*
- *on the objectives (should more premises licences be granted), it is entitled to come to the view that there is a state of overprovision.*

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- *Consideration should be given as to whether aggregate information and evidence from a number of sources demonstrates a link between the availability of alcohol in an area and alcohol-related harm.*
- *To demonstrate a “dependable causal link”, the proof of the link must be on a balance of probabilities. What this means in practice is that based on the evidence of harm in a locality, it is more likely than not that alcohol availability is a cause, or that increasing the availability of alcohol in that area will increase that harm.*
- *There is no simple numerical formula for pinpointing the threshold between provision and overprovision. Determining overprovision involves the application of reason and judgement in the interests of the community.*

4.13.12 When considering whether there is overprovision of licensed premises in Nithsdale, the Board should take into account:

- NHS Dumfries and Galloway Assessment of Overprovision 2023  
**Appendix 4**
- Section 142 Scottish Government Guidance Chapter 5 (**Appendix 5**) and
- The responses (detailed above) to the Consultation Questionnaire following the Consultation that took place from 1 April to 15 June 2023 including
- Alcohol Focus Scotland response detailed at **Appendix 2** (paragraph 4.2 titled ‘Overprovision’)

It is for the Board to determine, on all the material before it, whether evidence suggests that there is or is not overprovision of licensed premises within a locality/localities in Nithsdale.

#### 4.14 **Next Steps**

A Conjoined Meeting of all Four Divisional Boards will take place on 6 October 2023 with a view to finalising for publication the terms of the revised Licensing Policy Statement including Assessment of Overprovision (2023 – 2028).

## 5. Recommendations

For the purposes of the revised Statement of Licensing Policy (2023 – 2028), the Board is asked to:-

5.1 Discuss and consider the terms of this report and give due regard to the responses received during both Consultations - including the NHS Assessment of Overprovision in Dumfries and Galloway 2023 and the associated presentation - and discuss and consider the following:

### 5.1.1 Licensed Hours:

A majority of persons (9 out of 16) are of the view that the current licensed hours are OK with no need to increase or scale back those hours

**Recommendation:** To consider whether the Board wishes to retain existing on sales licensed hours, reduce those hours or extend them.

### 5.1.2 Outdoor Drinking Areas:

The majority of persons (13 out of 15) are of the view that the Board should have in place a Policy with regard to outdoor drinking areas.

**Recommendation:** to consider whether or not to adopt a Policy in relation to Outdoor Drinking areas and, if yes, note that draft wording for said Policy would be placed before the Board for consideration at the Conjoined meeting 6 October 2023. If no, then each application shall be determined on its own merits as is currently the case and historically has been to date.

### 5.1.3 Licensing Objectives:

In respect of the Licensing Objectives Preventing Crime and Disorder, Preventing Public Nuisance, Protecting and Improving Public Health and Protecting Children and Young Persons from Harm, various suggestions are offered for their promotion.

**Recommendation:** to consider whether any of the suggestions offered in respect of promoting the licensing objectives should be followed.

### 5.1.4 Overprovision:

Make a determination, based on the information before it and the presentation given by the NHS, whether or not evidence suggests that there is overprovision of licensed premises in Dumfries Central for both on and off sales as suggested by NHS Dumfries and Galloway;

Further discuss and consider whether there is overprovision in any other locality within Nithsdale and, if so, identify that locality stating the evidence on which this determination is based and

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5.2 Note that a report will be placed before all four Boards at a Conjoined meeting to be held 6 October 2023 requesting all four Boards to agree the final terms of the Statement of Licensing Policy including the Overprovision Assessment (2023 – 2028).

Caroline Treanor  
Solicitor  
August 2023

Vladimir Valiente  
Clerk to the Licensing Boards  
Corporate Services  
English Street  
Dumfries

## **Appendices –**

Appendix 1 – List of Consultees

Appendix 2 – Alcohol Focus Scotland response

Appendix 3 – LSO response

Appendix 4 – NHS Assessment of Overprovision Dumfries and Galloway 2023

Appendix 5 – section 142 Statutory Guidance, Chapter 5

## **Background Papers –**

Current Licensing Policy Statement 2018-2023: [Dumfries and Galloway Licensing Boards' Policy Statement \(dumgal.gov.uk\)](https://www.dumgal.gov.uk/boards/policy-statement)

**Appendix 1**

- The Chief Constable, Police Scotland
- Chief Officer, Scottish Fire and Rescue Service
- NHS Dumfries and Galloway
- Dumfries and Galloway Local Licensing Forum
- Dumfries and Galloway Alcohol and Drugs Partnership
- All Premises Licence Holders in Dumfries and Galloway
- All Designated Premises Managers in Dumfries and Galloway
- All Solicitors in Dumfries and Galloway
- Selected Solicitors outwith Dumfries and Galloway (those who appear at Boards more regularly: to be specified)
- All Community Councils in Dumfries and Galloway
- Loreburn Housing Association
- Dumfries and Galloway Housing Partnership
- Environmental Health, Dumfries and Galloway Council
- Building Standards, Dumfries and Galloway Council
- Planning, Dumfries and Galloway Council
- Education, Dumfries and Galloway Council
- Social Work, Dumfries and Galloway Council
- Dumfries and Galloway Council Equality and Diversity Working Group
- Age Concern Scotland
- Dumfries and Galloway Voice
- Dumfries and Galloway Disability Access Panel
- Dumfries and Galloway Inter Faith Group
- Dumfries and Galloway International Women's Group
- Dumfries and Galloway Multicultural Association
- LGBT Youth Scotland
- Youth Strategy Executive Group
- Dumfries and Galloway Council Youth Justice Service
- Alcohol Focus Scotland
- Scottish Beer and Pub Association
- Alcohol and Drugs Support, South West Scotland
- Dumfries and Galloway Carers Centre
- Specialist Drug and Alcohol Service, Newton Stewart
- Dumfries and Galloway College Students' Association
- Students Union, University of the West of Scotland
- National Union of Students Scotland
- Dumfries and Galloway Multicultural Association
- Women's Aid, Dumfries and Galloway
- Licensed Victuallers Association
- Youth Enquiry Service, Dumfries
- Scottish Children's Reporter Administration (SCRA), Dumfries and Galloway
- Nithsdale Health and Wellbeing Partnership
- Training Providers (to be specified)
- Dumfries Licensed Trade Association
- The Scottish Licensed Trade Association

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## **RESPONSE TO CONSULTATION ON STATEMENT OF LICENSING POLICY**

Alcohol Focus Scotland (AFS) welcomes the opportunity to provide comment on the development of local licensing policy statements. Their production provides licensing boards with an opportunity to stand back from routine administrative practice and consider the bigger picture in relation to licensing in their area. Once published, if effectively implemented, policy statements can help make licensing decisions more strategic, support consistent and well-reasoned decision-making, and make the licensing process more transparent.

### **1. About us**

AFS is the national charity working to prevent and reduce alcohol harm. Our strategic priorities include ensuring the effective implementation of licensing legislation by supporting licensing boards and forums to promote the licensing objectives. We regularly engage and work with a wide range of licensing stakeholders, including licensing board members, licensing clerks, Licensing Standards Officers, NHS, police, Alcohol and Drug Partnerships, communities, and local licensing forums.

AFS also provides training courses for those involved in the regulation of licensing to meet the requirements of the Licensing (Scotland) Act 2005; this includes the Licensing Board Members Training and Licensing Standards Officers Training in Scotland.

### **2. About our response**

As a national charity, AFS is not in a position to provide an individually tailored response to each of the 40 licensing boards in Scotland. However, we can offer our views on the general policy direction and emerging issues relevant to alcohol licensing, and suggestions about aspects of licensing policy that may warrant particular scrutiny during this round of policy development.

Our response has been informed by recent work AFS has undertaken to identify areas of progress and ongoing challenge within the licensing system, including a [review of the Statements of Licensing Policy for 2018-2023](#). We believe that this work and our ongoing engagement with a breadth of licensing stakeholders affords us a unique, national perspective on the licensing system. We hope that this insight and the suggestions we have provided below will be helpful to inform the Board's licensing policy review.

### **3. The national context**

The development of licensing policies provides boards with a timely opportunity to consider emerging issues and legislative developments, and to adapt their approaches accordingly. As such, this section sets out key national developments which may be of particular relevance to licensing boards.

### 3.1. Post-COVID Recovery

AFS expects that, during this round of policy development, boards will be particularly keen to consider the actual and projected impact of COVID-19 on the licensing objectives and the licensed sector. While we do not yet know the full impact of the pandemic, there is evidence of its effects in a number of areas. The following topics are highly relevant to licensing and AFS would therefore recommend that they are taken into consideration as part of the licensing policy review process:

**Changing drinking patterns:** Evidence indicates that drinking habits have polarised as a result of the pandemic, with an overall decrease in consumption for lighter drinkers and an increase for heavier drinkers.<sup>1 2 3</sup> Of major concern is the increase in high-risk drinking observed in England,<sup>4 5</sup> which has sustained over the entirety of the pandemic.<sup>6</sup> While equivalent research is not yet available for Scotland, it is likely that we will be experiencing similar increases, especially considering our historically higher levels of alcohol consumption and harm compared to the rest of the UK.<sup>7</sup> Combined with reduced access to services, these changing drinking patterns have tragically translated into increased harm; alcohol-specific deaths in Scotland increased by 17% in 2020 and a further 5% in 2021.<sup>8</sup> However, it can take 20 years to see the full effects of changes in alcohol consumption on harms, such as for cancers.<sup>9</sup> The pandemic and economic crisis is also being experienced differently by different parts of our population, widening existing inequalities and creating new ones.

**Home drinking:** Linked to the above, the pandemic has further shifted alcohol sales and drinking from the on-trade to the off-trade, exacerbating existing trends. In Scotland, 73% of alcohol was sold in off sales prior to the pandemic, with this proportion increasing to 90% in 2020 before decreasing slightly to 85% in 2021.<sup>10</sup> The home is an unregulated environment and the continued shift to home drinking may lead to long-term public health consequences and an upwards trend in alcohol-related injuries and accidents occurring at home. In addition, while alcohol itself does not directly cause domestic violence, there are strong associations between alcohol use and domestic violence and abuse.<sup>11</sup> Home drinking also poses potential risks for children and young people, such as neglect or modelling of parental drinking.<sup>12</sup> As such, it will be vital that boards consider the factors that can impact on the licensing objectives outwith a licensed setting, and that local licensing policies take account of alcohol-related harms occurring in private spheres as well as public.

**The hospitality sector:** Although the licensing regime does not have responsibility for promoting business growth, a recurrent theme within existing licensing policies is the need for boards to strike an appropriate balance between supporting the local licensed economy, while also upholding the five licensing objectives. During the pandemic, the hospitality sector was severely affected, with sales of alcohol in bars and restaurants plummeting by 49% overall from 2019 to 2021, while off-premises sales, such as e-commerce and supermarkets, grew significantly (by 11% between 2019 and 2021).<sup>13</sup> In 2020, the Scottish Government issued guidance to advise that it “*considers flexibility and pragmatism in decision-making and sensitivity to the wider economic situation should be at the forefront of how a board decides to operate*”.<sup>14</sup> Boards will likely be very reluctant to be seen to hurt already suffering hospitality sectors but will also want to ensure that the licensing objectives continue to be promoted. As such, decision makers, advocates, and local stakeholders alike will need to identify policies that can do both. It has been suggested that policies which may protect on-trade businesses, while reshaping the night-time economy away from alcohol-related harms, could offer a ‘win-win’ for policymakers and health advocates.<sup>15</sup> However, this raises questions regarding how boards should seek to manage competing priorities within their policies and decision-making.

**Use of outdoor areas:** A growing trend for outside seating areas had been identified in many areas prior to the pandemic, with a number of boards setting out their expectations and requirements in this regard. However, COVID-19 related restrictions on sales of alcohol indoors led to an increase in applications from bars/pubs to serve alcohol in spaces outdoors e.g., car parks, pavements. If outdoor spaces are licensed on a permanent basis it could result in a significant increase in the overall capacity of venues and the visibility of alcohol, including to children and people in recovery who may be passing by. However, it is unclear how and whether boards will now seek to reverse outdoor licences granted during the pandemic, or whether the trend for outdoor seating areas will continue to grow.

**Online sales/deliveries:** The COVID-19 related restrictions have accelerated the general trend to online shopping and led to an increase in premises offering home deliveries of alcohol. The types of businesses that sell alcohol online now range from small independent traders, specialist drinks retailers/clubs, local convenience stores, and supermarkets through to multinational e-commerce companies (e.g., Amazon). There is also a growing variety of app-based retailers who have arrangements with restaurants, takeaways and off-licences to deliver alcohol directly to people's homes. Despite the reopening of physical stores, it is predicted that online sales will remain high as people have become more accustomed to online shopping. However, there is currently a distinct lack of information available about the business operations of online retailers in Scotland. In addition, it is unclear how age verification and other requirements can be effectively implemented when alcohol is being purchased on-line or delivered to people's homes. The majority of boards have responded to this issue at a local level by setting out their approach to alcohol deliveries within their policies, for example by making clear that delivery staff must be trained to the same level as those on licensed premises, that challenge 25 checks must be conducted, and that licensees using courier services must ensure that they are compliant with the Board's requirements.

### **3.2. Policy and legislative developments**

**Alcohol Framework:** Scotland's current alcohol harm prevention framework was published in 2018 and takes a whole population approach to reducing alcohol harm. Whole population measures work to reduce and prevent alcohol harm across the entire population, reducing the likelihood of 'normal' drinkers becoming high risk. This is because targeting only harmful drinkers would not reach the majority of people who consume alcohol and who are therefore at risk of developing problems related to their alcohol consumption. Licensing is a whole population intervention. It works to safeguard individuals and communities from experiencing alcohol problems by controlling the overall availability of alcohol (through the number, type and opening hours of licensed premises), and by regulating the way individual on- and off-licences do business. The Framework therefore identifies the licensing system - alongside action on price and marketing - as being one of the key mechanisms through which the ambitions of the Alcohol Framework can be realised.

**Minimum Unit Pricing (MUP):** MUP came into force on 1st May 2018 and, along with restrictions on irresponsible promotions, there are now greater controls on the sale of alcohol from off-sales. Boards appear to be approaching these developments differently; for example, some state in their policies that these safeguards alone cannot adequately mitigate the link between the availability of responsibly sold alcohol and its unregulated consumption, while others state that the introduction of MUP of alcohol has the potential to be a more effective tool in reducing alcohol harm than overprovision. Many boards will be re-evaluating the relevance of MUP to their policies now that more information on the evaluation of the impact of MUP is available. In addition, in a recent legal case,<sup>16</sup> an overprovision policy was struck down as unlawful because the sheriff upheld the argument that it didn't take into account that MUP had come into force. The price, availability and marketing

of alcohol can all impact consumption levels, which can in turn impact on harm, and it will be important that boards consider how different measures to tackle alcohol harm can be mutually reinforcing. In any local area it is impossible to say with any certainty what percentage of changes in alcohol consumption and alcohol related harms are due to changes in price/income as compared to availability or marketing. Accordingly, it is important to focus on the local evidence of alcohol related harm, to determine whether there is sufficient evidence of harm to support a case for controlling availability using an overprovision policy. It may also be useful for boards to consider the differential in price between on- and off-sale, as although the introduction of MUP created a floor price, it did not elevate the price of off-trade alcohol enough to reduce the gap between on- and off-trade prices.

**Licensing Guidance update:** In January 2023 [new guidance](#) to Scottish licensing boards on carrying out their functions was issued by Scottish ministers. The revised 'section 142' guidance replaces the original version which was first issued in 2009 and had become outdated due to subsequent changes. The purpose of the guidance is to assist boards in carrying out their functions under the 2005 Act, including the preparation of statements of licensing policy. We have therefore highlighted relevant sections of the guidance within this response to assist boards to have regard to it when undertaking their policy reviews.

**Consultation on occasional licences:** In 2019 the Scottish Government consulted<sup>17</sup> on whether to raise the fee for an occasional licence from the current price of £10, and to seek views on considering a limit on the number and duration of occasional licences for premises licence holders and personal licence holders. The Scottish Government advised it would analyse the responses and, if considered appropriate, draft and lay secondary legislation embedding any new fee level or limit on the number and duration of occasional licences into Scottish law. At the time of writing there has been no secondary legislation proposed and AFS is not aware of any decisions as yet having been taken as a result of the consultation.

