



# Dumfries and Galloway Licensing Boards' Annual Functions Report

Licensing (Scotland) Act 2005, Section 9A

01/04/2019 – 31/03/2020



## INDEX

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

## APPENDICES

**Appendix 1** List of Applications for Premises Licences and Provisional Premises Licences

**Appendix 2** Dumfries and Galloway Licensing Boards Response to Scottish Government Consultation on Occasional Licences

## 1. Introduction – Dumfries and Galloway Licensing Boards

### General

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

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

- Annandale & Eskdale
- Nithsdale
- Stewartry
- Wigton

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

1.4 As at 31 March 2020, there were 615 licensed premises in Dumfries and Galloway. Within each Licensing Board Division, the breakdown is:

Nithsdale	191
Wigton	155
Annandale & Eskdale	158
Stewartry	111

### Types of applications under the 2005 Act:

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

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

## **2. The Licensing Objectives**

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

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

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

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

## **3. Annual Functions Report**

3.1 Section 9A of the Licensing (Scotland) Act 2005 requires Dumfries and Galloway Licensing Boards to publish an Annual Functions Report within 3 months of the end of the relevant financial year. This means that the Board's report for financial year 2019/20 would normally be published no later than 30 June 2020. However, Schedule 5 of the Coronavirus (Scotland) Act 2020 inserted an additional clause into the 2005 Act, providing the Board with a further 6 months if they were unable to publish their annual report by the end of June, due to reasons relating to Coronavirus.

3.2 Dumfries and Galloway's Divisional Licensing Boards must therefore prepare and publish an Annual Functions Report by 31 December 2020 for the financial year 2019-2020 (being 1 April 2019 to 31 March 2020).

3.3 An Annual Functions Report must include the following:

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

3.4 In the year from 1 April 2019 to 31 March 2020, the Licensing Boards met as follows:

Nithsdale:	4 times
Annandale & Eskdale:	5 times
Stewartry:	3 times
Wigtown:	5 times
Conjoined meeting of all 4 Divisional Licensing Boards:	Once

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

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

#### 4. Summary of decisions made by the Boards

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

4.2 The premises licences and provisional premises licences granted by the Boards in 2019/20 are detailed within **Appendix 1**.

4.3 During the course of the year, 1,282 occasional licences were granted and 177 extended hours applications.

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

4.5 In the course of the year, the Licensing Board granted 452 personal licences. 118 were revoked due to non-compliance with refresher training requirements.

4.6 There was one conjoined meeting of all 4 Licensing Boards called in June 2019 to consider the Scottish Government consultation on Occasional Licences. As the Wigtown Divisional Licensing Board was not quorate, they could not participate in the conjoined meeting. The remaining 3 Boards were quorate. The Conjoined Board agreed to submit a response to the consultation on behalf of Dumfries and Galloway Licensing Boards as detailed within **Appendix 2**.

#### 5. Reviews

##### Premises Licence Reviews

5.1 In the 2019-20 period, no applications for review of premises licence were considered by the Board.

### Personal Licence Reviews

5.2 In the 2019-20 period, 2 reviews of a Personal Licence took place.

5.3 The first review hearing was arranged following confirmation by Police Scotland that the Licence Holder had acted in a manner that was inconsistent with two of the licensing objectives. The Licensing Board were satisfied that it was necessary for the purpose of Licensing Objective (a) Preventing Crime and Disorder and (b) Securing Public Safety, to endorse the Personal Licence. This endorsement remains on the licence for a period of 5 years.

5.4 The second review hearing was arranged following confirmation by Police Scotland of the existence of convictions relating to relevant offences. The Licensing Board were satisfied that it was necessary for the purpose of Licensing Objective (b) Securing Public Safety, to endorse the Personal Licence. This endorsement remains on the licence for a period of 5 years.

## **6. Licensing Policy Statement**

6.1 The Board completed the review of its Licensing Policy Statement in the previous financial year 2018/19.

6.2 Nithsdale Divisional Licensing Board on 4 December 2019 agreed a Supplementary Licensing Policy Statement under Section 6(2) of the Act, the terms of which were published from Tuesday 17 December 2019. This Supplementary Statement, which inserts the reasons for the Board's Policy Hours at new paragraphs 1.11.2 to 1.11.13 of the current Licensing Policy Statement 2018-2023, came into effect on Friday 20 December 2019.

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

## **7. Licensing Standards Officers**

7.1 Dumfries and Galloway Licensing Boards have 3 Licensing Standards Officers (LSOs):

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

7.2 The Licensing Standards Officers' general roles are:

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

7.3 The Licensing Standards Officers have dealt with numerous enquiries and complaints throughout the year with the majority being resolved without having to

proceed formally to the Licensing Boards. Issues which repeatedly arise are:

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

7.4 During 2019/20, all 3 LSOs carried out joint visits with Police to off-sales premises raising awareness of underage drinking and proxy purchasing.

7.5 The LSOs continued to visit premises to ensure that they were complying with the legislation as required.

## **8. Statement on how the Boards exercise their functions**

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

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

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

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

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

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

## **9. Conclusion**

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

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

9.3 The Boards also recognise the efforts of the Licensing Service and external

stakeholders (including Police Scotland) to ensure that licensed premises comply with the legislation and continue to uphold the licensing objectives.