## **4. Issues to consider when reviewing the policy**

### **4.1. Promoting the licensing objectives**

It is a legal requirement that the policy must seek to promote the licensing objectives. For all objectives, AFS would suggest using the following format within the policy:

1. State the licensing objective.
2. Give a statement as to what the licensing board is trying to achieve with this objective.
3. Detail any concerns and/or trends in the area relating to this objective – identify what evidence was used to identify these.
4. List what the licensing board intends to do to promote the objective. Note that this could include actions like declaring overprovision, controlling licensed hours, or applying certain conditions (referring to the relevant section/s in the policy). However, other measures could include ensuring all policies are fit-for-purpose, working to ensure information is kept up-to-date and accessible, liaising with local partners, endorsing local initiatives relevant to the objectives, carrying out spot checks of premises, highlighting good practice, and conducting reviews of licences. A full list of board measures to promote the objectives is provided in our online resource: [Measures to promote the licensing objectives](#).
5. List any suggested actions the licensing board would like to see the licensed trade in the area undertake to meet this objective. The types of actions licensees can take often relate to specific control measures that can be put in place, the training and supervision of staff,

maintenance of premises, and co-operation with local stakeholders (e.g., LSO, police). A full list of example licensee measures to promote the objectives is provided in our online resource: [Measures to promote the licensing objectives](#).

Many boards have adopted new approaches to the promotion of objectives as knowledge and understanding of how to best promote them has evolved since the Licensing (Scotland) Act 2005 was first introduced. Examples of different policy approaches are now included within the section 142 guidance, including in relation to:

*Preventing crime and disorder: “Alcohol related crime and disorder does not only occur within or immediately outside licensed premises. A significant proportion of alcohol is bought to be consumed at home or in other private dwellings. Whilst alcohol licensing alone cannot directly address issues such as domestic violence, licensing boards may wish to consider supporting work in this regard through partnership working. One example of a licensing board demonstrating a wider understanding of alcohol related crime can be found within West Lothian Licensing Board’s statement of licensing policy 2018.”*

*Protecting children and young persons from harm: “Licensing Boards will wish to be mindful that children and young people can be impacted by exposure to marketing and promotion of alcohol within licensed premises. For example, Falkirk Licensing Board comments in its statement of licensing policy 2018 that: “Where licensed premises intend to hold events where alcohol is not provided and those events are specifically targeted at children or young persons (for, example, underage discos or parent and toddler groups), consideration should be given to taking steps to avoid any obvious promotion of alcohol”.”*

*Protecting and improving public health: “This licensing objective encourages licensing boards to consider the cumulative effect of licensed premises on alcohol-related harm, within their licensing area, rather than the actions of any individual premises. Collecting harm data for localities will build a picture of the health and wellbeing of the people in the locality, and doing so on a consistent basis over time means the long-term health and wellbeing of a locality can be monitored and improvements made. City of Glasgow Licensing Board is an example of one of a number of licensing boards which have adopted an approach of looking at alcohol and health issues at their local authority area level, and then made a policy that seeks to promote the public health objective”.*

In relation to the above, the Glasgow policy includes a section specifically pertaining to off-sales and the public health objective. This explains that the board is concerned by a number of areas suffering from high levels of alcohol-related harm but containing very few licensed premises. The board does not consider it appropriate to declare these areas as being overprovided for, but the policy makes clear that it may nonetheless be inconsistent with the public health objective to grant a licence which would enable easier access to alcohol – thereby having the potential to exacerbate existing alcohol-related health problems in the area. This is set out in section 9.2 of the [Glasgow Licensing Policy](#).

In addition, many policies set out local conditions that may and/or will be applied by the board in pursuance of the objectives. Including local conditions within policies not only provides an important indication of the ways in which the board will promote the objectives, it also provides examples of what conditions applicants could be subject to or volunteer themselves, and provides people making representations/ objections with suggestions of the kinds of conditions they can suggest. A full list of example conditions is set out in our online resource: [Examples of conditions to promote the objectives](#).

## 4.2. Overprovision

Overprovision is undoubtedly one of the most complex and contentious areas of licensing. AFS's review of the current licensing policies identified that boards have adopted differing approaches to how overprovision should be assessed, and seem to have different understandings of what is required in order to meet the legal tests that apply.

The primary cause of this divergence appears to be the way in which boards have interpreted and understood the concept of 'causal link'. While decisions are to be made on a balance of probabilities, there is wide variation between boards' interpretations of what evidence is required in order to meet the legal test to evidence a causal link. Although some boards seem confident to declare overprovision applying a test that considers on a balance of probabilities whether there are links between numbers of premises and levels of harm, others appear to consider that a higher bar requires to be met for causal link to be established. However, the updated guidance provides clarity around approaches to overprovision assessments and interpreting the causal link, stating that:

- *"If a Licensing Board considers there is at least potential for, or a reasonable basis for, concluding that there will be a risk of adverse impact on the objectives (should more premises licences be granted), it is entitled to come to the view that there is a state of overprovision."*
- *"Consideration should be given as to whether aggregate information and evidence from a number of sources demonstrates a link between the availability of alcohol in an area and alcohol-related harm."*
- *"To demonstrate a "dependable causal link", the proof of the link must be on a balance of probabilities. What this means in practice is that based on the evidence of harm in a locality, it is more likely than not that alcohol availability is a cause, or that increasing the availability of alcohol in that area will increase that harm."*

Boards have the flexibility to decide the approach they take to addressing overprovision in their area and can choose to focus on only the factors that cause them concern in the light of the evidence. It is likely that many boards will be keen to identify how the pandemic has impacted on the licensed economy in their area and will be considering this as part of their overprovision assessment.

At a national level, the number of off-licences in Scotland has reached the highest level since 2010, when the relevant statistics first started to be collected.<sup>1</sup> The closure of pubs and restaurants during the pandemic caused people to buy alcohol from other outlets and more shops and supermarkets applied for licences to meet demand. The number of off licences increased by 133 between March 2020 - March 2022, reaching a total of 5,155. Conversely, the nature of Covid-19, and the measures needed to reduce transmission, invariably had a disproportionate impact on the hospitality sector. While it is likely that many bars, pubs and other licensed premises will have closed permanently as a result, the available statistics don't enable for an assessment of how many licences were surrendered or lost. As such, it may be that the overprovision assessments will have a particular focus on the disparities between on and off sales, and the continued shift to home drinking.

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<sup>1</sup> While the number of off-sales only premises is at its highest level since records began, due to variations in how the available statistics have been published in different years, it is impossible to say for certain whether this is true for all off-sales i.e., off-sales only premises combined with those providing both on-sales and offsales.

The boards consideration of overprovision need not be confined to only considering numbers and capacity but can take account of other factors. For example, inequality is a particularly important consideration in relation to overprovision. There is a stark inequalities gradient to alcohol harm, and a growing awareness that the impact of harmful drinking and alcohol dependence is much greater for those experiencing the highest levels of deprivation. For example, in 2021 alcohol-specific deaths were 5.6 times as frequent in the most deprived areas of Scotland compared to the least deprived areas. This compares to a ratio of 1.9 times for all causes of death.<sup>18</sup> By taking account of evidence of inequalities, boards are able to meaningfully consider how different communities are impacted differently by alcohol and formulate an appropriate policy response.

#### **4.3. Licensed hours**

Policy statements should provide information on a licensing board's policy on licensed hours, which are important not only to individual licensed premises but can have a wider impact for an area.

AFS has identified numerous studies into the links between temporal availability and alcohol harm, which found that policies regulating times of alcohol trading can contribute to reductions in injuries, alcohol-related hospitalisations/ emergency department visits, homicides and crime.<sup>19</sup> The vast majority of boards permit off-sales between 10am and 10pm each day, which is the maximum allowed by law. However, boards can stipulate shorter hours if they consider it to be appropriate. AFS believes that the maximum permitted off-sales hours should be the exception and not the norm, particularly in areas of high-rates of alcohol harm. In addition, the hours permitted for onsales and the night-time economy can have implications for matters such as crime and public order.

Boards can also grant a general extension of licensed hours for particular specified occasions. As such, AFS would recommend that the policy outlines the principles that the board will apply when considering applications for extended hours. For example, some policies make clear that if regular applications are made for the same premises, then applicants will be expected to consider whether they should apply to vary the premises licence. Others outline what might constitute an event of national or local significance. AFS believes that, in many cases, events and festivals can be appropriately accommodated within normal licensing hours and should not serve as automatic justification for extended licensed hours.

#### **4.4. Children and young persons' access**

It is largely for licensing boards to set out their expectations regarding factors like when children and young people should normally be allowed entry to licensed premises, including the ages at which they should be allowed entry, and the types, times and parts of premises to which they should have access. It is also for boards to determine the measures that may be necessary to protect children and young people from harm.

As such, AFS would recommend that the policy provides a clear indication of what the board might deem to be acceptable in terms of children and young peoples' access. Overall, it is the extent to which premises are likely to provide a family-friendly environment that tends to be the determining factor in boards' approaches to children's access. Conversely, premises where the supply of alcohol is the primary purpose of the service provided are frequently cited by boards as being unsuitable for children and young people.

The updated guidance provides examples of how different boards have approached this issue. Some restrict children's access to licensed premises for the primary purpose of consuming a meal or attending an event, while others set out expectations with regards to young peoples' access to

specific parts of premises, or specify the hours when young people should normally be allowed entry.

It is apparent that the majority of boards are seeking to encourage licensed premises to become more child and family friendly within their policies. However, it can also be seen that they are giving consideration to the potential impacts of alcohol on children and young people, and the objective to protect children and young people from harm. In particular, there is increased recognition that the scope of this objective is not restricted to preventing people under the legal purchase age from being sold/supplied with alcohol. Boards are also seeking to address impacts on children and young people resulting from the drinking behaviours they observe, adults drinking, and their general exposure to alcohol. Some boards are also being more directive in their approach than others, by setting out their expectations regarding children's access and applying relevant conditions as standard practice.

#### **4.5. Supporting public participation**

The updated guidance states that *"licensing boards should have effective engagement strategies in place to enable them to engage with and seek the views of their local community."* Given the public interest purpose that underpins alcohol licensing, AFS believes it essential that communities are empowered to participate in licensing processes and can feel confident that their contributions will be given due regard. The publication of policy statements provides an opportunity to set out the mechanisms available to enable community engagement and participation.

There are numerous ways in which the general public can choose to engage with the licensing system, ranging from commenting on applications and observing/participating at board meetings, to joining their local licensing forum. However, communities may not currently be aware of the various ways in which they can get involved or the types of information/supports available to enable them to participate. For example, some boards have developed pro formas to assist anyone wishing to make an objection or representation, while others highlight that LSOs are available to offer appropriate support. Many boards include a commitment in their policies that they will conduct business in a way that is not off-putting to members of the public. For example, by creating a less formal and more relaxed atmosphere so as not to intimidate parties.

#### **4.6. Identifying strategic links**

Although boards are quasi-judicial and need to undertake their decision-making independently, this does not prevent them from considering their policies in the broader context of identified local and national priorities etc. The pandemic has also highlighted the importance of partnership working across sectors. As such, the policy should indicate how the board will take into account other matters relating to alcohol, for example local crime prevention, community safety strategies, and health.

Boards in many areas have adopted a collaborative approach and committed to work with local partners where they share common objectives. As such, AFS would recommend the policy includes reference to Local Outcome Improvement Plans (LOIPs), Alcohol and Drug Partnership strategic plans, and the strategic plans of the Health and Social Care Partnerships (HSCP). Scotland's alcohol strategy 'Changing Scotland's relationship with Alcohol a Framework for Action' is of key relevance to the policy and should also be referenced. The Board should also take into account the views of local partners, the Forum, communities, when developing and implementing their new policy. The Licensing (Scotland) Act 2005 and accompanying guidance should inform the Board's approach to how this can best be achieved, for example the updated guidance states:

*“The alcohol licensing regime in Scotland does not exist in a vacuum and Licensing Boards should clearly explain how they will take into account other pertinent strategies and regimes when developing their statement of licensing policy. For example, the Western Isles Licensing Board statement of licensing policy comments that “The Board will work and appoint a Board Member to work with the Outer Hebrides Alcohol and Drug Partnership and the Outer Hebrides Community Safety Partnership in the Western Isles; the importance of such co-operation is recognised as part of the wider alcohol agenda”.”*

#### **4.7. Occasional licences**

During 2021-2022, 23,269 occasional licences were granted in Scotland.<sup>20</sup> Occasional licence applications can be granted under delegated powers, a limited number of people are required to be notified of occasional licence applications, and the consultation period is much shorter than that for new premises applications – reducing the scope for objections or representations.

This has led to concern that some applicants have sought to use the occasional licence process as an alternative to applying for a full premises licence. As such, AFS would recommend that boards set out measures to ensure that this type of application is subject to appropriate scrutiny. For example, by including a provision to ensure that repeated occasional applications from the same applicant will be automatically referred to the board for a decision.

In addition, AFS would recommend that boards set out conditions that will specifically apply to occasional licences, either as standard practice or on a case-by-case basis. These could relate to issues such as management, supervision, security, signage and training.

#### **4.8. Presentation and readability**

Legislation does not specify how a policy statement should be organised and presented and consequently the 2018 published policy statements vary considerably in structure and length. AFS’s review of the documents identified that shortest was 25 pages while the longest policy statement was 166 pages (including appendices). Some policy statements, but not all, were written in legalistic language and provided excessive detail of administrative processes and procedures, making them somewhat laborious and difficult to read.

The updated guidance states that licensing policies:

*“Must also not simply be a repeat of what is set out in legislation or statutory guidance. It should provide a clear indication to the local community as to the Licensing Board’s evidenced based policy and should seek to promote the licensing objectives (see Chapter 2 for more about the licensing objectives) set out in the 2005 Act. It is important that statement of licensing policies should be written in terms that can be easily understood by the local community as consultation with the local community (including Local Licensing Forums), is a key part of providing feedback to Licensing Boards.”*

Lengthy policy statements written in legalistic and bureaucratic language can be off-putting for some stakeholders and potentially act as a barrier to community engagement in the licensing process. As such, AFS recommends that boards make conscientious efforts to create policies that are accessible to all. For example, by providing definitions of terms used throughout the policy within an appendix, and providing links to statutory provisions, guidance etc. wherever possible. Web-links and signposting can similarly be used to direct interested parties to more detailed information where required.

- 
- <sup>1</sup> Alcohol Focus Scotland (23 April 2020). [Scots report changing drinking patterns during coronavirus lockdown](#). Alcohol Focus Scotland.
- <sup>2</sup> Alcohol Focus Scotland (23 July 2020). [Survey shows Scots lockdown drinking rise caused by stress](#). Alcohol Focus Scotland.
- <sup>3</sup> Angus, C. et al. (2022). [Modelling the impact of changes in alcohol consumption during the COVID-19 pandemic on future alcohol-related harm in England](#). The University of Sheffield.
- <sup>4</sup> Jackson, S.E. et al. (2021). [Moderators of changes in smoking, drinking and quitting behaviour associated with the first COVID-19 lockdown in England](#). *Addiction*, 117(3), 772-783.
- <sup>5</sup> Jackson, S.E. et al. (2021). [Association of the COVID-19 lockdown with smoking, drinking and attempts to quit in England: an analysis of 2019–20 data](#). *Addiction*, 116(5):1233–44.
- <sup>6</sup> Angus, C. et al. (2022). [Modelling the impact of changes in alcohol consumption during the COVID-19 pandemic on future alcohol-related harm in England](#). The University of Sheffield.
- <sup>7</sup> Ponce Hardy, V. & Giles, L. (2022). [Monitoring and Evaluating Scotland’s Alcohol Strategy: Monitoring Report 2022](#). Public Health Scotland.
- <sup>8</sup> National Records of Scotland (2022). [Alcohol specific deaths 2021](#).
- <sup>9</sup> Holmes, J. et al. (2012). [The temporal relationship between per capita alcohol consumption and harm: a systematic review of time lag specifications in aggregate time series analyses](#). *Drug and Alcohol Dependence*, 123(1-3), 7-14.
- <sup>10</sup> Ponce Hardy, V. & Giles, L. (2022). [Monitoring and Evaluating Scotland’s Alcohol Strategy: Monitoring Report 2022](#). Public Health Scotland.
- <sup>11</sup> World Health Organization (2006). [Intimate partner violence and alcohol](#).
- <sup>12</sup> Alcohol Focus Scotland (2019). [Parental Drinking in Scotland Discussion Paper](#).
- <sup>13</sup> Ponce Hardy, V. & Giles, L. (2022). [Monitoring and Evaluating Scotland’s Alcohol Strategy: Monitoring Report 2022](#). Public Health Scotland.
- <sup>14</sup> Scottish Government (2022). [Coronavirus \(COVID-19\): Licensing \(Scotland\) Act 2005 section 142 – statutory guidance](#).
- <sup>15</sup> Fitzgerald, N. et al. (2021). [Lockdown and licensed premises: COVID-19 lessons for alcohol policy](#). *Drug and Alcohol Review*, 41(3), 533-545.
- <sup>16</sup> Aldi Stores Limited Vs Dundee City Licensing Board, Case Number: B109/21, March 2022
- <sup>17</sup> Scottish Government (2019). The Licensing (Scotland) Act 2005: [Consultation on Occasional Licences](#), Published 23 April 2019
- <sup>18</sup> National Records of Scotland (2022). [Alcohol-specific deaths 2021](#).
- <sup>19</sup> For example: Sanchez-Ramirez DC, Voaklander D (2018). The impact of policies regulating alcohol trading hours and days on specific alcohol-related harms: a systematic review. *Injury Prevention* 2018;24: 94-100.
- <sup>20</sup> Scottish Government (2022). [Liquor Licensing Statistics for Period 01/04/2021 to 31/03/2022](#)

**Appendix 3****LSO response**Festive Hours Policy

The Wigtown Festive Hours Policy is embedded within most of the operating plans but would be a useful addition to the Licensing Policy Statement to inform new applicants.

On-sales are permitted on 24, 25, 26, 31 December and 1 January to 2am.

Outdoor Drinking Areas

Since Covid, more premises are creating or expanding outdoor drinking areas, some with large capacities.

In pursuance of Licensing Objective, Preventing Public Nuisance, it may be that consideration should be given to restricting the terminal hour for use of these areas unless they are in a remote location where there is no likelihood of noise causing a nuisance to neighbours. An informal policy of 10pm terminal hour during Covid was applied to Occasional Licences for outdoor drinking areas.

Other Views and Comments

At 1.6.13 ,it would be useful to include details of the areas across Dumfries and Galloway covered by the Council's Byelaws prohibiting consumption of alcohol in designated public places.

Police Drugs Policy

For consistency, at 2.1.4, consider including Stewartry Board.

Refusals Register

For consistency, at 2.1.5, consider including Annandale & Eskdale Board and delete 2.1.6.

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# **An Assessment of Overprovision in Dumfries and Galloway in 2023**

**NHS Dumfries and Galloway  
June 2023**

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## 1. Executive Summary

The Licensing (Scotland) 2005 Act (the Act) places a duty on Local Authority Licensing Boards to consider the overprovision of alcohol and the impact on improving public health and preventing crime when developing their licensing policy.

There is a substantial body of evidence that has shown there is a direct link between high levels of alcohol availability and high levels of alcohol-related harm. Independent research conducted in 2018 has shown that this link was evident in Dumfries and Galloway. Alcohol-related harms include:

- hospital admissions
- deaths
- crime
- domestic violence
- drink driving

Although Dumfries and Galloway continues to have lower rates of alcohol-related harm compared to the whole for Scotland, there are early signs that harms are increasing. For example, alcohol-related hospital admissions amongst young people and young adults (those aged 11 to 25) are now above the rate for Scotland.

This analysis focuses on 8 measures: 4 measures to do with alcohol availability and 4 measures to do with alcohol-related harms. It uses these measures to assess whether there is overprovision of alcohol in different local areas within Dumfries and Galloway. This analysis also highlights local areas where there is concern about the level of alcohol-related harm.

The results are summarised in Table 1. The key findings from this analysis are:

### Annandale and Eskdale

- The findings for Annandale and Eskdale show there is overprovision in Annan West due to statistically higher rates of alcohol availability and alcohol-related harm in this area.

### Nithsdale

- The findings for Nithsdale show there is overprovision in Dumfries Central due to statistically higher rates of alcohol availability and alcohol-related harm in this area. Additionally, the areas neighbouring Dumfries Central (Lochside and Lincluden, Summerville, Kingholm and Nunholm) are highlighted as areas of concern due to the statistically higher rates of alcohol-related harm in these 4 areas.

### Stewartry

- There is no overprovision or areas of concern in Stewartry.

### Wigtownshire

- The findings for Wigtownshire show there is overprovision in Stranraer East and Rhins North due to statistically higher levels of alcohol availability and alcohol-related harm than Dumfries and Galloway and Scotland. Additionally, the areas neighbouring Stranraer East and Rhins North (Stranraer West, Stranraer South and Rhins South) are highlighted as areas of concern due to statistically higher levels of alcohol-related harm in these 3 areas.

The availability of alcohol in these local areas is almost certainly impacting adversely on people's health and wellbeing.

It is recommended that the Licensing Boards in Dumfries and Galloway limit approving new applications in Annan West, Dumfries Central, Stranraer East and Rhins North to support reducing the impact of alcohol-related harms in these areas.

Further, it is recommended that Licensing Boards in Dumfries and Galloway note that there are concerns over the level of alcohol-related harm in Lochside and Lincluden, Summerville, Kingholm, Nunholm, Stranraer West, Stranraer South and Rhins South when considering new license applications.

\*Please note, a red highlight in Table 1 below indicates a statistically higher rate than Dumfries and Galloway.

Table 1: Summary Table of Alcohol Availability and Alcohol-Related Harm in Dumfries and Galloway per 100,000 population

Locality	Intermediate Zone	Rate of On-Sales Premises in 2023	Rate of Off-Sales Premises in 2023	Rate of On-Sales Capacity in 2023	Rate of Off-Sales Capacity in 2023	Rate of Alcohol-Related Hospital Admissions in 2020-21	Rate of Alcohol-Related ED Attendances in 2021-22	Rate of Alcohol Specific Deaths between 2012-22	Rate of Offences for Drunkenness between 2013-22
<b>Wigtownshire</b>	Rhins North	612	195	83,092	2,669	314	695	25	19
	Rhins South	277	139	55,062	970	1,163	46	23	0
	Stranraer East	1,024	315	207,131	14,460	602	749	35	323
	Stranraer West	108	81	14,493	860	645	1,129	13	19
	Stranraer South	30	89	1,478	3,016	203	532	21	18
	Machars North	202	40	27,070	121	127	202	12	0
	Machars South	348	143	44,601	4,240	252	82	18	4
	Newton Stewart	259	148	43,399	2,703	145	148	15	24
<b>Stewartry</b>	Gatehouse	421	84	103,960	1,348	310	84	6	3
	Glenkens	296	215	37,853	1,721	253	269	14	0
	Kirkcudbright	229	95	32,512	1,775	423	57	15	15
	Castle Douglas	338	106	42,013	5,781	512	127	11	13
	Dalbeattie	193	97	22,723	1,738	342	217	17	7
	Dalbeattie Rural	208	42	33,679	415	165	166	13	0
<b>Nithsdale</b>	New Abbey	321	117	74,137	935	359	29	6	12
	Shawhead	28	0	7,114	0	447	171	6	0
	Thornhill	250	75	48,090	1,297	252	125	13	5
	Upper Nithsdale	130	130	18,958	3,340	383	65	11	2
	Mid Nithsdale	112	0	25,531	0	143	90	9	0
	Lochside and Lincluden	54	54	25,235	1,193	1,217	488	18	4
	Summerville	173	195	71,768	15,436	892	541	22	22
	Dumfries Central	1,349	390	310,797	15,146	1,219	600	30	348
	Kingholm	421	32	148,204	194	1,090	550	7	10
	Nunholm	296	30	56,062	1,363	268	534	18	95
	Troqueer	58	58	7,794	1,183	233	144	12	3
	Calside	37	37	14,105	965	632	186	11	0
	Georgetown	0	37	0	987	188	183	11	0
	Heathhall	36	72	8,234	1,409	402	253	14	4
Locharbriggs	0	68	0	2,328	256	171	14	7	
Collin	149	74	34,671	6,294	161	50	2	0	
<b>Annandale</b>	Annandale West	284	41	60,917	40	139	162	4	0
	Lochmaben	90	60	10,150	1,831	421	90	6	0
	Lockerbie	224	143	43,302	6,523	194	163	12	24
	Moffat	592	135	77,248	2,611	386	81	11	11
	Annandale East	177	51	30,740	631	256	25	15	3
	Annan West	482	96	75,216	1,669	801	96	3	55
	Annan East	18	90	2,926	5,257	585	181	20	0
	Eastriggs	70	35	6,961	696	237	35	10	0
	Gretna	364	194	79,626	4,147	398	97	19	5
	Langholm and Eskdale	241	80	49,571	2,516	138	54	3	3

## 2. Introduction and Background

### 2.1 Purpose of the Report

The purpose of this report is to support and inform Dumfries and Galloway Licensing Board with developing the Licensing Policy Statement and assessing overprovision for 2023 to 2027. To achieve this, this report will present evidence on the extent of alcohol availability and alcohol-related harm across Intermediate Zones (IZs) within Dumfries and Galloway and assess whether any of these areas have a statistically higher level of alcohol availability and alcohol-related harm compared to the average for Dumfries and Galloway and the average for Scotland, where applicable.

### 2.2 The Duty to Assess Overprovision

The Licensing (Scotland) Act 2005 (the Act) outlined 5 central objectives which Local Authority Licensing Boards are required to promote when developing their licensing policy and assessing overprovision:

- preventing crime and disorder
- securing public safety
- preventing public nuisance
- protecting and improving public health
- protecting children and young persons from harm<sup>1</sup>

Each licensing objective is equally important and no one objective carries more weight than another objective<sup>1</sup>. The Act therefore, places a direct obligation on local Licensing Boards to consider the protection and improvement of public health and preventing crime and disorder when developing a policy statement and assessing overprovision.

The Act also places a duty on Licensing Boards to assess overprovision and must include a specific statement on whether there is an overprovision of licensed premises either in general or in any area within the region. Dumfries and Galloway has 4 Licensing Boards which means the Statement of Licensing Policy from Dumfries and Galloway needs to include a statement as to the extent of possible overprovision within each of the 4 licensing areas:

- Annandale and Eskdale;
- Nithsdale;
- Stewartry;
- Wigtownshire

If the Licensing Policy Statement concludes that there is overprovision of a type of licensed premises in an area, it is anticipated that new applications of that type in that area should generally be refused. Conversely if there is no mention of overprovision in the Licensing Policy Statement, it is unlikely that any refusal based on overprovision could be upheld.

When assessing overprovision, Licensing Boards are asked to demonstrate a "dependable causal link" between the alleged cause and the alleged harm with the proof of the link being on a balance of probabilities<sup>2</sup>. In other words, this means that based on the evidence of harm in a locality, it is more likely than not that alcohol availability is a cause, or that increasing the availability of alcohol in that area will increase that harm<sup>3</sup>.

The Act requires local authorities to consult with their relevant health board when developing the Licensing Policy Statement with respect to overprovision. This report acts as NHS Dumfries and Galloway's consultation response.

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<sup>1</sup> Amended to include young persons as per Air Weapons and Licensing Act 2015.

## 2.3 The Link between Alcohol Availability and Alcohol-Related Harm

Alcohol availability refers to the ease of access to alcohol, whether to drink on the premises (such as in restaurants, hotels, pubs or bars) or to drink off the premises (such as with supermarkets and convenience stores) as well as taking into account the number and capacity of alcohol outlets.

There is a substantial body of evidence that links increased availability of alcohol with increased consumption and increased alcohol-related harm. Research has found associations between alcohol availability and, for instance, the following areas:

- mortality<sup>4</sup>
- hospital attendances<sup>5</sup>
- suicide<sup>6</sup>
- drink driving<sup>7</sup>
- murder<sup>8</sup>
- domestic violence<sup>9</sup>
- sexually transmitted disease<sup>10</sup>
- child maltreatment and neglect<sup>11</sup>
- underage drinking<sup>12</sup>

The evidence has found that measures to limit availability, accessibility and affordability are likely to have a beneficial impact on both consumption and alcohol-related harm<sup>13</sup>.

Scotland has one of the highest levels of alcohol-related harm in Western Europe<sup>14</sup>. A report published by Alcohol Focus Scotland found a strong link between a higher number of alcohol outlets and higher rate of alcohol-related harm on both a national and Dumfries and Galloway scale<sup>15</sup>. The findings for Scotland confirmed hospitalisation rates and deaths from alcohol-related illness are highest in areas with the highest density of alcohol retailers. Additionally, the following findings were reported for Dumfries and Galloway most recently in 2018:

- Alcohol-related hospitalisation rates in the neighbourhoods with the most alcohol outlets were 2.3 times higher than in neighbourhoods with the least.
- Crime rates in the neighbourhoods with the most alcohol outlets were 2.7 times higher than in neighbourhoods with the least.
- The link between alcohol outlet availability and harm was found even when other possible explanatory factors, such as age, sex, urban or rural status, and levels of income deprivation, had been taken into account.

## 2.4 The Impact of the Pandemic on Alcohol Sales

Since the 2018 Licensing Policy Statement and overprovision assessment, the COVID-19 pandemic and the restrictions implemented to control the spread of the pandemic have shaped trends in alcohol sales. For instance, 2 reports highlighted the following findings for Scotland:

- A 66% decrease in on trade sales in Scotland in 2020 (compared with the 2017 to 2019 annual average) and a 95% decrease between January and May 2021 (compared with January to May 2017 to 2019).<sup>16</sup>
- At the same time, alcohol sales from off sales increased by 13% in 2020 and 15% in January to May 2021 (compared with the same time periods in 2017 to 2019).<sup>17</sup>
- In 2021, 85% of all alcohol purchased was sold through off sales. This is a decrease from 90% in 2020 but an increase from 72% in 2019.<sup>18</sup>

The findings above show a clear shift from on sales to off sales with the pandemic disrupting the normal behaviour of people.

## 2.5 Alcohol-Related Harm across Dumfries and Galloway

The Scottish Public Health Observatory (ScotPHO) publishes a number of different measures for alcohol-related harm that have been age and sex standardised. This enables comparisons to be made between different areas of Scotland, without the differences in demographic makeup of those areas, affecting the results.

Dumfries and Galloway has consistently had a lower rate of alcohol-related hospital admissions compared to the rate for the whole of Scotland (Figure 1). However, whilst Scotland has continued to show a decreasing trend, there has been little change in the rate for Dumfries and Galloway since 2014. Further, there are early signs that alcohol-related harm may be on the rise in Dumfries and Galloway.

Alcohol-related hospital admissions for young people and young adults (those aged between 11 and 25), was increasing in Dumfries and Galloway before the pandemic (Figure 2). As people's lives recover from the disruption of the pandemic, it is likely that this increasing trend will return.

The rate of alcohol specific deaths in Dumfries and Galloway has consistently been lower than that for Scotland. However, since reaching an historic low in 2015, the rate in Dumfries and Galloway has been steadily increasing (Figure 3).