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



## Appendix 1

**List of Applications granted by the Licensing Boards for Premises  
Licences and Provisional Premises Licences – 2019-2020**

**Nithsdale**

The Dumfries Larder 170-172 High Street Dumfries DG1 2BA	Off Sales
Polish Shop Dino 107 High Street Dumfries DG1 2QT	Off Sales
Zabka Mini Market 88-90 Friars Vennel Dumfries DG1 2RE	Off Sales
18-20 Queensberry Street Dumfries DG1 1HR	On and Off sales (Provisional and Confirmation)

**Wigtown**

Historic Newspapers Ltd Baldoon Stores Wigtown Newton Stewart DG8 9AF	Off Sales
Bladnoch Visitor Centre Bladnoch Distillery Bladnoch Wigtown Newton Stewart DG8 9AB	On and Off sales (Provisional and Confirmation)

**Annandale & Eskdale**

BP Annandale Water M&S SF Johnstonebridge Lockerbie DG11 1HD	Off Sales (Provisional and Confirmation)
Stennieswaterfoot Outbuilding Bentpath Langholm DG13 0NN	Off Sales
Spice India Lower Craignelder High Street Moffat DG10 9ED	On Sales
Solway Spirits Ltd Unit 2, Annan Business Park Stapleton Road Annan DG12 6TZ	Off Sales

**Stewartry**

Mr Pook's Kitchen 38 King Street Castle Douglas DG7 1AD	On and Off sales
GG's Yard Laggan Gatehouse of Fleet Castle Douglas DG7 2ES	On and Off sales

## Appendix 2

**Dumfries and Galloway Licensing Boards Response to  
Scottish Government Consultation on Occasional Licences****FEES:**

1. **Do you agree that the fee for an occasional licence should be increased from the current level of £10?**

ANSWER: YES

2. **Why?**

The current level of £10 does not cover the full cost of processing an application.

3. **Do you agree that £50 is an appropriate new fee level?**

ANSWER: YES

4. **Why?**

It has been determined that this would cover the cost of processing an application. Additionally, this fee level takes into account any future inflationary rate as it is uncertain when a further review of the application fee for an occasional licence will take place. Inflation therefore must be taken into account so that the cost does not diminish in real terms.

5. **Do you agree that £75 is an appropriate new fee level?**

ANSWER: NO

6. **Why?**

ANSWER: £50 is appropriate as per above.

7. **Do you agree that £100 is an appropriate new fee level?**

ANSWER: NO

8. **Why?**

ANSWER: £50 is appropriate as per above.

9. **If you do not think that any of the proposed fee levels are appropriate, what do you believe would be a suitable fee level?**

ANSWER: A £30 fee should be introduced if the applicant is a voluntary organisation though there should be a £50 fee for other applicants as per above.

**10. What evidence, based on cost recover, can you supply for an appropriate fee level for occasional licences?**

ANSWER:

It has been calculated that the minimum cost of processing an application for an occasional licence will be approximately £25. This calculation was based on the processing of an application taking approximately 50-60 minutes from when the application was received by the Board, through to sending the granted licence to the applicant. The cost of processing the application included staff time, stationery and supply costs and postage costs (where a licence could not be emailed). However, where an application attracted an objection or representation, this cost rose significantly due to input from senior Licensing staff and the Licensing Board.

**LIMITS:**

**11. Do you agree that limits should be placed on the number and duration of occasional licences for holders of a premises licence and holders of a personal licence?**

ANSWER: YES

**12. Why?**

ANSWER: Dumfries and Galloway Licensing Boards have experienced apparent abuse of the occasional licence system whereby they are receiving multiple, concurrent occasional licence applications, submitted by both personal and premise licence holders in respect of the same premises. There appears to be no legal ground of refusal. Premises are therefore operating on continuous occasional licences at a fee of £10 (for each 14 day period) which is more cost effective for the applicant, than applying for a premises licence. There is concern that applicants are becoming aware that continuous occasional licence applications can be granted in respect of the same premises instead of the need to apply for a premises licence. It seems therefore that the whole premises licence application system is being undermined by abuse of repeated applications for occasionals in respect of commercial premises. The latter approach also gives rise to public safety concerns as Building Standard teams are not able to inspect the premises as no section 50 Building Standard Certificate is required – contrary to the position of a premises licence application.

**13. What do you think would be an appropriate limit on the number of occasional licences that could be issued to the same applicant in a 12 month period, and why?**

ANSWER: NO LIMIT

**14. What do you think would be an appropriate limit on the number of occasional licences that could be issued to the same premises in a 12 month period, and why?**

ANSWER: NO LIMIT

- 15. What do you think would be an appropriate limit on the number of days that occasional licences issued to the same applicant in a 12 month period could have effect, and why?**

ANSWER: NO LIMIT

- 16. What do you think would be an appropriate limit on the number of days that the occasional licences issued in relation to the same premises in a 12 month period could have effect?**

ANSWER: 90 DAYS

- 17. What do you think would be an appropriate limit on the number of continuous days that a series of occasional licences can have effect in relation to the same premises?**

ANSWER: 90 DAYS

- 18. Are there any other comments you wish to make that relate to the occasional licence?**

ANSWER:

- There should be either:
  - a three year review of occasional licence fees to ensure that the fee is sustainable in terms of inflation or
  - a mechanism in place to ensure that the fee takes into account inflation.