Figure 1: Age Sex Standardised Rate for Alcohol-Related Hospital Admissions, Dumfries and Galloway compared to Scotland, 2002/03 to 2022/23

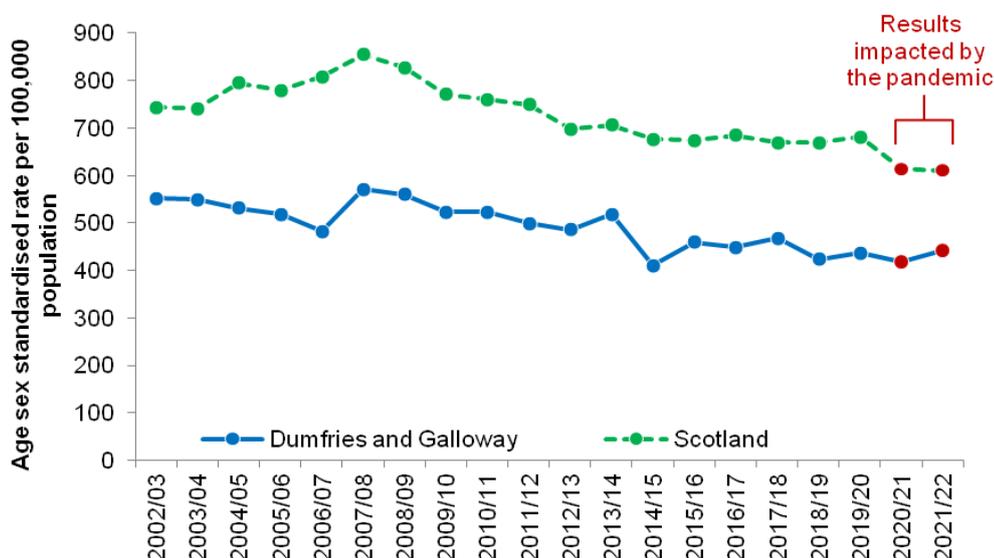


Figure 2: Age Sex Standardised Rate for Alcohol-Related Admissions for Young People and Young Adults (aged 11 to 25 years), Dumfries and Galloway compared to Scotland, 2002/03-2004/05 to 2019/20-2021/22

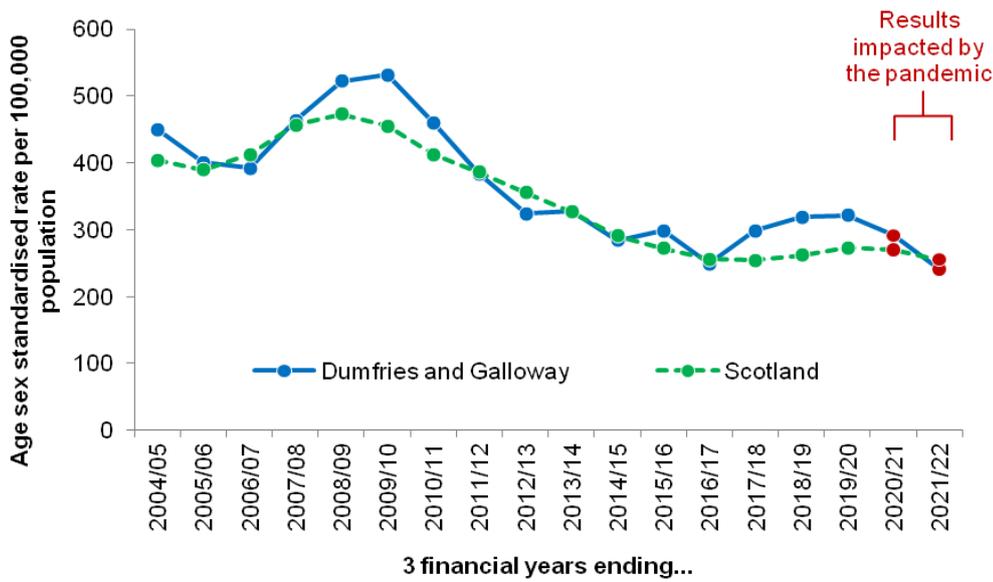
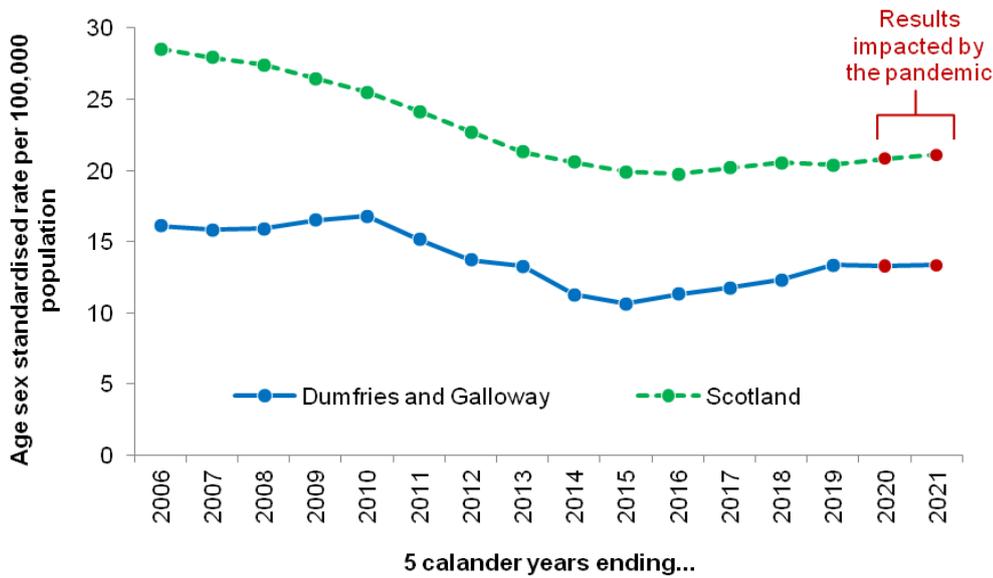


Figure 3: Age Sex Standardised Rate for Alcohol Specific Deaths, Dumfries and Galloway compared to Scotland, 2002-06 to 2017-20



### 3. Methodology

To support planning in local areas, this analysis focuses on understanding the overprovision of alcohol and alcohol-related harm in different places within Dumfries and Galloway.

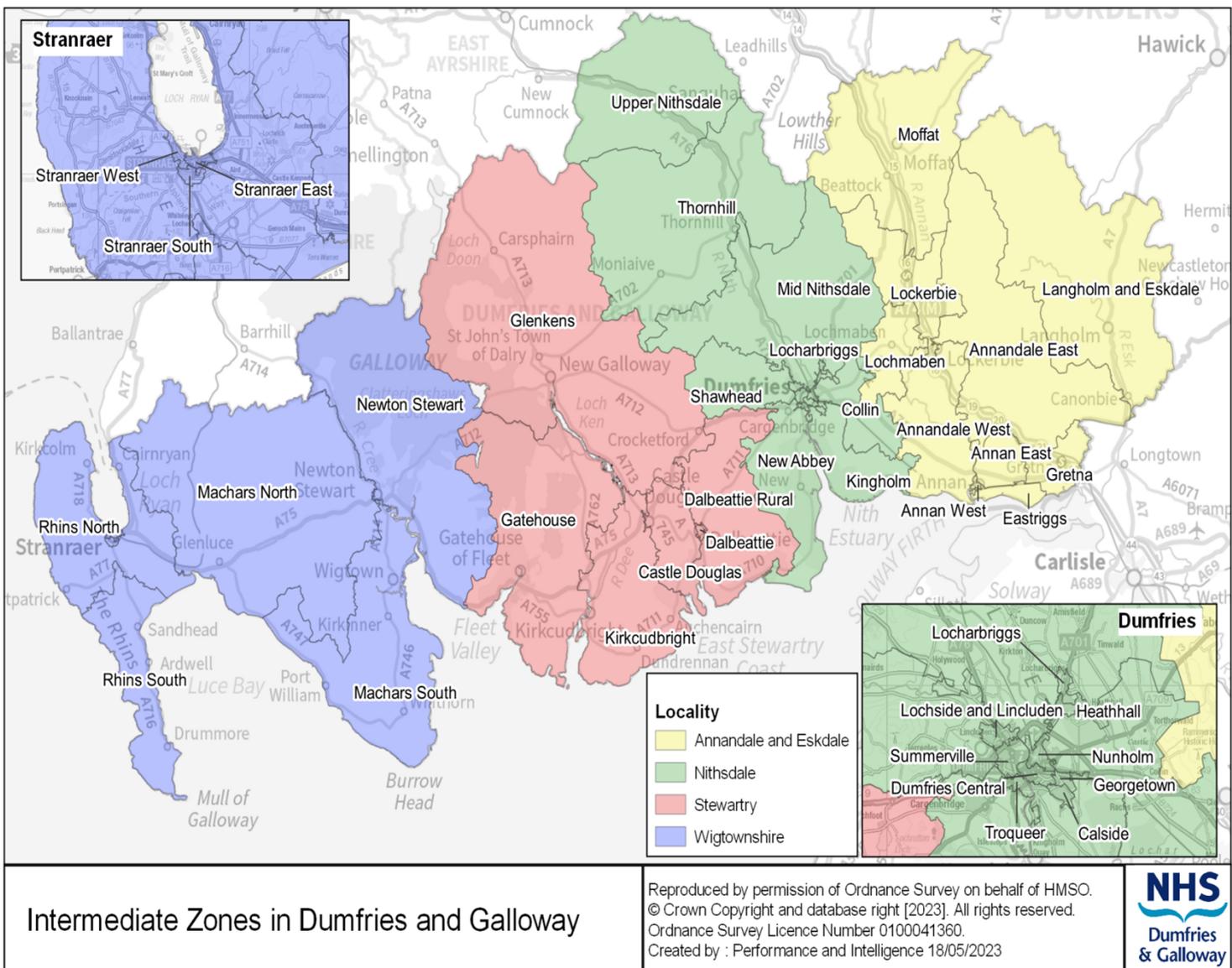
#### 3.1 Geographical Units

For the purpose of this report, Intermediate Zones (IZs) are selected as the core unit of analysis to enable comparisons between local areas within Dumfries and Galloway. Since Scotland's Census in 2001, IZs have been a preferred standard geographical unit for planning and analysing public health activity. IZs have 2 advantages over other geographical units:

- IZs are widely used for presenting and analysing data in geographic areas because they are defined in a rigorous way with clear boundary lines;
- IZs contain a sufficient size of population for analysis, and many of the major sources of data are available at this level;

Map 1 below shows the 40 IZ across the 4 Dumfries and Galloway localities. Each IZ contains an average of approximately 3,700 residents.

Map 1: IZs in Dumfries and Galloway by Localities, 2023



Bearing in mind that people will travel to purchase cheaper alcohol, it may at first appear irrelevant to consider the distribution of licenses on an area by area basis. However, such physical clustering of alcohol outlets will have impacts on the local communities in terms of:

- visibility and normalisation of alcohol
- competitive pressures
- noise

## 3.2 Measures

The following measures of alcohol availability and alcohol-related harm are used in this report:

*Table 2: Measures of Alcohol Availability and Alcohol-Related Harm*

Measures	Source	Notes
<b>Alcohol Availability</b>		
1) The rate of on sales premises in 2023 per 100,000 population	Dumfries and Galloway Licensing Board	If a premise has both an on licence and off licence, it has been classified as an on licence in this report as on sales constitute the majority of its trade. Members clubs have been excluded
2) The rate of off sales premises in 2023 per 100,000 population	Dumfries and Galloway Licensing Board	No notes.
3) The rate of on sales capacity in 2023 per 100,000 population	Dumfries and Galloway Licensing Board	If a premise has both an on licence and an off licence, it has been classified as an on licence for analysis as on sales constitute the majority of its trade. The rate of sales capacity represents the maximum available capacity in an IZ. Members clubs have been excluded
4) The rate of off sales capacity in 2023 per 100,000 population	Dumfries and Galloway Licensing Board	The rate of sales capacity represents the maximum available capacity in an IZ.
<b>Alcohol-Related Harm</b>		
1) The rate of alcohol-related hospital admissions in 2020-21 per 100,000 population	Public Health Scotland	More information on the diagnostic (ICD10) codes used for reporting alcohol-related admissions in Scottish hospitals can be found here: <a href="https://publichealthscotland.scot/publications/alcohol-related-hospital-statistics">https://publichealthscotland.scot/publications/alcohol-related-hospital-statistics</a>
2) The rate of alcohol-related emergency department attendances in 2021-22 per 100,000 population	Dumfries and Galloway Information Services Team	Emergency department data is recorded in free text fields. This means the person recording the information chooses which information and how much information to record. As such, caution should be taken when interpreting this data as it is possible that some cases might not have been identified if they did not contain the key words used in the search criteria.
3) The rate of alcohol specific deaths between 2012-22 per 100,000 population	Dumfries and Galloway Performance and Intelligence Team	Alcohol specific deaths are deaths which are known to be a direct consequence of alcohol misuse, meaning they are wholly attributable to alcohol misuse. More information can be obtained here: <a href="https://www.nrscotland.gov.uk/statistics-and-data/statistics/statistics-by-theme/vital-events/deaths/alcohol-deaths">https://www.nrscotland.gov.uk/statistics-and-data/statistics/statistics-by-theme/vital-events/deaths/alcohol-deaths</a>
4) The rate of criminal offences for drunkenness and other disorderly conduct between 2013-22 per 100,000 population	Dumfries and Galloway Police Division	Although alcohol is a likely contributory factor in many crimes, this report could only access data on crimes which are specific to alcohol including “drunkenness and other disorderly conduct offences”. More detail can be found here: <a href="https://www.gov.scot/publications/recorded-crime-scotland-2021-2022/">https://www.gov.scot/publications/recorded-crime-scotland-2021-2022/</a>

### 3.3 Method of Analysis

In order for a state of overprovision to exist, this report considers that **2 conditions** must be met:

- The rate of alcohol availability for at least 1 measure (the rate of on and/or off sales) in an IZ must be statistically higher than the overall rate for Dumfries and Galloway.
- The rate of alcohol-related harm for at least 1 measure in an IZ must be statistically higher than the overall rate for Dumfries and Galloway.

Whilst a statistically higher capacity rate might increase the risk of overprovision and the potential for harm, this report considers capacity rates alone are not sufficient indicators of alcohol availability because many on sales trade considerably below their maximum capacity and the estimated shelf display dedicated to alcohol in off sales might differ from the actual shelf display dedicated to alcohol due to, for instance, variations in shelf capacity or re-stocking.

The 4 measures of alcohol related harm listed in Table 2 relate to 2 of the [licensing objectives](#) (section 2.2).

Alcohol related hospital admissions, alcohol related emergency department attendances and alcohol specific deaths relate to the licensing objective to **protect and improve public health**. Therefore, if the evidence shows that an IZ has higher rates of on and off sales and, for instance, alcohol-related hospital admissions were higher than for Dumfries and Galloway, this would substantiate a finding that there is overprovision of licensed premises within that IZ.

The rate of criminal offences for drunkenness and other disorderly conduct relates to the licensing objective to **prevent crime and disorder**. If an IZ has higher rates of on and off sales and higher rates for drunkenness and other disorderly conduct, this too would substantiate a finding of overprovision within that IZ.

Areas with statistically high levels of alcohol-related harm but not statistically higher rates of alcohol availability compared to Dumfries and Galloway as a whole will be highlighted as areas of potential concern. If alcohol availability increases in these areas then it could further increase the rate of alcohol-related harm. It is worth noting that the impact of high levels of alcohol availability in an IZ will not be isolated to that specific IZ as it will also impact on surrounding areas.

This report includes confidence intervals around each measure which show the range in which we are 95% confident that the true rate lies. A wider confidence interval indicates a less accurate estimate. Estimates from larger populations (such as Scotland) will have smaller confidence intervals and therefore provide more accurate estimates, than from smaller populations (such as an IZ within Dumfries and Galloway) which will have larger confidence intervals. If the confidence intervals for an IZ within Dumfries and Galloway overlap with the rate for Dumfries and Galloway, this report will conclude that we cannot be certain that their rates differ for the measure in question. If the confidence interval does not overlap with the rate, this report will conclude that we can be 95% confident that their rates differ. A 95% confidence level is standard when conducting public health research.

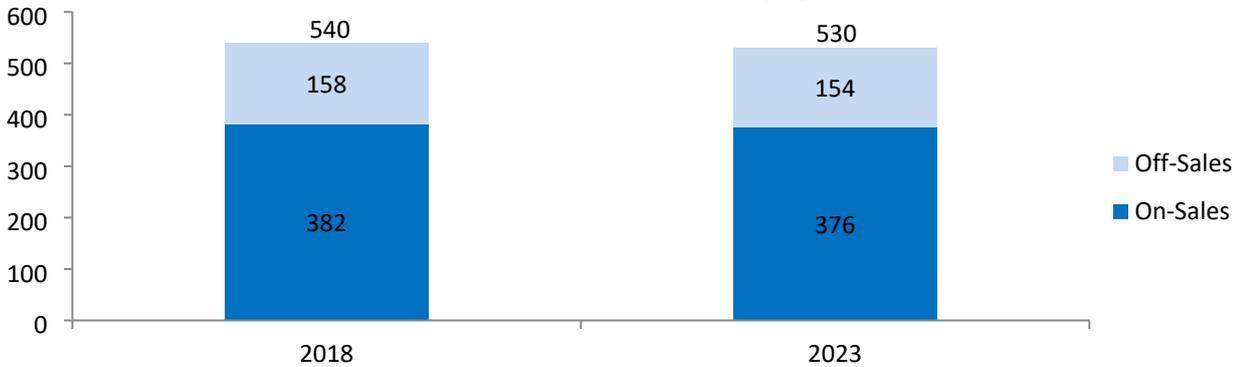
For ease of analysis and to enable direct comparison between IZs, Dumfries and Galloway and Scotland, the data in this report is provided as a rate at per 100,000 of the population.

## 4. Report Findings

### 4.1 Impact of Pandemic on Number of Outlets

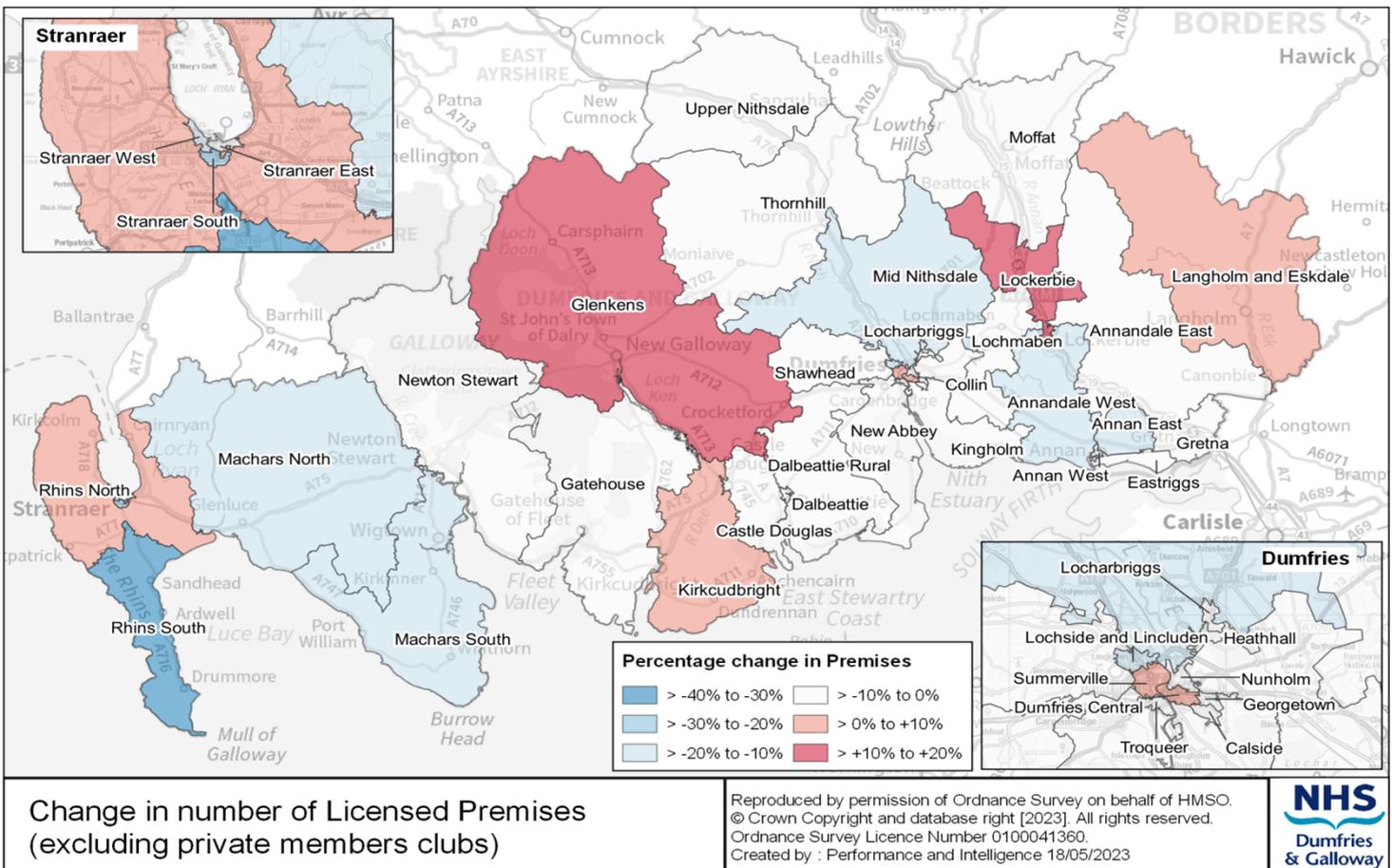
Figure 4 shows the total number of licensed premises in Dumfries and Galloway marginally decreased by 2% (a difference of 10 premises) from 540 in 2018 to 530 in 2023. The number of on sales premises also marginally decreased by 2% (a difference of 6 premises) from 382 to 376.

Figure 4: Number of Licensed Premises in Dumfries and Galloway by On Sales and Off Sales, 2018 and 2023



Although the overall number of premises has changed only marginally, there have been changes in the distribution of premises across IZs in Dumfries and Galloway. Map 2 shows out of 40 IZs, there were 15 IZs with fewer licensed premises in 2023 and 7 areas with an increase in the number of licensed premises in 2023. There was a 4% increase (2 premises) in the number of premises in Dumfries Central and a decrease of 3% (1 premise) in Stranraer East. In sum, these findings show the minimal change in the number of total premises in Dumfries and Galloway despite the pandemic disruption to business.

Map 2: Percentage Change in the Number of Licensed Premises from 2018 to 2023 by IZ



## 4.2 Measures of Alcohol Availability

The charts shown in Figures 5, 6, 7 and 8 show how the rates for different measures in alcohol availability for each IZ compare to the Dumfries and Galloway, and Scotland overall rates. The IZs are listed in an approximate west to east order.

Dumfries Central and Stranraer East consistently have alcohol availability rates higher than the overall rate for Dumfries and Galloway and Scotland. In addition, other IZs in The Rhins (Rhins North, Rhins South) and some IZs in Annandale and Eskdale are more likely to have a higher rate of availability than Dumfries and Galloway as a whole.

\*Please note, a red highlight in the charts below indicates a statistically higher rate than Dumfries and Galloway.

\*\*Please note, the figures for Scotland in Figures 5 and 6 are from 2021-22. This is the most recent data available.

Figure 5: Rate of On Sales Premises per 100,000 Population by IZ, March 2023

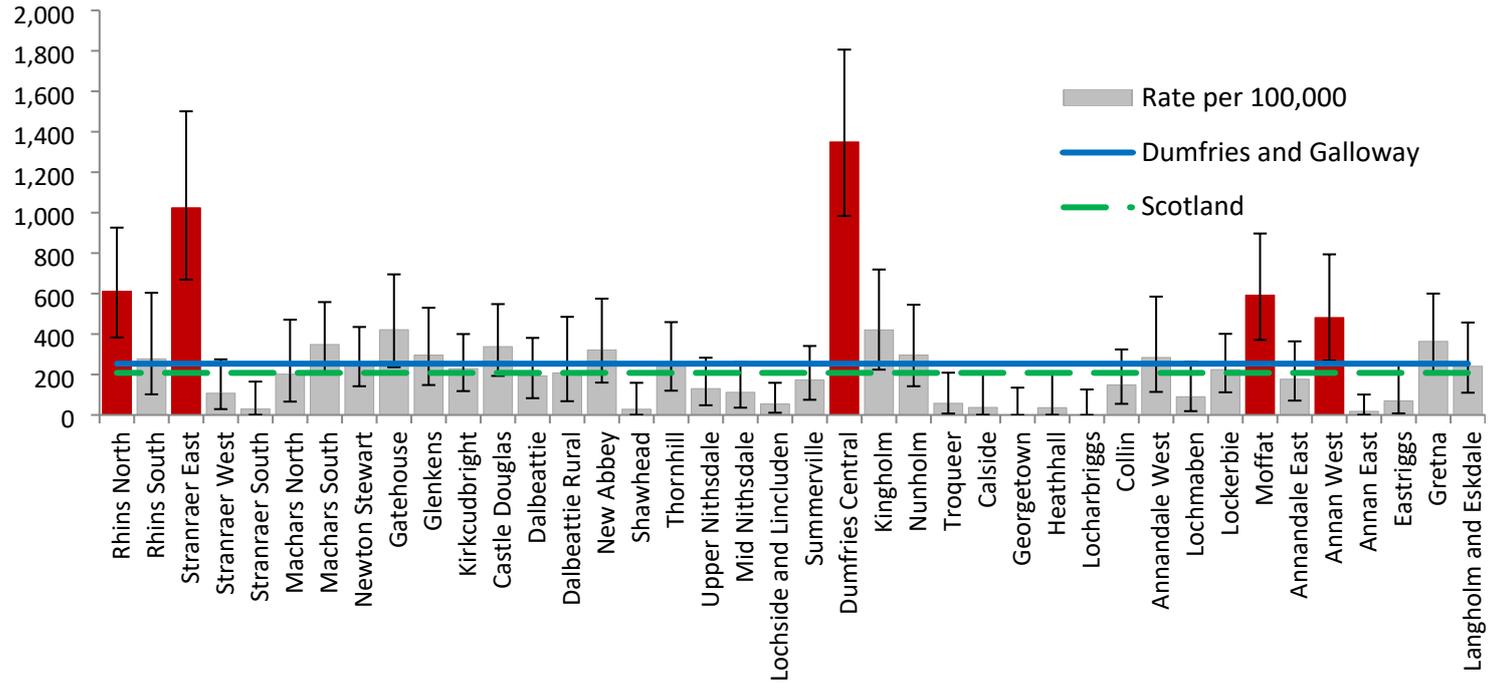


Figure 6: Rate of Off Sales Premises per 100,000 Population by IZ, March 2023

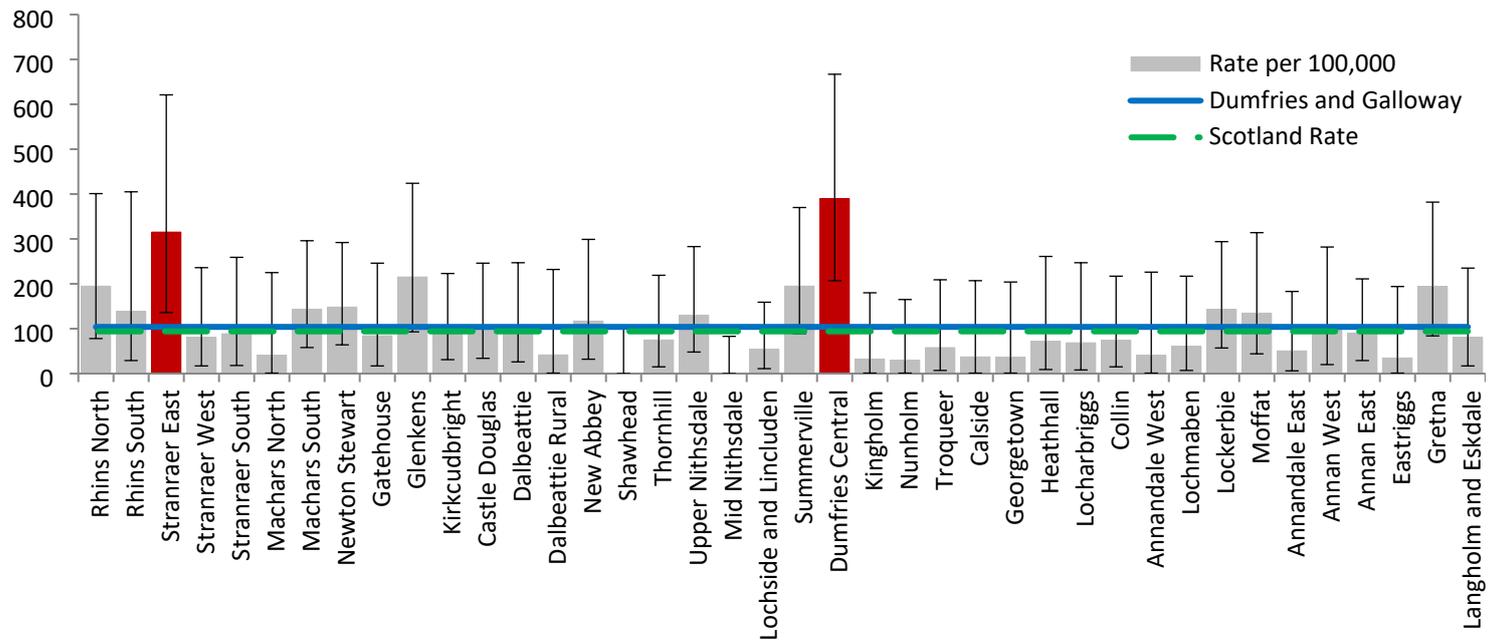


Figure 7: Rate of On Sales Capacity per 100,000 Population by IZ, March 2023

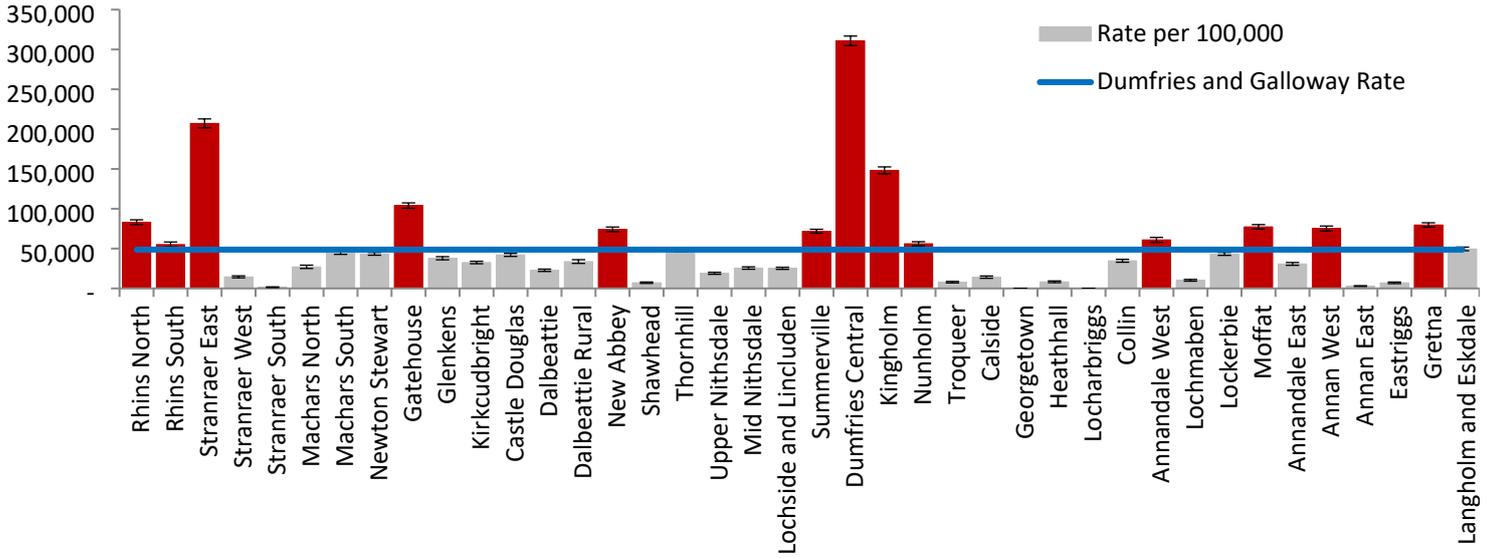
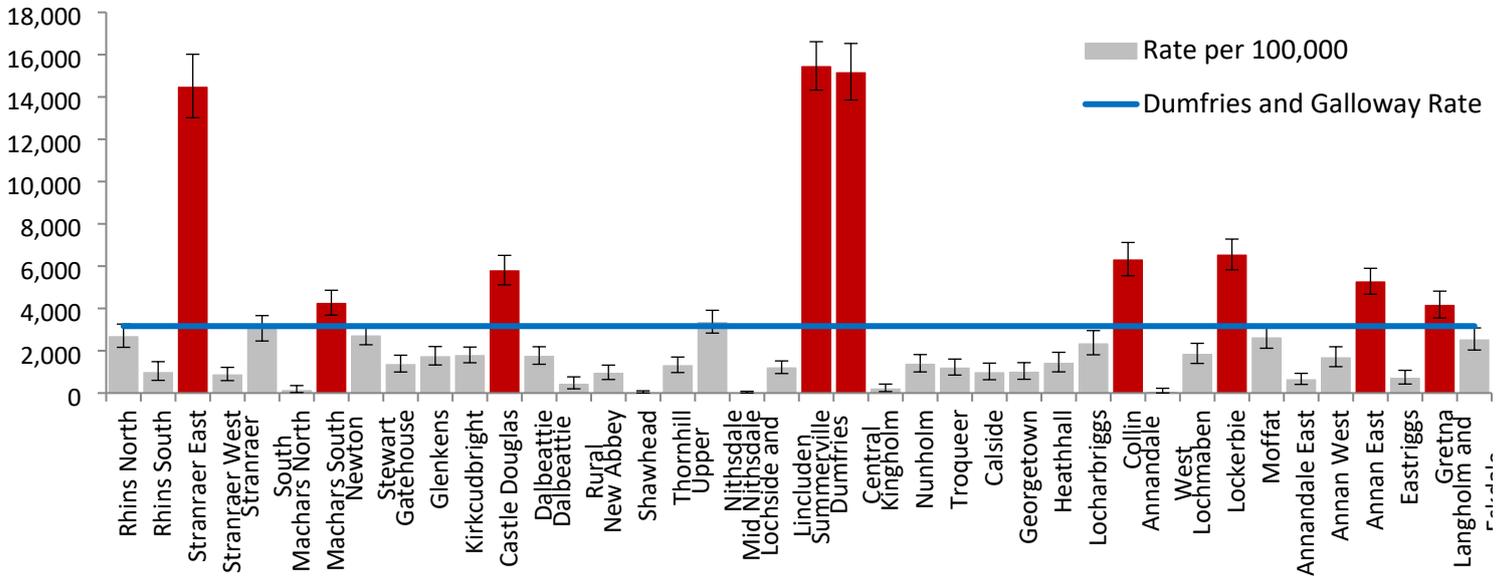


Figure 8: Rate of Off Sales Capacity per 100,000 Population by IZ, March 2023



### 4.3 Measures of Alcohol-Related Harm

The charts shown in Figures 9, 10, 11 and 12 show how the rates for different measures of alcohol-related harm for each IZ compare to the Dumfries and Galloway, and Scotland overall rates.

As with alcohol availability, Dumfries Central consistently has alcohol harm rates higher than the overall rate for the region and, in most cases, for Scotland. Further, the IZs that immediately neighbour Dumfries Central, including Lochside and Lincluden, Summerville and Kingholm, have higher rates of alcohol for 2 or more measures.

For nearly all measures of alcohol harm, Stranraer East has a statistically higher rate of alcohol harm than the overall rate for Dumfries and Galloway. IZs in The Rhins (Stranraer West, Stranraer South, Rhins North and Rhins South) and Annan West also show higher rates of alcohol-related harm.

Figure 9: Rate of Alcohol-Related Hospital Admissions per 100,000 Population by IZ, 2020-21

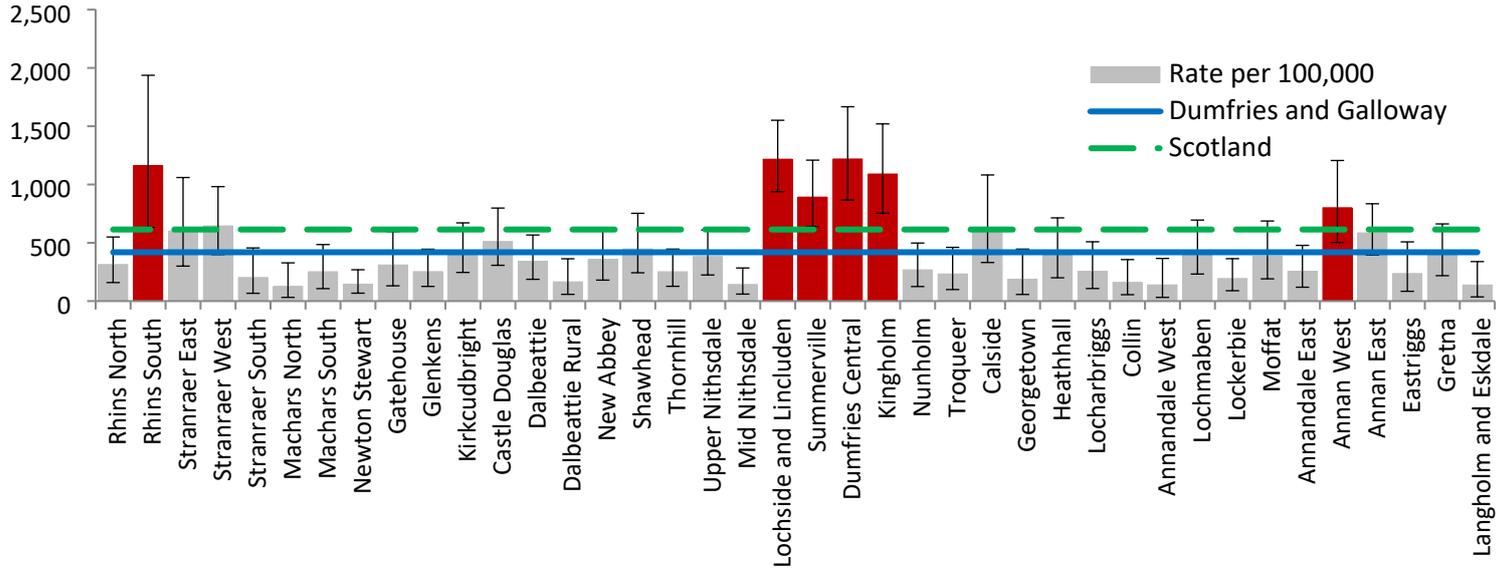


Figure 10: Rate of Alcohol-Related Accident and Emergency Attendances per 100,000 Population by IZ, 2021-22

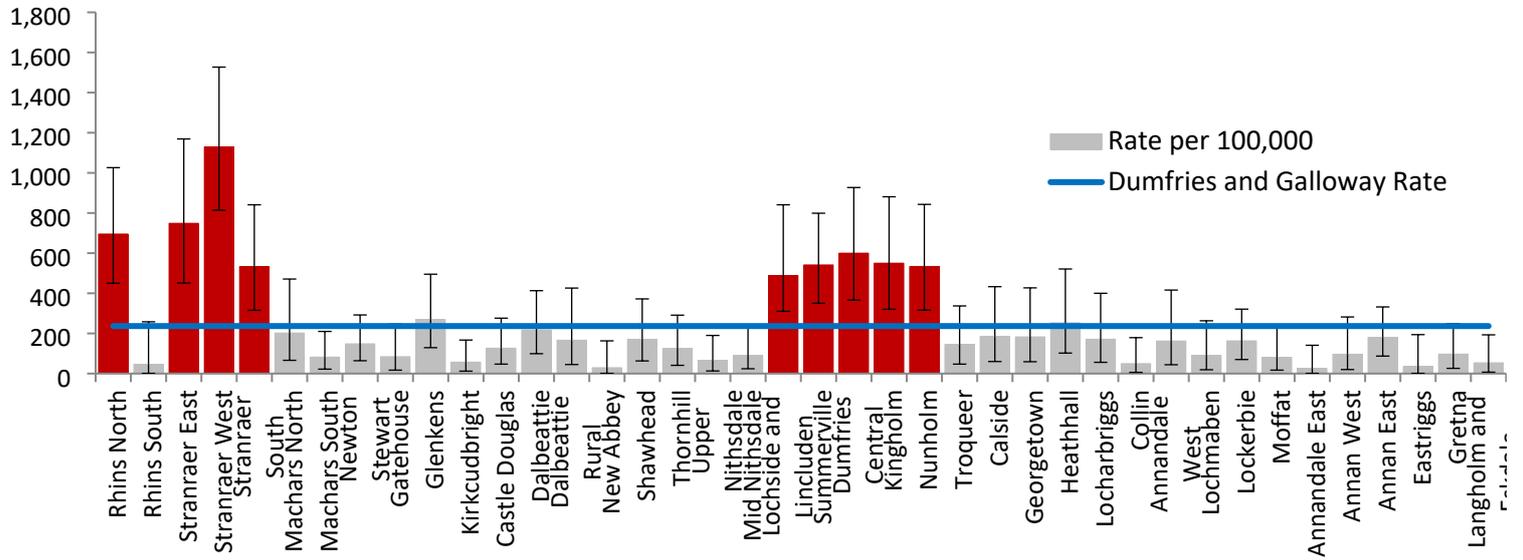


Figure 11: Rate of Alcohol Specific Deaths per 100,000 Population by IZ, 2012-22

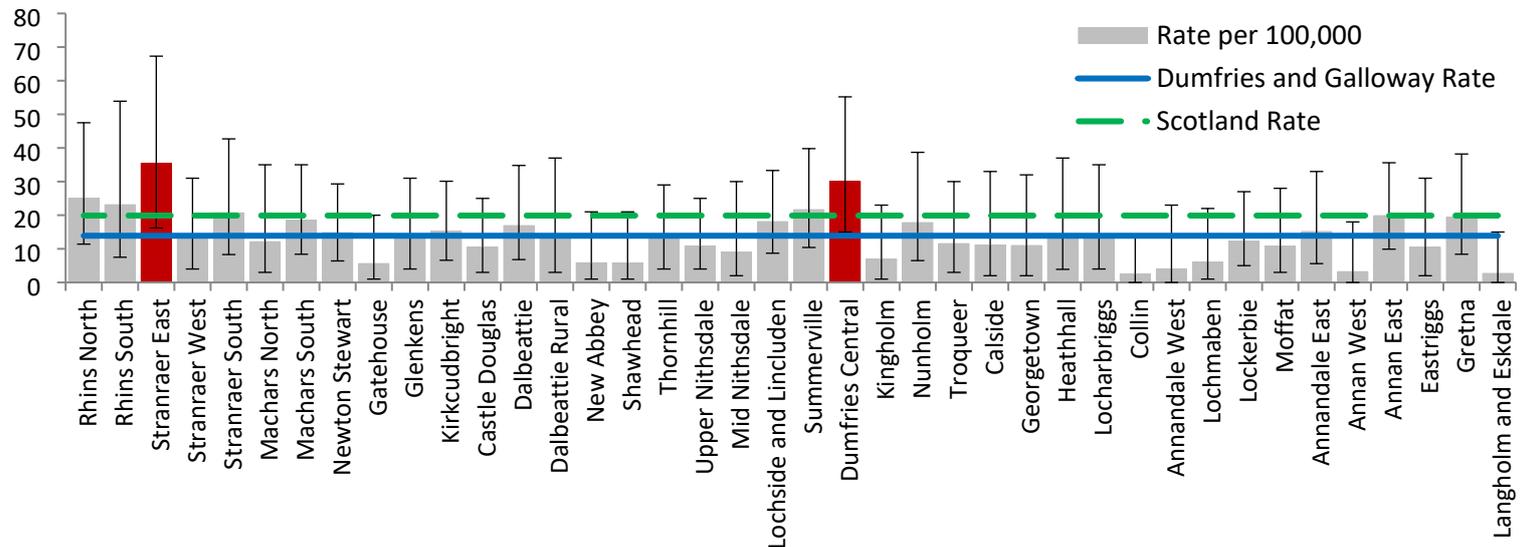
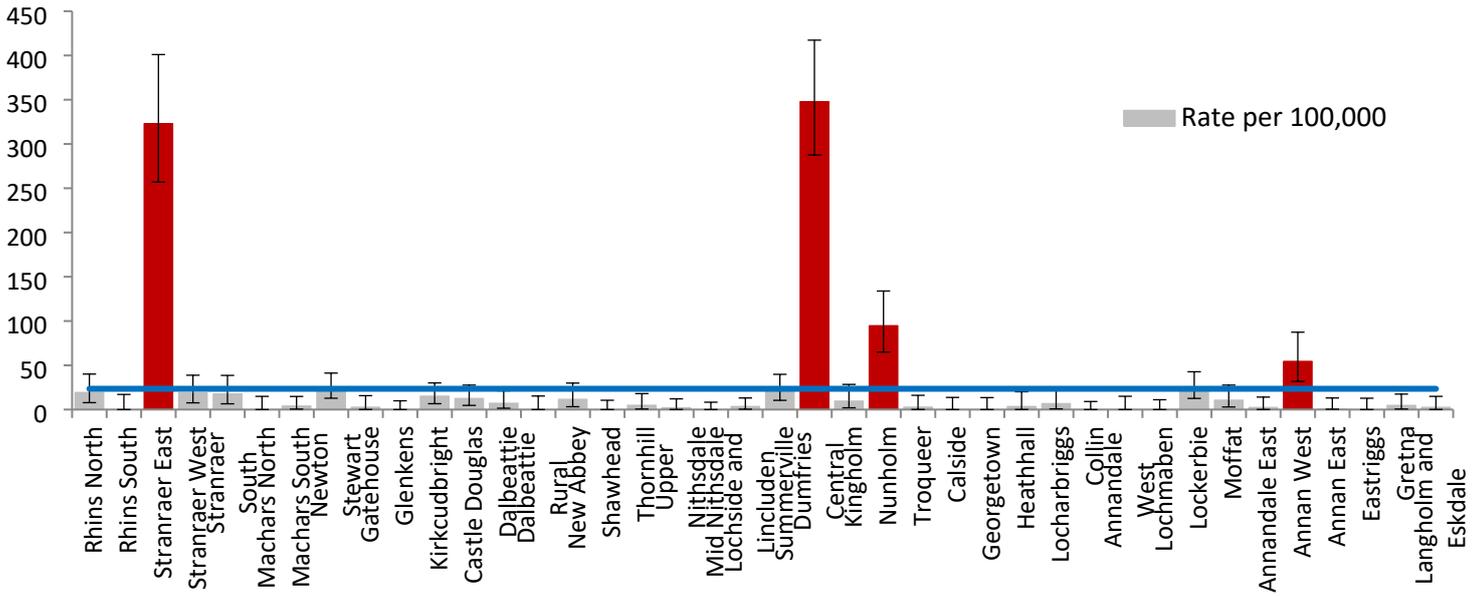


Figure 12: Rate of Drunkenness and Other Disorderly Conduct per 100,000 Population by IZ, 2012-21



## 4.4 Results by Locality

### 4.4.1 Annandale and Eskdale

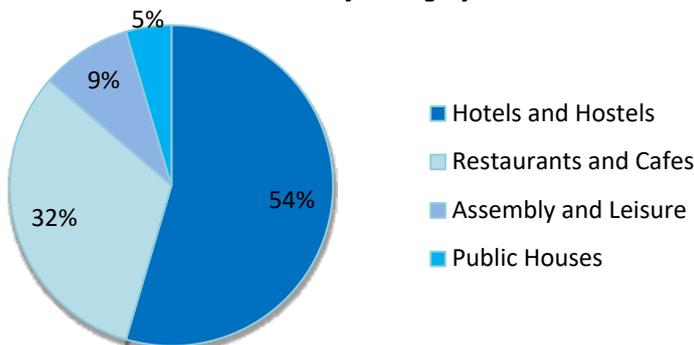
#### Annan West

Annan West has a statistically higher rate of on sales premises than the overall rate for Dumfries and Galloway and Scotland. The area also has a higher rate of on sales capacity than Dumfries and Galloway. The rates of alcohol-related hospital admissions and offences for drunkenness and other disorderly conduct are statistically higher in Annan West than Dumfries and Galloway. Although between 2018 and 2023 the number of premises licensed to sell alcohol in Annan West decreased marginally by 5% (a difference of 1 premise), the high rate of alcohol availability and alcohol-related harm, mean that Annan West is considered to be overprovided in on sales.

#### Moffat

Moffat has a statistically higher rate of on sales premises than the overall rate for Dumfries and Galloway and Scotland. The area also has a higher on sales capacity than Dumfries and Galloway. However, the rate of alcohol-related harm is not statistically higher among Moffat residents. This finding could be explained by Figure 13 which shows Moffat has a high proportion of hotels and restaurants with 87% of on sales (19 premises) following under the hotel or restaurant category. These types of establishments tend to cater for the tourist trade which likely explains the lower level of alcohol-related harm among Moffat residents despite the higher rate of alcohol availability. Therefore, the evidence does not suggest Moffat is overprovided in on or off sales.

Figure 13: On Sales Premises in Moffat by Category of Establishment



#### Other Areas in Annandale

**Gretna** has a statistically higher rate of on and off sales capacity than Dumfries and Galloway. However, the rates of alcohol-related harm are not statistically higher than the Dumfries and Galloway rate. Therefore, the evidence does not suggest Gretna is overprovided in on or off sales.

**Annandale West** has a statistically higher rate of on sales capacity than Dumfries and Galloway. However, the rates of alcohol-related harm are not statistically higher than the Dumfries and Galloway rate. Therefore, the evidence does not suggest Annandale West is overprovided in on or off sales.

**Lockerbie** and **Annan East** have statistically higher rate of off sales capacity than Dumfries and Galloway. However, the rates of alcohol-related harm are not statistically higher than the Dumfries and Galloway rate. Therefore, the evidence does not suggest Lockerbie or Annan East are overprovided in on or off sales.

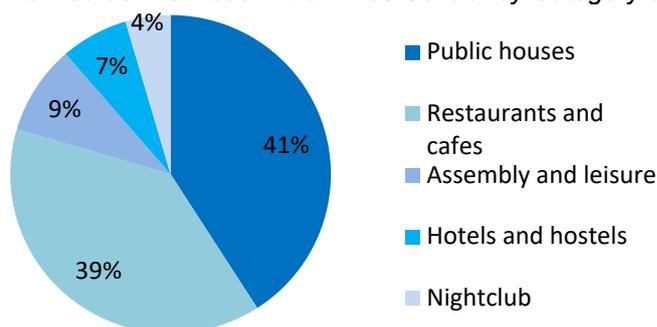
#### 4.4.2 Nithsdale

##### Dumfries Central

Dumfries Central has statistically higher rates of on and off sales premises than Dumfries and Galloway and Scotland. The area also has statistically higher rates of on and off sales capacity than Dumfries and Galloway. Dumfries Central has the highest rate of on sales premises, off sales premises and on sales capacity in Dumfries and Galloway. Figure 7 above shows Dumfries Central has an overall on sales rate 310,798 sales per 100,000 population.

Figure 14 shows nearly half of all on sales premises (20 premises) in Dumfries Central are public houses or nightclubs.

Figure 14: On Sales Premises in Dumfries Central by Category of Establishment, 2023



The rate of alcohol-related hospital admissions for people living in Dumfries Central is statistically higher than both Scotland and Dumfries and Galloway. Additionally, the rates of emergency department attendances and alcohol specific deaths for people living in Dumfries Central are statistically higher than Dumfries and Galloway. Offences for drunkenness and other disorderly conduct occur at a statistically higher rate in Dumfries Central than Dumfries and Galloway.

In the 2018 Alcohol Licensing Overprovision Report, Dumfries Central was assessed as overprovided in terms of on and off sales by the health board. Since 2018, there has been a 4% increase (a difference of 2 premises) in the number of premises licensed to sell alcohol in Dumfries Central. The analysis presented in this report continues to show that Dumfries Central is overprovided in both on and off sales licences. Consequently, this is having a negative impact on rates of alcohol-related harm in Dumfries Central.

##### Neighbouring Areas to Dumfries Central

**Summerville, Kingholm, Lochside and Lincluden and Nunholm** all have rates of on and off sales which are not statistically higher than Dumfries and Galloway.

However, all 4 areas have higher rates of alcohol-related harm than Dumfries and Galloway on 2 or more alcohol harm measures. The rate of alcohol-related hospital admissions is statistically higher in Summerville, Kingholm and Lochside and Lincluden than the overall rate for Dumfries and Galloway and Scotland. The rate of emergency department attendances is statistically higher in Summerville, Kingholm, Lochside and Lincluden and Nunholm than the overall rate for Dumfries and Galloway. The rate of offences

for drunkenness and other disorderly conduct is statistically higher in Nunholm than the overall rate for Dumfries and Galloway.

The high rates of alcohol-related harm in Summerville, Kingholm, Lochside and Lincluden and Nunholm is likely due the close proximity of these areas to Dumfries Central, an area with considerably high levels of alcohol availability. This analysis highlights these 4 areas as areas of potential concern.

#### Other Areas in Nithsdale

**Collin** has a statistically higher rate of off sales capacity and **New Abbey** has a statistically higher rate of on sales capacity than Dumfries and Galloway. However, the rates of alcohol-related harm among Collin and New Abbey residents are not statistically higher than the Dumfries and Galloway rates. Therefore, the analysis does not suggest Collin or New Abbey is overprovided on or off sales.

#### 4.4.3 Stewartry

**Castle Douglas** has a statistically higher rate of off sales capacity and **Gatehouse** has a statistically higher rate of on sales capacity than Dumfries and Galloway as a whole. However, in neither area are the rates of alcohol-related harm statistically higher than the Dumfries and Galloway rate. Therefore, the analysis does not suggest Castle Douglas or Gatehouse are overprovided in on or off sales.

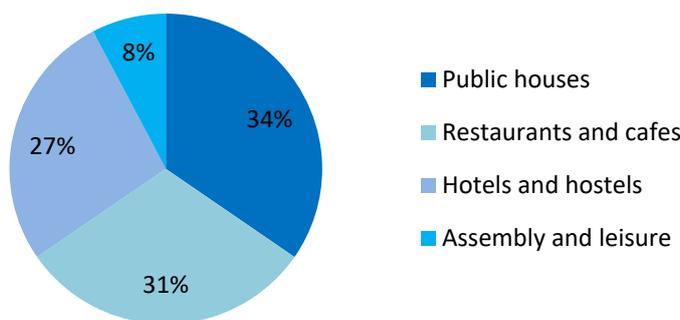
#### 4.4.4 Wigtownshire

##### Stranraer East

Stranraer East has a statistically higher rate of both on and off sales premises than the overall rate for Dumfries and Galloway and Scotland. The area also has a statistically higher rate of both on and off sales capacity than Dumfries and Galloway. Stranraer East has the second highest rate of on sales, off sales and on sales capacity in Dumfries and Galloway. Figure 7 shows Stranraer East has a sales rate of 207,132 sales per 100,000 population.

Figure 15 shows 34% of on sales premises (9 premises) are public houses, 31% (8 premises) are restaurants and cafes and 27% (7 premises) are hotels and hostels.

Figure 15: On Sales Premises in Stranraer East by Category of Establishment, 2023



Additionally, people living in Stranraer East have statistically higher rates of alcohol-related emergency attendances and alcohol specific deaths than Dumfries and Galloway. Offences for drunkenness and other disorderly conduct also occur at a statistically higher rate in Stranraer East than Dumfries and Galloway as a whole.

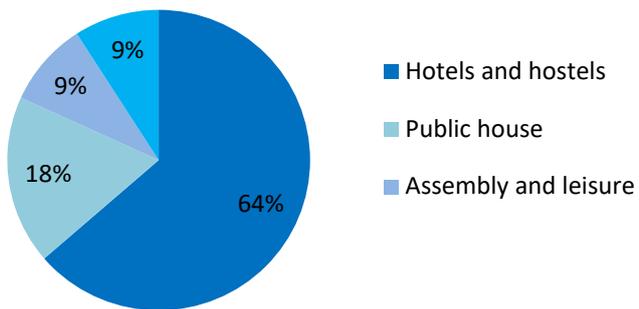
The 2018 Alcohol Licensing Overprovision Report by the health board found Stranraer East to be overprovided in the number of licences. Since 2018, there has only been a small decrease of 3% (a difference of 1 premise) in the number of premises licensed to sell alcohol. The evidence in this report suggests Stranraer East continues to be overprovided in on and off sales. Consequently, this is having a negative impact on rates of alcohol-related harm among people living in Stranraer East.

### Rhins North

Rhins North has a statistically higher rate of on sales premises than the rate for Dumfries and Galloway and Scotland. The area also has a statistically higher rate of on sales capacity than Dumfries and Galloway. Additionally, the rate of emergency department admissions among people living in Rhins North is statistically higher than the Dumfries and Galloway rate.

Map 2 above shows that between 2018 and 2023, the number of licensed premises in Rhins North increased by 7% (a difference of 4 premises). Figure 13 shows 64% of on sales premises (14 premises) in Rhins North are hotels and hostels and 18% of on sales premises (4 premises) are public houses. Whilst Rhins North has a high proportion of hotels and hostels which tend to cater to the tourist trade, the high rate of emergency department admissions indicates the rate alcohol availability in the area is having an adverse impact upon the health of people living in Rhins North. This analysis indicates that there is overprovision in Rhins North.

Figure 16: On Sales Premises in Rhins North by Category of Establishment, 2023



### Rhins South

The rate of on and off sales is not statistically higher in Rhins South than Dumfries and Galloway or Scotland. However, Rhins South does have a statistically higher rate of on sales capacity than Dumfries and Galloway. Additionally, Rhins South has a statistically higher rate of hospital admissions than Dumfries and Galloway and Scotland. It is worth noting that between 2018 and 2023, the number of premises licensed to sell alcohol in Rhins South decreased by 31% (a difference of 4 premises). Further, the high rate of alcohol-related hospital admissions in Rhins South is likely due to the close proximity of Rhins South to Rhins North, an area with a high level of alcohol availability. This analysis highlights Rhins South as an area of potential concern.

### Neighbouring areas to Stranraer East

**Stranraer West** and **Stranraer South** do not have statistically higher rates of alcohol availability than Dumfries and Galloway. However, Stranraer West and Stranraer South do have statistical higher rates of alcohol-related emergency department attendances than Dumfries and Galloway. The high rate of emergency department attendances, despite low levels of alcohol availability, is likely due to the proximity of these areas to Stranraer East, an area with significantly high levels of alcohol availability. This analysis highlights Stranraer West and Stranraer South as areas of potential concern.

### Other Areas in Wigtownshire

**Machars South** has a statistically higher rate of off sales capacity than Dumfries and Galloway. However, the rates of alcohol-related harm are not statistically higher than the Dumfries and Galloway rate. Therefore, the evidence does not suggest Machars South is overprovided in on or off sales.

## 5. Discussion of Findings

### 5.1 Overall findings

- Alcohol related harm across Dumfries and Galloway remains lower than that for Scotland as whole. However there are early signs that alcohol related harm is likely to be on the increase (young people and young adult hospital admissions), and there are specific areas within Dumfries and Galloway that this analysis indicates are overprovided or are of concern. Some of these areas have higher rates of alcohol availability or alcohol-related harm than both Dumfries and Galloway and Scotland.
- The findings for Annandale and Eskdale show there is overprovision in Annan West due to statistically higher rates of alcohol availability and alcohol-related harm in this area.
- The findings for Nithsdale show there is overprovision in Dumfries Central due to statistically higher rates of alcohol availability and alcohol-related harm in this area. Additionally, the areas neighbouring Dumfries Central (Lochside and Lincluden, Summerville, Kingholm and Nunholm) are highlighted as areas of concern due to the statistically higher rates of alcohol-related harm in these 4 areas.
- There is no overprovision or areas of concern in Stewartry.
- The findings for Wigtownshire show there is overprovision in Stranraer East and Rhins North due to statistically higher levels of alcohol availability and alcohol-related harm than Dumfries and Galloway and Scotland. Additionally, the areas neighbouring Stranraer East and Rhins North (Stranraer West, Stranraer South and Rhins South) are highlighted as areas of concern due to statistically higher levels of alcohol-related harm in these 3 areas.

### 5.2 Limitations

Dumfries and Galloway is a sparsely population area. This means, that when analysing results by IZs, there can be small numbers involved. Small numbers can result in statistically erroneous results. This is highlighted by the dramatic percentage changes premises for on and off sales coming from just a real-terms difference of 1 or 2 premises opening or closing. However, with respect to the measure for alcohol availability and alcohol-related harm, this has been controlled for by using 95% confidence intervals. This provides a high degree of rigour to the analysis and high degree of certainty that the areas highlighted as being overprovided or of concern, truly are.

There is very likely to be an under reporting of alcohol-related hospital admission for people living in the east of the region (such as Gretna, Cannonbie and Langholm). People in these areas are more likely to attend Cumbria Royal Infirmary in England in an emergency than they are to attend Dumfries and Galloway Royal Infirmary. Data from England is not included in the measures that monitor alcohol related harm in Scotland. This should be taken into account when considering the implications of the results of this analysis for Annandale and Eskdale.

This report does not include figures for online alcohol sales from websites such as Amazon which do not require a local licence for selling alcohol. At present, figures to show the extent of online alcohol sales among Dumfries and Galloway residents are not available so there is no way to measure the impact of online sales on levels of alcohol availability and alcohol-related harm in Dumfries and Galloway.

Similarly, this report does not include figures for UK wide alcohol sales. It is likely that some residents will buy alcohol from premises in England (where there is no minimum unit pricing). At present, figures to show the extent of alcohol purchases from areas outside of Dumfries and Galloway are not available, therefore, there is no way to measure the influence of cross border sales activity on levels of alcohol availability and alcohol-related harm in Dumfries and Galloway.

## 5.3 Recommendations by Locality

### 5.3.1 Annandale and Eskdale

This analysis has found that Annan West is overprovided. The availability of alcohol in Annan West is almost certainly impacting adversely on people's health and wellbeing. Based on the evidence of harm in the area, it is more likely than not that alcohol availability is a cause and increasing the availability of alcohol in the area will increase that harm. Therefore, it is recommended that the Licensing Board limits approving new applications to support reducing the impact of alcohol-related harms in these areas.

### 5.3.2 Nithsdale

This analysis has found that Dumfries Central is overprovided, and that there are concerns over the rates of alcohol-related harm in Kingholm, Lochside and Lincluden, Nunholm and Summerville. The availability of alcohol in these local areas is almost certainly impacting adversely on people's health and wellbeing. Based on the evidence of harm in the area, it is more likely than not that alcohol availability is a cause and increasing the availability of alcohol in the area will increase that harm. Therefore, it is recommended that the Licensing Board limits approving new applications to support reducing the impact of alcohol-related harms in these areas.

### 5.3.3 Stewartry

This analysis has found no overprovision or areas of concern for Stewartry. It is recommended that the Licensing Board considers the wider public health implications when considering applications in this locality.

### 5.3.4 Wigtownshire

This analysis has found that Stranraer East and Rhins North are overprovided, and that there are concerns over the rates of alcohol-related harm in Stranraer South, Stranraer West and Rhins South. The availability of alcohol in these local areas is almost certainly impacting adversely on people's health and wellbeing. Based on the evidence of harm in the area, it is more likely than not that alcohol availability is a cause and increasing the availability of alcohol in the area will increase that harm. Therefore, it is recommended that the Licensing Board limits approving new applications to support reducing the impact of alcohol-related harms in these areas.

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<sup>1</sup> *Licensing (Scotland) Act 2022. c.2.*

<sup>2</sup> *Licensing (Scotland) Act 2022. c.5.*

<sup>3</sup> *Licensing (Scotland) Act 2022. c.5.*

<sup>4</sup> Richardson E, Shortt N, and Pierce J. 2014. *Alcohol-Related Illness and Death in Scottish Neighbourhoods: Is there a Relationship with the Number of Alcohol Outlets? Report for Alcohol Focus Scotland.*

<sup>5</sup> Richardson E, Shortt N, and Pierce J. 2014. *Alcohol-Related Illness and Death in Scottish Neighbourhoods: Is there a Relationship with the Number of Alcohol Outlets? Report for Alcohol Focus Scotland.*

<sup>6</sup> Popova S, Giesbrecht N, Bekmuradov D, and Patra J. 2009. Hours and Days of Sale and Density of Alcohol outlets: Impacts on Alcohol Consumption and Damage: A Systematic Review. *Alcohol and Alcoholism*, 44(5): 500-516.

<sup>7</sup> Popova S, Giesbrecht N, Bekmuradov D, and Patra J. 2009. Hours and Days of Sale and Density of Alcohol outlets: Impacts on Alcohol Consumption and Damage: A Systematic Review. *Alcohol and Alcoholism*, 44(5): 500-516.

<sup>8</sup> Popova S, Giesbrecht N, Bekmuradov D, and Patra J. 2009. Hours and Days of Sale and Density of Alcohol outlets: Impacts on Alcohol Consumption and Damage: A Systematic Review. *Alcohol and Alcoholism*, 44(5): 500-516.

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- <sup>9</sup> Snowden A. 2016. Alcohol Outlet Density and Intimate Partner Violence in a Nonmetropolitan College Town: Accounting for Neighbourhood Characteristics and Alcohol Outlet Types. *Violence and Victims* 31(1): 111-123.
- <sup>10</sup> Cohen A, Ghosh-Dastidar B, Scribner R, et al. 2006. Alcohol Outlets, Gonorrhoea and the Los Angeles Civil Unrest: a Longitudinal Analysis. *Social Science and Medicine* (62)12: 3062-71.
- <sup>11</sup> Popova S, Giesbrecht N, Bekmuradov D, et al. 2009. Hours and Days of Sale and Density of Alcohol Outlets: Impacts on Alcohol Consumption and Damage: A Systematic Review. *Alcohol and Alcoholism*, 44(5): 500-516.
- <sup>12</sup> Young R, Macdonald L, and Ellaway A. 2013. Associations between Proximity and Density of Local Alcohol Outlets and Alcohol Use among Scottish Adolescents. *Health and Place*, 19(100): 124-30
- <sup>13</sup> Vocht F, Heron J, Angus C. Et al. 2017. Measurable Effects of Local Alcohol Licensing Policies on Population Health in England. *Journal of Epidemiology & Community Health*, 70: 231-237.
- <sup>14</sup> Beeston C, Reid G, Robinson M, et al. 2013. *Monitoring and Evaluating Scotland's Alcohol Strategy*. Third Annual Report.
- <sup>15</sup> Alcohol Focus Scotland. 2020. *Alcohol Outlet Availability and Harm in Dumfries and Galloway*. Glasgow: Alcohol Focus Scotland.
- <sup>16</sup> Richardson E, Giles L, and Fraser C. 2022. *Alcohol Sales and Harm in Scotland during the COVID-19 Pandemic*. Edinburgh: Public Health Scotland.
- <sup>17</sup> Richardson E, Giles L, and Fraser C. 2022. *Alcohol Sales and Harm in Scotland during the COVID-19 Pandemic*. Edinburgh: Public Health Scotland.
- <sup>18</sup> Ponce Hardy V and Giles L. 2022. *Monitoring and Evaluating Scotland's Alcohol Strategy: Monitoring Report 2022*. Edinburgh: Public Health Scotland.

**LICENSING (SCOTLAND) ACT 2005  
SECTION 142 GUIDANCE FOR LICENSING BOARDS****5. OVERPROVISION****Introduction**

5.1 This chapter provides information to assist Licensing Boards to make a pro-active assessment of the overprovision of licenced premises in their licensing authority area.

5.2 Licensing Boards have two separate but directly linked responsibilities in relation to overprovision. Each Licensing Board is required to include a statement as to overprovision in its authority area within the Board's statement of licensing policy (section 7 of the 2005 Act refers) and each Board also needs to consider overprovision when determining a premises licence or premises licence variation application (see chapter 8 Premises Licences).

5.3 There have been a number of amendments made to section 7 since its commencement. The Alcohol etc. (Scotland) Act 2010 and the Police and Fire Reform (Scotland) Act 2012 made changes to the to the list of persons a Licensing Board must consult when considering whether there is overprovision (as set out at section 7(1)) in any locality). The "relevant Health Board" was added to the list of consultees and a textual amendment was made to the reference to Chief constable.

5.4 The Air Weapons and Licensing (Scotland) Act 2015 made a number of amendments to section 7. Some were technical whilst others were more substantive. To assist Boards in considering the wider scope of the protecting and improving health licensing objective, section 7 was amended to enable Boards to consider the availability of alcohol across their whole geographic area. Further amendments clarified that increased capacity can be considered separately from an increase in the number of licensed premises in terms of overprovision and that opening hours should also be considered.

5.5 Currently, section 7 of the 2005 Act requires a Licensing Board to include in its statement of licensing policy, a statement as to the extent to which the Board considers there to be an overprovision of (a) licensed premises, or (b) licensed premises of a particular description, in any locality within the Board's area, and in doing so, the Board may determine that the whole of the Board's area is a locality.

5.6 An overprovision assessment must be evidenced base. It is a matter for each Licensing Board to determine what their overprovision policy will be and how the evidence it has ingathered will be interpreted and weighted. When undertaking this work Licensing Boards should be mindful of the five licensing objectives: preventing crime and disorder; securing public safety; preventing public nuisance; protecting and improving public health; and protecting children and young persons from harm. Licensing Boards Licensing Board should ensure the approach to ingathering, weighing and interpreting evidence, and consultation responses is robust, all of the relevant evidence before them is taken into account, and the rationale for regarding/disregarding that evidence in developing Licensing Policy Statements (LPS) is clearly set out.

5.7 It is also important that Licensing Boards consult widely on a draft overprovision assessment and carefully consider the views expressed by consultees prior to finalising an overprovision assessment for the Licensing Board area.

### **Purpose of overprovision**

5.8 The requirement to produce an overprovision assessment, and note this in the statement of licensing policy, is designed to:

- enable Licensing Boards to take account of changes since the publication of their previous statement of licensing policy and any subsequent supplementary statement of licensing policies which may have been issued.
- improve public and trade confidence in the licensing system by setting out clearly the grounds on which overprovision should be determined.
- recognise that halting the growth of licensed premises in localities is not intended to restrict trade but may be required to preserve public order, protect the amenity of local communities and mitigate the adverse health effects of increased alcohol consumption.
- provide potential entrants to the market with a clear signal that they may incur abortive costs if they intend to apply for a licence in a locality which a Licensing Board has declared to have reached overprovision.

### **Which licensed premises are to be included?**

5.9 Section 7 provides that premises which have only an occasional licence are to be left out of the assessment of overprovision. Additionally, section 125 of the 2005 Act provides that section 7 does not apply “in relation to premises which are used wholly or mainly for the purposes of any club of such description as may be prescribed”. Members clubs are a category of club which falls within Regulation 2 of the Licensing (Clubs) Scotland Regulations 2007 (2007/76). All other licensed premises should be included when considering whether there is overprovision of licenced premises generally or licensed premises of a particular description.

5.10 Licensed premises of a particular description may be determined in terms of their style of operation. For example Scottish Borders Licensing Board states in the overprovision section of its statement of licensing policy that:

- “The number of late night hour entertainment premises (after 1am) within Scottish Borders is currently four. The Board is of the view that any increase beyond that number could be overprovision”

## Determining Localities

5.11 It is for each Licensing Board to determine the localities within the Licensing Board's area for the purposes of the 2005 Act. This flexibility allows Licensing Boards to reflect the different circumstances in different geographical areas throughout the country, for example, a locality in a rural area might be larger than a locality in an urban area. As mentioned above, Licensing Boards can determine that the whole of the Licensing Board's area is a single locality.

5.12 The choice of locality must, however it is done, be rational, capable of justification and be consistent across the Licensing Board area. It is expected that, in the interests of openness and transparency, Licensing Boards set out the reasons for their decision making in arriving at their locality choices (e.g. as part of the consultation on a Licensing Board's draft overprovision assessment) . For example,

- North Ayrshire Licensing Board's statement of licensing policy states:

"The Board's Overprovision Policy covers its whole area, although the Board has determined that there are 6 'Localities' in its area (coinciding with the 6 'Localities' used by the North Ayrshire Community Planning Partnership (CPP)).

"These areas contain a total of 38 Intermediate Zones ("IZs"). IZs are the areas commonly used to gather a wide range of government statistics."

- West Dunbartonshire's statement of licensing policy states:

"In its assessment of overprovision, the West Dunbartonshire Licensing Board has continued its established approach of utilising the Scottish Neighbourhood Statistics intermediate data zone (IDZ) geographies as the localities for this purpose. "The West Dunbartonshire area can be broken up in to 18 distinct IDZ localities."

5.13 City of Glasgow Licensing Board demonstrated best practice in relation to gathering local views when consulting on proposed localities in relation to its overprovision assessment. The Licensing Board indicated, through its website, that it intended to undertake visits to the proposed overprovision localities to speak directly to local residents and owners and staff of licensed premises in these areas to hear views on the impact of higher concentrations of licensed premises and to gauge whether there is support at a local level for including the area as an overprovision locality in the finalised LPS.

## Matters to be considered in determining if there is overprovision

5.14 In determining whether or not overprovision exists, section 7 provides for the matters a Licensing Board needs to consider:

- must have regard to the number and capacity of licensed premises in the locality
- must consult
  - the chief constable
  - the relevant health board
  - such persons as appear to the Board to be representative of the interests of (i) holders of premises licences in respect of premises within the locality, (ii) persons resident in the locality, and
  - such other persons as the Board thinks fit.
- may have regard to such other matters as the Board thinks fit including, in particular, the licensed hours of licensed premises in the locality.

#### *Number and capacity of licensed premises*

##### Number of licensed premises

5.15 The number of licensed premises impacts on the availability of alcohol and as many Licensing Boards recognise, the type of licensed premises is also of relevance. For example, a large supermarket and a small corner shop will each count as one licensed premises. The amount of alcohol sold by each premise will be different and the potential harms associated with the amount of alcohol sold will also be substantially different. A locality with only licensed restaurants is likely to sell less alcohol than a locality with only vertical drinking establishments. The harms associated with licensed restaurants will be less than the harms associated with vertical drinking establishments.

5.16 As discussed at Chapter 3 the 2005 Act places a duty on Licensing Boards to keep a licensing register and this can be used by Licensing Boards to determine the number of premises licensed for:

- the sale of alcohol for consumption on the premises;
- the sale of alcohol for consumption off the premises; and
- the sale of alcohol both on and off the premises.

##### Capacity of licensed premises

5.17 In the context of the 2005 Act and as set out at section 147, capacity –

- in relation to licensed premises (or any part of such premises) on which alcohol is sold for consumption on the premises (or, as the case may be, that part), the maximum number of customers which can be accommodated in the premises (or, as the case may be, that part) at any one time, and
- in relation to licensed premises (or any part of such premises) on which alcohol is sold for consumption off the premises (or, as the case may be, that part), the amount of space in the premises (or, as the case may be, that part) given over to the display of alcohol for sale.

*On-sales*

5.18 Many Licensing Boards comment in their overprovision assessments that they seek input from their local authority Building Standards Officers regarding capacity matters. For calculating the capacity for on-sales, Licensing Boards may wish to have regard to the parts of the Technical Handbook issued in support of the Buildings (Scotland) Regulations 2004 which relate to occupancy capacity and the number of licensed hours the premises is open. The Building Standards pages on the Scottish Government website Building standards - gov.scot (www.gov.scot) provides information on buildings regulations and the associated technical guidance.

*Off-sales*

5.19 For calculating the capacity for off-sales, Licensing Boards should have regard to the Premises License (Scotland) Regulations 2007 (SSI 2007 No. 252) and regulation 5 which makes provision as to the layout plan.

5.20 In its statement of licensing policy, Stirling Licensing Board states:

- “Assessing the capacity of licensed premises is important under the Act. This is, in part, due to the fact that capacity of premises will be taken into account in assessing overprovision.

- “On sales

The Board considers that it is very important for licence holders to have a sound knowledge of the safe capacity of their premises. Capacity for on sales premises should be presented to the Board in patron numbers. The capacity should be worked out using the formula used by Building Standards, this formula does not take into account the fixtures and fitting of the premises.

“This is particularly so where the premises are large, or where they include entertainment such as live music, dances and discos. The Board expects, in respect of these types of premises, that there should be suitable capacity control measures in place. These may include stewarding, door number clickers or issuing of tickets.

- “Off sales

Again, the Board considers that it is very important for licence holders to have a sound knowledge of the capacity of their premises. Capacity for off sales premises should be presented to the Board in meters squared”.

*Consultation*

5.21 As set out at Chapter 4 statements of licensing policy, Licensing Boards are encouraged to consult widely within their respective areas on both their statement of licensing policy and it is equally important for Licensing Boards to consult widely on their overprovision assessment. Licensing Boards may wish to consider carrying out these two consultations simultaneously. For example, Edinburgh Licensing Board published 2 consultations and commented on their web page:

- “The Edinburgh Licensing Board is consulting on the terms of its draft statement of licensing policy, having carried out an informal consultation earlier in the year. As part of this process, the Board is also consulting on its assessment of localities in the Board’s area

which show characteristics of overprovision of licensed premises. These two consultations are being carried out in tandem.

- “Details of the individual localities, and the basis upon which they’ve been considered, is set out in the supporting documentation provided with this consultation”.

5.22 Chapter 6 Local Licensing Forums (LLFs) sets out the important role a LLF has to play in the alcohol licensing regime. In terms of other persons a Licensing Board may wish to consult, it is encouraging to note that LLFs and third sector organisations providing treatment services for alcohol harm within their locality, are as a matter of course being invited by many Licensing Boards to offer their views. This is an approach the Scottish Government strongly supports.

5.23 For example in its statement of licensing policy under the heading of “Development of the Pro-Active Assessment of Overprovision”, Glasgow City Licensing Board comment:

- “In particular, the Licensing Board had regard to a report from the Local Licensing Forum with evidence and recommendations as to localities where the Forum considered there to be overprovision of licensed premises or licensed premises of a particular description. A copy of the report approved by the Local Licensing Forum, together with the supporting evidence gathered, is available at:

<https://www.glasgow.gov.uk/councillorsandcommittees/viewDoc.asp?c=P62AFQDN2U2UDN Z3DN>

5.24 As regards consultation on localities in relation to its overprovision assessment, Inverclyde Licensing Board commented in its statement of licensing policy:

- “As the determination of “localities” is largely a matter for the Board, local knowledge plays a significant part in such determinations. The Board has had extensive consultations with Inverclyde Licensing Forum, who have in turn consulted with Community Councils, premises licence holders, the Inverclyde Alcohol and Drug Partnership, the NHS, Police Scotland, Inverclyde Community Health and Care Partnership and local residents”.

5.25 In preparing their statement of licensing policy and overprovision assessment, Dumfries and Galloway Licensing Boards had 2 periods of consultation which included 2 public meetings and a Working Group was also set up to discuss Overprovision. This Group met several times and comprised of the following members: Scottish Fire and Rescue Service; Police Scotland; Alcohol and Drug Partnership (NHS) and Dumfries and Galloway Council.

#### *Other matters*

5.26 A Licensing Board’s consideration of overprovision need not be confined to only considering numbers and capacity but could take account of other factors too. Licensing Boards have considerable discretion in this area.

5.27 In considering the statutory definition of ‘capacity’, it is accepted that there are other ways of considering in a wider sense what the capacity of a premises is. While the 2005 Act does not permit any alternative definition of capacity to be used, Licensing Boards are encouraged to consider under other matters whether, for example, a relevant factor to be considered alongside capacity of premises would be the ability for stock to be resupplied

quickly. In other words, a premises which was able to maintain large stock levels but only had a relatively small area for displaying stock may then suggest a small capacity while actually they are capable of significant sales volumes.

5.28 Other matters could be such things as inequalities; the proximity of specific types of premises such as facilities for vulnerable adults with problematic alcohol use; mental health services; hospitals; schools/nurseries; sports facilities; gambling facilities. Other considerations could also include concerns regarding people visiting the locality from other areas.

5.29 In particular, inequalities is an important consideration for Licensing Boards in relation to overprovision. There is a stark inequalities gradient to alcohol harm and a growing awareness that the impact of harmful drinking and alcohol dependence is much greater for those experiencing high levels of deprivation. For example, people living in our most deprived communities are over seven times more likely to die or are more than eight times more likely to be admitted to hospital due to alcohol use than those in our least deprived communities (Monitoring and Evaluating Scotland's Alcohol Strategy: Monitoring Report 2019: NHS Health Scotland; 2019). Similarly, areas of high deprivation can have extremely high rates of alcohol-related fires and crime rates, and it can often be individuals other than the drinker who feel the effects of alcohol use, including children, family, friends, colleagues and those working in frontline services such as the Police and Health Service.

5.30 Research examining the association between the density of alcohol outlets and neighbourhood-level income deprivation in Scotland has also found that there are 40% more licensed premises in the most deprived areas of Scotland than in the least deprived (BMC Public Health 2015 Research article "A cross-sectional analysis of the relationship between tobacco and alcohol outlet density and neighbourhood deprivation" N.K. Shortt et al). By taking account of evidence on inequalities, Licensing Boards can meaningfully consider how different communities are impacted differently by alcohol, and use this to formulate their policy.

### **Assessing overprovision**

5.31 There are a number of underlying principles that the Licensing Board should take into account as they approach the development of their statement of overprovision:

- Licensing Boards should use alcohol-harm information (or potential alcohol-harm information) to identify localities and then proceed to consider the number, type and capacity of premises in those areas.
- It is the potential for undesirable consequences which is intended to be addressed through overprovision assessments as a requirement within the 2005 Act. This can be thought of as the cumulative effect of more and more licences being granted in a locality and what this means in respect of the effect on life in that area. It is the cumulative effect rather than the actions of any single operator that is key.
- If a Licensing Board considers there is at least potential for, or a reasonable basis for, concluding that there will be a risk of adverse impact on the objectives (should more premises licences be granted), it is entitled to come to the view that there is a state of overprovision.

- Consideration should be given as to whether aggregate information and evidence from a number of sources demonstrates a link between the availability of alcohol in an area and alcohol-related harm.
- To demonstrate a “dependable causal link”, the proof of the link must be on a balance of probabilities. What this means in practice is that based on the evidence of harm in a locality, it is more likely than not that alcohol availability is a cause, or that increasing the availability of alcohol in that area will increase that harm.
- There is no simple numerical formula for pinpointing the threshold between provision and overprovision. Determining overprovision involves the application of reason and judgement in the interests of the community.